

INVESTIGATING SEX TRAFFICKING:

A HANDBOOK

by

Dr. P.M. Nair

Chairperson

Centre of Excellence on Human Trafficking
Indian Police Federation

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Investigating Sex Trafficking: A Handbook

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Authored by

Dr. PM Nair

nairpm@hotmail.com and pm.nair.ips@gmail.com

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Dr. Kiran Bedi
Lieutenant Governor



Raj Nivas

Puducherry 605 001

Phone : 0413 2334050

Fax : 0413 2334025

E-mail : lg.pon@nic.in

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FOREWORD

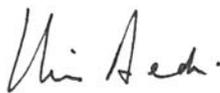
Having realized the fact that human trafficking is one of the gravest exploitations of human rights and human dignity, our Constitution makers had decided to incorporate an express provision mandating all of us to work together in preventing human trafficking, vide Article 23. There is no denial that the dimensions of trafficking in human beings have spread far and wide with ingenuity and innovations by the human predators, even trespassing the realm of cyberspace. Therefore, it is time we fought this menace whole heartedly and in the best possible manner. In this context, the law enforcement agencies, including police, prosecutors, border guarding forces, immigration officials, customs officials etc., have a pivotal role to play, in tandem with other stakeholders in the judiciary, government officials, care givers, the polity as well as the civil society agencies.

Irrefutable is the fact that traffickers are smart to adopt innovative methods and therefore our response has to be smarter. The need of the hour is to have professional law enforcement officials, fully equipped with not only knowledge and resources, but with clear attitudinal orientation and above all smart and appropriate skills. The Home Minister of India, in a recent conclave of police officers, have exhorted them to focus on skills, which is indeed the need of the hour.

In this context, it gives me immense pleasure to place on record the great contribution that this handbook authored by Dr PM Nair on skilled response to trafficking for sexual

exploitation will make. Having seen Nair's dedicated work in this field for the last four decades and having known the impact that he has made, whether in setting up AHTUs (Anti Human Trafficking Units) with the Police across the nation or AHTCs (Anti Human Trafficking Clubs) in colleges, or the systematic capacity building of thousands of stakeholders or in the rescue of thousands of victims or in taking different steps in preventing and combating human trafficking in India, I have no hesitation in saying that Dr PM Nair stands out as the father of the anti-human trafficking movement in India. This handbook by him is indeed a rich treatise that every investigator and supervisor should possess and use. I am happy to note that the earlier handbook published in 2002, which had more than two lakh copies reaching out to the stakeholders who had utilized them in the best manner, has now been updated with the new laws, legislations, latest rulings of judgements of the Supreme Court of India and several High Courts as well as the government directives, and above all a special chapter of professional skills, is indeed a veritable treatise, which will be of immense benefit to the reader for addressing this grave organized crime in the best professional manner. While I am happy to learn from the author that he is planning a similar volume for addressing trafficking for exploitative labour, I would urge that the BPRD, which has rightly decided to publish this book, circulate it to all the officials concerned and make it available in the local language, wherever required. I am also happy to note that the book is available free of cost and has been the first publication of the Indian Police Foundation, which is making strident steps in professional policing in India.

Wish you all well.



(DR.KIRAN BEDT)

PREFACE

In my journey of four decades working against human trafficking, while serving 35 years in the IPS with Bihar police or with the CBI, NHRC, UNODC, CRPF or NDRF, or working with thousands of NGOs across the nation and in several countries abroad or working beyond this period as an activist, or as a researcher, or as law maker, I have been witness to several islands of excellence and good practices, in both preventing and combating human trafficking, which mostly remain confined to certain pockets, mainly because of the uneven levels of knowledge, skills, resources and attitudinal orientation. There is a need to make these qualities broad based. Hence this effort. The handbook authored by me in 2002, found such appeal that the UN decided to republish and use it again in 2007. More than two lakh copies in English, Hindi, Marathi, Telugu and Bengali have been utilized effectively by the stakeholders across the country. It is on their request that I ventured to revise and update the handbook.

This edition, titled as ‘Investigating Sex Trafficking: A Handbook’ is an up to date handbook and guide for personnel investigating and supervising human trafficking crimes. This book is focused on trafficking for commercial sexual exploitation. It is an effort to provide first hand navigation on investigative aspects with detailed guidance, tips, and suggestions on using the law as well as techniques that may be utilized to combat trafficking effectively, bring offenders to account, and provide appropriate and sensitive care to victims. The handbook benefits abundantly from the numerous real-life accounts and experiences on the various facets of trafficking and the inclusions of actual events in addressing the complex web of this crime. Starting with clarifying the concepts including the scope, it demystifies the components of trafficking, with clarity in distinguishing trafficking from other related activities. It provides a dissection of the elements and

indicators of the crime of trafficking as well as the methods of identifying the issues, which work even where trafficking occurs under the façade of a legal activity. This is followed by the methods of identifying victims as well as the offenders, understanding the legal gamut of offences that a trafficker may be charged with, including the several legislations and as to when and how to use them not only in investigating and prosecuting the offenders but also in matters of disruption, interception as well as prevention. Thus, the handbook leads the user from text to context.

The essence of the book lies in the investigative mechanism and the tools as well as the techniques. It also provides critical information in the form of Do's and Don'ts on every aspect of law enforcement and documentation, including investigation and prosecution of offenders and follow-up actions. The handbook lays down the guidelines on the protection of victim rights during the various stages of the trial and enlists steps that may be taken to enable the victim to participate in an informed manner whilst at the same time protecting his/her identity. It provides insights into the use of measures such as in-camera trials, video conferencing and other protective measures. A table of victim's rights as laid down by various High Courts in the country and the Supreme Court of India has been provided. Acknowledging the pivotal role of victim compensation in providing complete relief to victims, the handbook also details the functioning of compensatory relief and the legal framework to access such relief.

The book, most significantly also includes a chapter exclusively on skills, where insights have been provided for skilled investigation in sex trafficking crimes, enriched with numerous illustrations that demonstrate the role of such skills in detecting, prosecuting and preventing sex trafficking. The handbook delves into facets of skills on observation, listening, interviewing, interrogating, and documentation. In the chapter on interrogation skills, the handbook strongly condemns the

use of torture and other illegal techniques and emphasizes the use of skilled interrogation and professional interrogation techniques. Smart interrogation techniques and models have also been introduced. It also brings to focus technology and forensics that are playing an increasingly important role in investigation. Further, the methods of coordination with other stakeholders have also been enlisted. The chapter on skills has been drafted in such a way that it will be useful for even the investigators dealing with other crimes on women and children.

Grateful regards to Shri V.S. Kaumudi IPS, DG of BPRD and the vibrant colleagues of BPRD for having agreed to publish this book; Ms. Shruthi Ramakrishnan for editing and enriching on legal aspects; and many others who relentlessly helped in course correction in preparing the book.

I am grateful to Hon'ble Lt. Governor, Dr Kiran Bedi, who graciously agreed to spare the foreword. In fact, the earlier version also had benefitted from her advice and mentoring.

I present this book on behalf of the Indian Police Foundation (IPF), where I am privileged to be associated even before it was born.

The book is, as before, non-priced, with a view for large and wider dissemination. If any agency wants to replicate, please do so after giving prior intimation to the author and to the publisher, i.e. BPRD with the use of appropriate citations. The author also welcomes suggestions for improvement. The next item in the agenda is to bring out a similar volume on trafficking for exploitative and forced labor, including child labour.

Dr PM Nair

Chairperson of the Centre of Excellence on Human Trafficking Matters in the IPF.

January, 2020.

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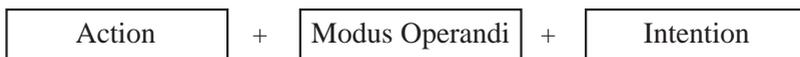
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Chapter 1

CONCEPTS

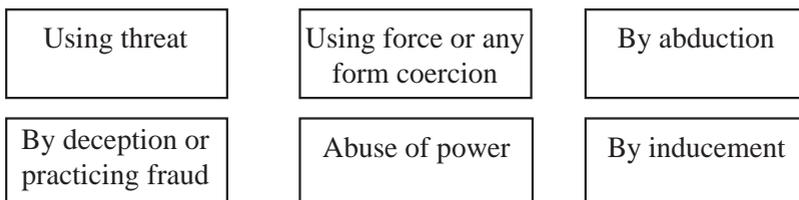
- 1.1. Introduction:** Clarity of Concepts is essential in understanding the complex world of Human Trafficking and orienting the response professionally and effectively. For a comprehensive understanding, one has to appreciate the legal terminology in its letter and spirit, the philosophy behind the Law, the judicial pronouncements, especially of the Supreme Court and High Courts and, thereby, realize the appropriate meaning of the concepts from the context. This handbook gives focus to investigating and prosecuting sex trafficking crimes. It places the text in this context.
- 1.2. Definition of Trafficking :** Section 370 IPC, which was added to the statute by the Criminal Law (Amendment) Act, 2013, brings out a clear definition of trafficking. According to this, there are three major components in defining trafficking viz.,



1.2.1 Action includes any one or more of the following activities:

- (i) Recruiting, (ii) Transporting, (iii) Harboring, (iv) Transferring, and (v) Receiving.

1.2.2 The Modus operandi includes **any one** or more of the following:



The purpose of using the above methods is to achieve the consent of any person having control over the trafficked person and therefore the consent is immaterial if the person is a trafficked victim. Even if the victim had consented, it will not be deemed to be informed consent. Accordingly a consenting trafficked victim is also a trafficked victim and is never an offender.

1.2.3 Intent, i.e. *the mens rea* emerges from the purpose of trafficking. Trafficking of a human being can be for any type of exploitation. This would include one or more of the following:

Any act of physical exploitation	Any form of sexual exploitation	Slavery
Practices similar to slavery	Servitude	For removal of organs

The defining word in the law is that trafficking **includes** any of these purposes and therefore the definition is open and is only illustrative and not exhaustive. Since the law makers have not defined the terms exploitation, slavery, and servitude, the common parlance meaning will apply. For example, if a trafficked person is not having the freedom to move out from the place of exploitation or is not allowed to take up any other employment, she has been enslaved. If the abuser takes away her personal belongings like ID card, jewelry, wearing apparels and is kept away from her, she has been enslaved. If the abuser promises to pay her X amount for work for Y hours and is paid less than X or is made to work more than Y hours for a considerable period of time, and against her will, this amounts to slavery.

1.2.4 Trafficking of a minor, i.e. any person who traffics a male, female or transgender who has not attained the age of 18 years, will meet with rigorous punishment and fine under Sec. 370(4) IPC.

1.2.5 Sexually exploiting a trafficked person: If anybody knowingly engages a trafficked person male, female or transgender of any age in sexual exploitation in any manner, this will entail rigorous punishment and fine under Sec. 370A IPC.

1.3. Sexual exploitation will include all types of offences envisaged under the various sections and sub sections of 376 IPC, 377 IPC, provisions of the Protection of Children from Sexual Offences Act, 2012 [POCSO Act], as well as the sexual offences under the Information Technology Act, 2000. For example, if an offender lures a person or a child to strip naked and develops obscene video or pictures, it also amounts to sexual exploitation, even though the offender may not have touched the body of the person or the child.

1.4. Trafficking Vs Prostitution¹: Trafficking does not mean prostitution. They are not synonymous. In understanding trafficking, one should delink it from prostitution. By way of the special legislation, The Immoral Traffic (Prevention) Act, 1956 [the ITPA] acts related to prostitution becomes an offence when there is commercial exploitation of a person. If a woman or child is sexually exploited and any person gains out of the same in any manner it amounts to **Commercial Sexual Exploitation (CSE)**, which is a legally punishable offence wherein the culpability lies against all exploiters. Trafficking is the process and CSE is one of the end results. The ‘demand’ in CSE generates, causes, promotes and perpetuates trafficking.

¹ For details, see Nair PM, et al, “Handbook on the Legal Processes for the Police in respect of Crimes Against Children”, BPRD, 2017

This is a vicious cycle. Sex Trafficking could also be a means for other types of violations such as developing pornographic material, promoting sex tourism, sexual exploitation under the facade of bar tending, massage parlours, tourist circuit, escort services etc., and even exploitative labour.

1.5. Victim of Sex trafficking: In the context of 370 of the IPC and ITPA, a trafficked person can be a male, or female or transgender of any age who has been trafficked for CSE in a brothel or any place where CSE takes place. Even attempt to traffic a person is an offence under ITPA. Therefore, even before the person is physically moved out, the law comes into operation, if trafficking has been attempted. Even if the victim was trafficked for another purpose, say bonded labour, and the victim is exploited sexually, this will tantamount to sex trafficking and all the laws relating to both bonded labour and sex trafficking will apply in such situations.

1.6. Child: Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) in Section 2(12) defines ‘child’ and ‘minor’ as a “person who has not completed eighteen years of age”. The POCSO Act also defines a ‘child’ as a person below the age of 18 years. As per ITPA, a person who has not attained 16 years is a ‘child’ and a ‘minor’ between 16-18 years, is a minor. Any Child who is trafficked or is vulnerable to trafficking is also a child in need of care and protection (CNCP) under Section 2(14) the JJ Act.

1.7. Trafficked Person and Consent:

(a) Consent has no relevance in the offence of trafficking irrespective of age of the victim (IPC 370). Therefore even if there was consent, it is irrelevant and the person is a victim of trafficking.

(b) Regarding adults, the mere consent of the person does not negate the possibility of trafficking. If the consent was

obtained under duress, deception coercion, fear or any pressure, then the consent has no meaning and, therefore, all such instances amount to trafficking. This includes the achieving of the consent of persons who have control over the trafficked person. Thus, even when an adult woman is ‘picked up’ from a brothel on the charge of ‘soliciting’, it cannot be presumed that she is guilty of soliciting unless and until the ‘mens rea’ (i.e. the intention) is investigated. **A woman trafficked for CSE, irrespective of age, is a victim of CSE and not an accused. Such a woman is not a ‘prostitute’, but is a prostituted woman and, is accordingly a victim of trafficking.**

1.8. The list of offenders in a sex trafficking crime: Human trafficking is an organized crime and the list of offenders vary with the type, intensity and spread of the crime, starting from source through transits to destination. However, the following persons constitute the main offenders.²

- The person(s) who indulge in anyone or more acts that constitute trafficking under 370 IPC, i.e., those who recruit, transport, harbor, transfer or receive the trafficked person.
- The abettors and conspirators, those who aid and abet, those who promote and facilitate any act mentioned above.
- The persons who exploit/abuse the trafficked person, physically or sexually, are offenders. In the common parlance terminology “**customer**” or “**clientele**” may be used, but they are also part of the crime. In fact, they create, sustain and perpetuate demand and therefore, are offenders in the trafficking crime.
- The hoteliers or persons in charge of hotels, residential dwellings, guest houses etc. where exploitation takes place. This includes the following:

² Ibid

- o keepers of places and vehicles used {S.3(1) ITPA};
- o Persons who allow premises to be used as a brothel {S.3(2) ITPA};
- o Persons who detain victims in brothels and other places of exploitation (S.6 ITPA);
- o And those who allow public places to be used for prostitution {S.7(2) ITPA}. Those who are living on the earnings of CSE: Any person who knowingly lives, wholly or partly, on the earnings of prostitution is liable (S.4 ITPA). This includes all those who have a share in the illegal proceeds derived from the exploitation. The financiers who lend or collect money from the brothels (or hotels) and do business out of such transaction are also liable under this section. The hotelier who profits from the exploitation of girls is an accused u/s 4 ITPA. However, if a mother who is under exploitation utilizes her earning for the education of the child staying with her or away for her, the child cannot be deemed to be living on the earnings.
- The list of exploiters and abusers is inevitably long, and may not always be apparent. Only professional investigation can expose the linkages involved and bring all such persons to book.

1.9. Basket of Crimes³ : The list of acts, violations and exploitations that a victim of sex trafficking is subjected to, is indeed long. They can be brought out through professional careful interview. Listening to the victim, to the untold story, is an art, which a professional investigator should possess. The story, as it unfolds, unravels a long list of offences perpetrated by various offenders on the victim. Investigation has to be conducted into

³ Nair PM, :Human Trafficking: Dimensions, Challenges and Responses", Konark Publishers, 2012

each of these violations. An academic exercise of atomizing a typical case of sex trafficking of a girl child would reveal the following offences, which would have found place as a distinct offence in the existing substantive or special legislations.

- Recruited /Transported/ Harbored/ Transferred/ Received, meaning trafficked (370 IPC)
- Sexually exploited after trafficking (S. 370 A IPC)
- Displaced from her community, which tantamount to kidnapping/ abduction (as envisaged in Sections 361, 362, 365, 366 IPC)
- Procured illegally (S.366 A IPC)
- Sold by somebody (S.372 IPC)
- Bought by somebody (S.373 IPC)
- Imported from a foreign country (if she hails from a foreign country, or even from J & K State, and is under 21 years of age - S.366 B IPC)
- Wrongfully restrained (S.339 IPC)
- Wrongfully confined (S.340 IPC)
- Physically tortured/injured (S.324 to 329 IPC)
- Subjected to criminal force (S.350 IPC)
- Mentally tortured/harassed/assaulted (S.351 IPC)
- Criminally intimidated (S.506 IPC)
- Outraged of her modesty (S.354 IPC)
- Raped/gang raped/repeatedly raped (S.375 IPC, S.3/S.5 of the POCSO Act)
- Used for pornographic purposes (S.13 POCSO Act, S.67B Information Technology Act, 2000)
- Subjected to perverse sexual exploitation ('unnatural offences') (S.377 IPC).
- Defamed (S.499 IPC)

- Subjected to unlawful compulsory labor (S.374 IPC)
- Victim of criminal conspiracy (S.120 B IPC)

This list is only illustrative and not exhaustive. Undoubtedly, in every case, the trafficked person is a victim of at least one or more of the violations listed above. Oftentimes victims become pregnant as they are subjected to non-protective sex. If the victim has been subjected to miscarriage, the offender becomes liable under Sections 312 to 318 IPC. If the exploitation becomes fatal, wherein the victim succumbs to the direct effects of the harm or to the consequential problems arising thereof, the offence of homicide/murder is attracted. If the victim belongs to the SC/ST community and the offender commits the crime knowing this fact, the provisions of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act 1989 is applicable. Where the victim is a person with disability, the provisions of the Rights of Persons with Disabilities Act, 2016 will also be applicable.

Therefore, Human Trafficking crime is a **basket of crimes**, an organized crime, a continuing crime, and a crime which never stops till the victim is rescued and given proper care. The investigator needs to be aware of the complexity involved in trafficking, as against any other crime, and has to devote care to see that all these aspects are investigated into.

1.10 The **offences under the ITPA, which** are specific to the context of CSE, are as follows:

- **Keeping or managing** (or assisting in keeping or managing) a brothel or allowing premises to be used as a brothel any place, (including vehicles) - S. 3 ITPA
- **Living on the earnings of prostitution** (even partly) - S.4 ITPA
- **Procuring, inducing, trafficking or taking persons for the sake of prostitutions** (S. 5 ITPA). Even attempt to procure or take would constitute the offence.

- **Recruiting, transporting, transferring, harbouring, or receiving a person** for prostitution through use of threat, force, coercion, abduction, fraud, deception, abuse of power or a position of vulnerability, or giving or receiving of payments or benefits to achieve the consent of such person having control over another person. (s.5A ITPA)
- **Detaining a person in any premises where prostitution is carried out** - S. 6 ITPA
- Anybody **who carries on prostitution, or anybody with whom such prostitution is carried on**, in the **vicinity of public places** (which includes hotel, vehicles, etc) S. 7 ITPA
- **Seducing or soliciting** for the purpose of prostitution in any **public place** or within sight of a public place - S. 8 ITPA
- **Seduction a person in custody** (which includes causing or assisting seduction for prostitution of a person in custody) - S. 9 ITPA

1.11 The Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) also has penal provisions to combat trafficking in children for the purposes of sexual exploitation, for begging, for vending liquor or any narcotic and psychotropic substances, for labour, for adoption, sale of children, or for militancy or other illegal purposes. The relevant provisions are listed below:

- **Cruelty to child** by persons having charge or control of the child including assaulting, abandoning, exposing or neglecting a child to cause mental or physical suffering of the child. (s.75, JJ Act)
- **Employing or using a child for begging** or causing a child to beg. **Amputating or maiming** a child for the purposes of begging carries higher punishment. (s.76, JJ Act)

- **Using a child for vending, peddling, carrying, supplying** or smuggling any intoxicating liquor, narcotic drug or psychotropic substance. (s.78, JJ Act)
- **Engaging a child or keeping a child in bondage** for employment or **withholding his/her earnings.** (s.79, JJ Act)
- **Giving or receiving a child in adoption** without following the process laid down in the law. (s.80, JJ Act)
- **Selling or buying of a child** for any purpose. (s.81, JJ Act)
- **Using or recruiting of a child by non-state actors and self-styled militant groups or outfits;** and use of child by an adult or adult group **for illegal activities.** (s.83, JJ Act)
- **Kidnapping and abduction of a child.** (s.84, JJ Act)

1.12 The Protection of Children from Sexual Offences Act, 2012 (the POCSO Act) addresses all forms of sexual exploitation of ‘children’ which it defines to be all persons who are under the age of 18 years. The Act does not recognize consent of the child and imposes strict liability upon any sexual act or interaction with a child. The relevant provisions are listed below:

- **Penetrative sexual assault:** Any penetration of child or making a child penetrate will amount to an offence. Penetration is defined broadly and the penetration may be with any part of the body or through a foreign object and the penetration may be into any part of the body. (s.3, POCSO Act)
- **Sexual Assault:** This includes any touching of the child with a sexual intent and without penetration and includes acts such as touching the private parts of the child, kissing, fondling, etc. (s.7, POCSO Act)

- **Aggravated assaults:** Where the penetrative sexual assault or sexual assault of the child is committed under the following conditions the offence would constitute aggravated penetrative sexual assault or sexual assault respectively: (s.5 and s.9, POCSO Act)
 - o By a person in authority, dominant position, who is a public servant, or who has been entrusted with the charge of the child, or members of the child's family and those related to the child by blood, adoption, or marriage
 - o Upon a child who is pregnant, or under the age of 12 years, or with a disability
 - o Through gang assault, or repeat assaults, is accompanied with an attempt to murder the child, or is committed using deadly weapons or corrosive substances.
 - o The assault results in death, pregnancy, or grievous hurt, or physical incapacitation, or causes the child to become mentally ill, infliction of HIV or any other life threatening infection
 - o The assault is committed in the course of communal or sectarian violence or during any natural calamity or in similar situations
- **Sexual Harassment:** Any form of interaction with a sexual intent with a child, without the element of touch and includes showing one's private parts to the child, making the show his/her body, any form of sexually coloured communication with a child, stalking the child, or enticing a child for pornographic purposes. (s.11, POCSO Act)
- **Using a child for pornographic purposes** including the use of child in real or simulated sexual acts and any indecent and obscene representation of the child. (s.13, POCSO Act)

- **Storage or possession of child pornography** with an intent to disseminate share, transmit, or distribute it and failure to report it. (s.15, POCSO Act)
- **Aiding and abetment of an offence under the POCSO Act:** This includes any of the following acts: [s.16, POCSO Act]
 - o Instigates any person to do an offence.
 - o Engages in conspiracy towards the commission of the offence and commits an act or illegal omission in pursuance of the conspiracy
 - o Any facilitation to the commission of the offence.
 - o Employing, harbouring, receiving or transporting a child, by means of threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of a position, vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of the commission of any offence under the Act.

1.13 Human Rights violations that take place on a trafficked person, **are several, including the following:** Deprivation of freedom; Deprivation of dignity; Deprivation of Fundamental Rights; Deprivation of the right to life (slave-like conditions); Deprivation of the right to security; Deprivation of the right to access to justice and redressal of grievances; Denial of access to health services; Denial of right to self-determination (e.g. when victim is forced to do a work against her will); Double jeopardy (e.g., a person trafficked across a border is sometimes convicted for non-possession of passport/visa, etc. and is simultaneously punished for ‘soliciting’); Denial of right to representation; Denial of the right to privacy; and Denial of right to be heard before decision making.

The list is long. Based on the provisions of the Constitution of India and the International conventions that India has ratified, this list of HR violations will be still longer.

1.14 Trafficking Vs. Human Smuggling: Smuggling is always across international borders, whereas trafficking can be within the country or across the borders. Further, a smuggled person has consented to being smuggled and is, therefore, party to the crime. He/she would have consented to one or more of the illegal activities that are required for smuggling, like falsification of passport, visa, identity etc., hood winking the border guarding, immigration agencies, violation of immigration laws/rules etc. Therefore, the smuggler as well as the smuggled have committed some crime. In contrast, a person trafficked across borders is not an offender, even though the travel documents could have been forged by the traffickers. The trafficked person, being unaware of the fact that he/she is being trafficked, has no *mens rea* and, therefore, is a victim.

There is one more dimensions to the interface between trafficking and smuggling. Taking an example from a Kerala case, an adult woman was willing to go abroad and work as a House Manager, in response to an advertisement. She had to change her name, rather lured to do so, by the travel agent, even though the original photograph and address in the passport were retained. She knew what she was doing, but the lure of prospects abroad made her agree to the offer, as the promise was that of a decent and well to do vocation and to have a life with dignity. However after reaching the foreign soil, she was deprived of all her travel documents, identity, ornaments, dress etc under the garb of keeping them in safe custody. Soon she realized that she was a sex slave. Despite efforts to run away, she could not. Herein, the woman has become trafficked. She was not even aware of the fact that she would be confined or that she would be a sex slave. Her consent was to join as House

Manager. Therefore the woman is a victim of trafficking. Even though on the face of it, the crime looked to be that of human smuggling, deeper understanding through investigation, revealed that this is human trafficking for CSE.

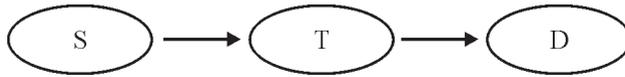
1.15 Trafficking Vs. Migration: Whereas migration is for a life of dignity, trafficking is for exploitation. Migration is the right of individual, and is permitted within the law, whereas trafficking is violation of the right of a person. Often, trafficking has an element of migration, but every migration is not trafficking. Trafficking can take place under the garb of migration. To cite an example, in a border postset up to inculcate Rights awareness of migrants between India and Nepal, where free migration both ways is legal, the traffickers were found indulging in trafficking under the façade of migration.⁴ However, trafficking can take place even without migration. For example, if the child of a woman in exploitation is demanded by the offender to be handed over to the 'customer' at the very same roof, and even if the mother protests, yet the child is taken into the world of sexual exploitation, the offence is complete.

1.16 Trafficking Routes: No doubt the process of trafficking from sexual exploitation, like other forms of human trafficking, commences from the source, continues through the transit(s) and continues further at the destination. It does not conclude till rescue. There may be many changes of destinations and the offence continues at all these places. Understanding of the routes involved in trafficking becomes significant to fathom the issues and dimensions.

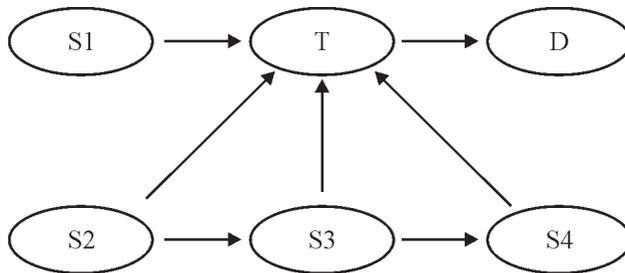
The trafficking routes that have been noticed in all Asian Context are of different models as below:

⁴ See case study on the Right Awareness Centre of ManavSevaSansthan, Gorakhpur recorded as a good practice case study in 'Trafficking in women and Children in India', by Nair PM and S. Sen, Orient Longman, 2005.

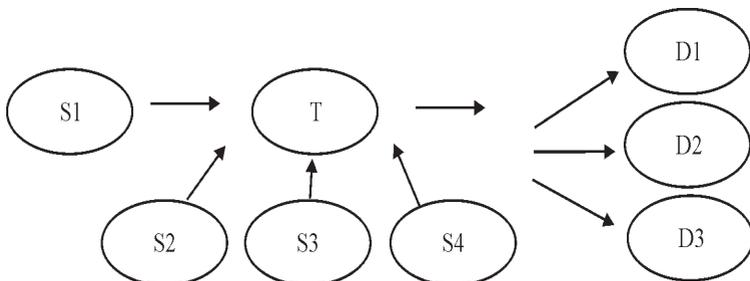
- (a) **Model 1: The Linear Route:** Trafficking of girls from source S to transit T, where they were joined by other local girls and then moved to destination D, where they were confined for exploitation. This is the commonly observed pattern.



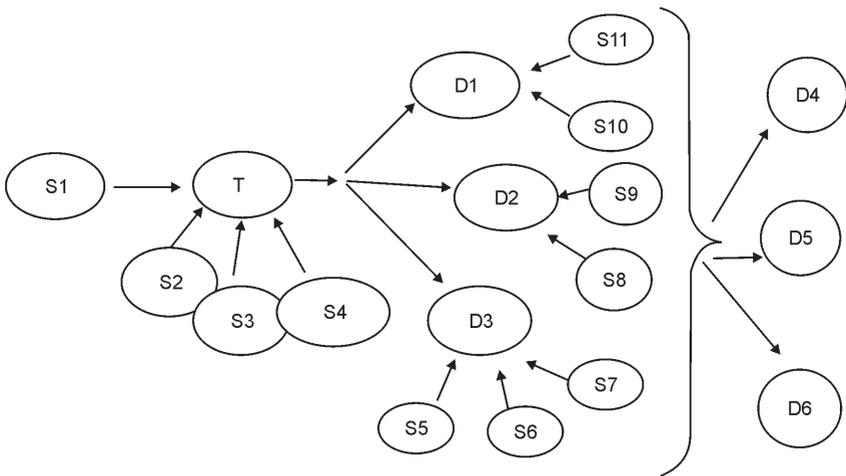
- (b) **Model 2: Multi Linear:** Girls trafficked from S1 were brought to T1 and were joined by girls trafficked from S2, S3 and S4 etc. and then all were moved to the destination D, where they remained in exploitation.



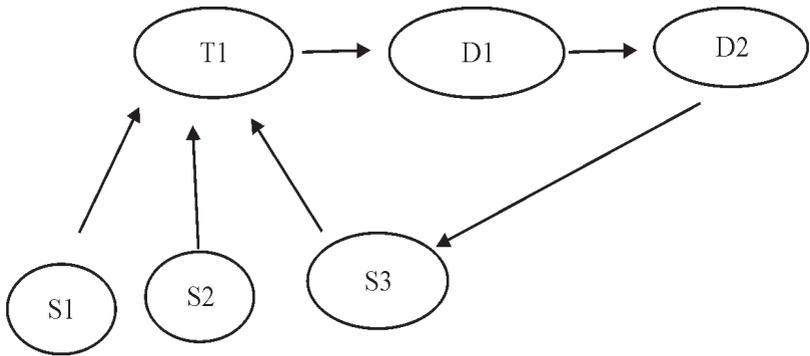
- (c) **Model 3: The Matrix:** Girls trafficked from S1 were brought to T. They were joined by girls trafficked from S2, S3 and S4 etc., and then they were segregated based on body shape, skin colour and such other parameters from the “customer-perspective” (the offender perspective, in fact) and were moved accordingly to destinations D1, D2, D3 and/or more.



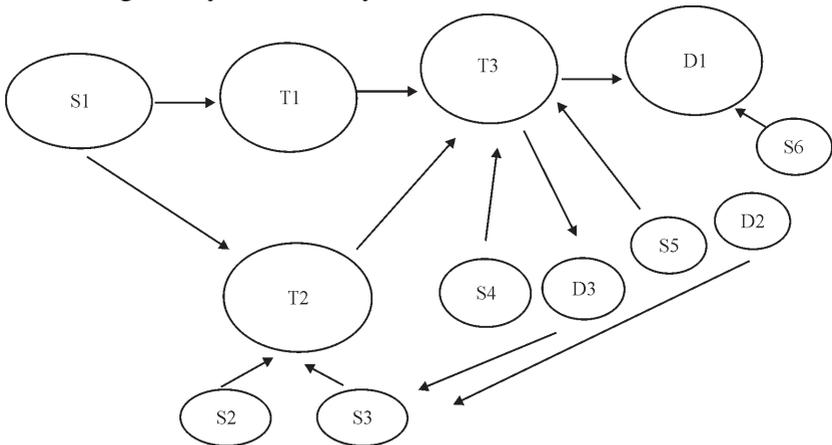
- (d) **Model 4: Mega Matrix:** Many times, the destinations D1, D2 presented in the model 3 are not the end of the Journey. Many girls brought into these destinations were, after initial exploitation, further transferred to many other places, depending on the demand. Therefore the Destination spread to D1 to D6 and more, each destination having been contributed by several sources in addition.



- (e) **Model 5: Circular Route:** Instances are plenty where the trafficked girls are rescued and sent back home, only to be re-trafficked to the same place or another. The route looks like a closed cycle, but it is not, as re-trafficking opens out the cycle further. The person trafficked from S1, S2 and S3, were brought through transit T to Destination D1 where they were exploited and then moved to D2 where there was more exploitation. The rescue done at D2 was inefficient and inappropriate that the rescued person was sent back to S3 and was re-trafficked. The cycle of exploitation continued.



(f) **Model 6:** The complex Matrix: Research and in depth investigation of many crimes show that, in reality, several routes are intertwined. This is a common feature in the Asian Context. Sources are many, transits are several and destinations are no less. This applies not only to domestic trafficking but also to trans-border trafficking. The ballooning effect that emerges from a diagrammatic presentation, which often defies logic, remains mostly confined to the mind of the offenders, if not investigated systematically.



Here S1, S2, S3, S4, S5, S6 are source areas. T1, T2 and T3 are transit areas and D1, D2, D3 are the destination areas. Re-trafficking from D2 and D3 is also seen.

Fathoming the trafficking routes and undertaking investigation on its entire spread and, thereby, unravelling the dimensions, remain a challenge in investigation. Often, they emerge from the mapping of the mind of the traffickers and at times from the interview of the victim/witness. This task needs to be attended to carefully, if the entire crime has to be exposed. Clues are available, leads are plenty but they have to be converted into intelligence and evidence. Clues emerge from the context. For example, the trafficker can choose to have so many sources and transits as well as destinations, depending on vulnerability of the victims on the one side and demand on the other. Therefore interrogation of the suspect followed by systematic investigation at all these places becomes highly significant and essential in fathoming the image of trafficking routes.

Systematic investigation of the trafficking routes will reveal not only the trafficking process but also the persons involved, means both offenders and victims. The various steps adopted by the offenders in the trafficking chain will emerge, which needs to be probed and evidence collected. This will bring out the cogent picture of the whole story and also help track the offenders, their linkages and transactions, at each place. Each link in the money trail, which can be top down or reverse too, will help the IO to pin down the accused as well as detect the illicit. Further, tracking the routes will also expose other linked crimes as well as help rescue victims in those crimes.

Illicit Revenue Generated in Sex Trafficking: Trafficking is an organized crime with less investment but huge profits. A rapid assessment of the revenue generated in Kamla market, Delhi in 2004 in the NHRC study showed crores of rupees as income though the women and girls received only a few thousands. The

study by BBA in 204 showed that 21 lakh crores is generated from children in exploitation in India. Despite the fact that the money is generated out of selling and exploitation of human beings, the offenders keep the profits with themselves. While on the one side the victims are deprived of this money, the inflow of the illicit into the regular economy is another serious matter for law enforcement. Therefore seizing and confiscating the illicit should be an important task in investigation.

Chapter 2

INDICATORS OF SEX TRAFFICKING

The fact is that human trafficking is an organized crime, a basket of crimes, a continuing crime and a crime that never stops till the rescue of the victim. Therefore the primary indicators are the victims' plight, the ambience, and the context. Since trafficked victims are employed in various ways, often camouflaging the exploitation, the investigation has to specialize in observation skills to look for the right indicators. In the world of sex trafficking, especially in the Asian context, the following indicators stand out.

- Commercialization of the sexual activity, ie. Sex on payment. Money speaks about what is happening.
- Economic gain to a person and corresponding loss to the other in a sexual relationship.
- The lack of freedom of the person in sexual exploitation.
- The lack of choice for the person under subjugation.
- The physical, emotional and financial harm on the person by the offenders, traffickers, agents customers etc.,
- The woman in sexual exploitation having no say in the course of things, like time, day period etc.,
- The offenders ensure that the money, jewels, dress, documents etc. of the person in sexual exploitation are taken over usually under the pretext of keeping them in safe custody, and are kept away under lock and key. The woman will have no freedom to access them when she wants. This deprivation is a clear indicator.
- The visits of 'customers' is another indicator. The person who exploits the trafficked person is an offender, even though

usually they are termed as ‘customers’. Their visits, more often in a clandestine manner, betrays even the exploitations carried out under the façade of massage services or tourist circuits etc.

- The transporters, especially those who move the woman and children in sexual exploitation, from one place of demand to another, at times even to residence of offenders (‘customers’), leave telltale marks of trafficking. The transfer of ‘human cargo’, is different from the usual taxi service. A discerning eye can locate this.
- It is fact that often business promotions have been mixed up with sex tourism. The façade may be ‘escort services’, ‘relaxation or massage services’, ‘friendship club’, ‘tourist circuit’ etc. Sex tourism has now moved beyond the known tourist destination to little known places too. It has also seen being clubbed with religious tourism, medical tourism etc. where the façade for a decent vocation is used to camouflage the exploitation.
- In a recent episode, a few adolescent students were taken to a transit place in the name of excursion and study tour. The students were lured to have ‘friends who will stay with them and pay them well. The charm of modern gadgets was another method of enticement. By the time this ‘study tour’ ended, the traffickers had made huge money by selling the innocence of these adolescents. They were indeed lured, enticed and trapped. The Police officials should have a discerning eye and sharp observation skills which would help them to observe the clues and disrupt the process of exploitation. Unknown persons befriending the adolescents, the lavish style of living and splurge of money in the places of stay are indicative of the happenings under the carpet.
- Of late, the issues of on-line sexual exploitation and online sex trafficking have increased. More often the medium is the social

media. There is a need for a watch on the messages and communications. The case study in box A explains the need and method of follow up. Accordingly social media management, can be very good indicator of trafficking. Technical skills are called for in observing as well as intervention.

Box A

Case Study: Social media helps prevent trafficking.

While watching a Facebook page hosted by the migrants from Mizoram working in various vocations in different places, it was observed by the diligent police inspector in Aizawl that in Goa, a few men and women migrants, all adults, were exchanging notes on some anticipated problem. A person, who had recently hired them for a job in a hotel run by him, started showing suspicious conduct in asking them to service at his residence too. They reluctantly agreed, but soon realized that they are being confined to the residence without freedom to move. The migrants refused to be confined. Had they succumbed anything could have happened. They started chatting among themselves in the Facebook page seeking advice of one another as to how they can help themselves from the expected bondage. No sooner the message was noticed, the Mizoram official alerted the Goa police. The latter rescued them before they were exploited. Social media was used as a powerful tool to educate each member of her/his Rights and also invite discussion on the issues, challenges and solutions.

Chapter 3

CONTEXTUAL UNDERSTANDING THE LAWS, RULINGS AND ADMINISTRATIVE ORDERS IN RESPECT OF SEX TRAFFICKING

- 3.1** The substantive legal provision is 370 IPC. In all crimes of human trafficking irrespective of the purpose of trafficking, this section shall be used. If the victim is under 18 years of age, or has been sexually exploited, add 370A, besides 370 IPC and the provisions of the POCSO Act.
- 3.2** The special legislations that are invoked in a crime of sex trafficking are shown in the box B. The golden rule for the police is to apply all relevant laws and all relevant sections in the FIR. If during investigation, other offences are made out, add them too. Prepare the CD (Case Diary) accordingly and record the justification in the section 172 CrPC portion of the CD. Also send information in writing to the competent court.
- 3.3** ITPA is the special legislation in India to address Sex Trafficking. In all such crimes, including FIR and chargesheets, besides 370 IPC, relevant sections of ITPA have to be added. Being a very special legislation, ITPA has comprehensive, stringent and effective provisions to address the issues in trafficking and consequent exploitation. In any given context, IO (investigating Police Officer) should file charge-sheet against the accused under the graver sections of all laws which are applicable, including IPC, ITPA, JJ Act, POCSO Act, and the Information Technology Act, 2000 as well as any other legislation, which would apply to the facts and circumstances of the case. Where the offence is committed against a member of the Scheduled Caste or Scheduled Tribe, or a person with disability, relevant provision of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and the

Rights of Persons with Disabilities Act, 2016 will also have to be applied. One has to be careful in applying proper sections of law. Never victimize a trafficked woman by prosecuting her u/s 8 ITPA (seducing or soliciting for the purpose of prostitution) or any other section of any law. When investigation brings home the point that she has been sexually exploited against her **informed consent**, she becomes a victim. Consent obtained under lure, deceit, duress, coercion, compulsion or force is not “informed consent” and therefore is not ‘consent’ in the legal sense. Furthermore, if the victim is a girl child, the question of consent does not arise at all. It is further important to note that as per the POCSO Act, children under the age of 18 years cannot consent to any sexual act. And, in any case, consent has no relevance, if the offence is trafficking (370 IPC). The acid test for application of laws is the understanding of the victim’s plight. Document all harm that have been done to the victim and accordingly involve the relevant provision of all concerned Laws.

Box B

The legal regime relevant in the context of trafficking:

- The Indian Penal Code, 1860 (the applicable sections of IPC have been discussed in paragraph 1.9)
- Immoral Traffic (Prevention) Act, 1956 (the applicable section have been discussed in Para 1.10)
- POCSO, if the victim is a child and has been sexually assaulted. (the applicable sections have been discussed in Para 1.12)
- The Juvenile Justice (Care and Protection of Children) Act, 2015 (the applicable sections have been discussed in Para 1.11)
- The Goa Children’s Act, 2003 (applicable only in the state of Goa)

- Other special laws relevant to the context (e.g, if the trafficked victim is exploited to develop pornographic materials and the porn is circulated through electronic media or internet, then the provisions of Information Technology Act, 2000 [Section 67, 67A, and 67B IT Act] will also be attracted).
- If the victim belongs to the SC/ST category and the offender was aware of this fact, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 will apply. If the victim was a person with disability, the Rights of Persons with Disabilities Act, 2016 will apply.
- Labour laws including Bonded Labour System (Abolition) Act, 1976 will apply if the victim was exploited in bondage and further sexually exploited. Where the person exploited for labour is a child, the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 will apply.

3.4 The strength of ITPA and how best to use them :

ITPA is a comprehensive legislation which gives power and strength to the law enforcement/justice delivery agencies to combat and prevent trafficking. Since its enactment in 1956, the legislation was amended by the Indian Parliament twice, in 1978 and 1986, the latter hearing focused on prevention, a provision which is not so common legal regimes across the world. However, for various reasons, the different provisions of this special law are not being used and, furthermore are often misused and abused. One of the main reasons, as research has shown,⁵ is ignorance and lack of understanding of these provisions. Therefore the following check list is a reference

⁵ See the NHRC Action Research, 2005, *ibid*.

guide to the law enforcement agencies and other stake-holders, providing answers to several frequently asked questions and frequently overlooked aspects.

3.4.1 General provisions:

- The law applies to trafficking of males and females
- Commercial sexual exploitation of anybody (irrespective of age or sex) is an offence
- The law gives specific attention to women's rights and child rights
- The law provides a specific mandate and strength to NGO's and civil society in addressing trafficking
- The thrust of the law is addressing trafficking and not prostitution, through this has often been misunderstood
- The law empowers Judicial Magistrate as well as the Executive Magistrate for distinct functions.
- The law combines in itself criminal, reformatory, administrative and preventive provisions.
- The law concurrently empowers both State and Central Government for undertaking specific tasks (example: both State and Centre can notify investigating officers, both can set up special courts etc.)

3.4.2 The offences under ITPA :

An analysis of the list of offences presented in Para 1.10, shows that ITPA has two distinct sets of regime, one is the criminal aspect for punishing the offenders and the second is the quasi-judicial aspect dealing with the executive actions against the exploiters. Besides the seven penal sections viz., S3 through S.9, the law provides for enhanced punishment in respect of offences against children. On the quasi-judicial side, the DM/SDM have powers to evict offenders from places of exploitation and enable closure of brothels. The significant

aspects in law enforcement in respect of both judicial and quasi-judicial aspects are flagged in the following paragraphs.

3.4.3 Prosecuting “clientele” (“customer”) in a sex trafficking crime: The word ‘customer’ is a wrong usage, as he is the sex-offender and is part of the crime. Therefore this person is liable under the law and needs to be investigated and prosecuted. The following steps be taken against ‘customers’:

- Firstly, he should be booked under 370 IPC, including him as part of those who ‘receive’ the trafficked person.
- He is liable under Section 370A IPC, as he **engages** the trafficked person in sexual exploitation. The victim may be male, female or transgender of any age, and this will entail rigorous punishment and fine. If the victim is under 18 years of age, punishment is stringent under 370A.
- He is liable u/s 5 ITPA. ‘**the customer**’, legally speaking, ‘**causes or induces**’ the act and is, therefore, liable u/s 5(1)(d) ITPA.
- He is also liable u/s 7 ITPA, as he is the person “**with whom prostitution is carried on**”, as defined in this section. As per Subsection 1A of S. 7, if the offence of ‘prostitution’ is committed in respect to a person under 18, the **person committing the offence** (which would include **the customer/clientele**) is liable for a graver punishment and fine with a mandatory minimum imprisonment of 7 years.
- He is also liable u/s 6 ITPA, if he is found with a **child** in a brothel.
- Whenever the victim is a **child**, the ‘customer’ should be prosecuted u/s 3 and 4 of POCSO also.
- He can also be charged as an **abettor** to the violations on the victim, u/s 114 IPC.

- Further, in case of sexual assault, S.376 IPC (**rape**) should be added to the charges against the accused.

3.4.4 Liability of traffickers:

The trafficker is liable under 370 IPC. If trafficking was for sexual exploitation, 370A also becomes applicable. The offences of criminal intimidation, abetment, conspiracy, all punishable under IPC, get attracted, depending on the facts in the crime. Further, u/s 5 of ITPA, trafficking committed, contemplated or **even attempted** is punishable, regardless of the consent of the trafficked person. The **modus operandi** could be any act stated in Para 1.2.2. If the offence of trafficking is committed against the will of the person, then the offender is liable for graver punishment. If the trafficked victim is a child, the minimum punishment is 10 years of RI. Depending on the facts and circumstances of the case, traffickers are also liable u/s 4, 6, 9 ITPA. Moreover, as abettors and/or conspirators, they are also liable under IPC (as discussed in Para 1.9).

The traffickers are liable under POCSO if the victim is a child and there was sexual exploitation of the victim. IT Act will be applied against traffickers if the offence was committed using internet. Further, other sections of substantive law like criminal conspiracy, abetment, kidnapping and abduction, etc. will also apply depending on the facts of the case.

3.4.5 Jurisdiction of Courts and Police: An offence of trafficking, u/s 5(3) ITPA, may be tried in any of the following places:

- From where the person (victim) has been procured, induced to go, taken or caused to be taken or from where an attempt to procure or take the person (the victim) is made. This means the place where trafficking took place, i.e., the **source** point.
- At the place where the victim has been exploited. This includes all places of **transit** and **destination**.

Police Jurisdiction: Since the courts of law has jurisdiction in the source point, the transit points and the destination points, the following are relevant for police in the effective implementation of the law:

- In a case of trafficking, police agencies at the source point, transit points and at the destination point have a duty and responsibility to register FIR in their police station.
- There is no legal bar in having FIRs registered both at the source point and destination point if the former is on charge of trafficking and the latter is on the charge of sexual exploitation. The ideal situation would be to have the FIR at one of the two places and, thereafter, the investigation should cover the entire spectrum of the offences from its origin to the last place of exploitation.
- In the event of registration of more than one FIR at both the source, transit or destination points, the investigation can be clubbed together, as and when the linkage is established in evidence. Thereafter, police is free to file a charge report before the court of law at either place (i.e. the source point or the destination point) and simultaneously close the investigation in the other place (u/s 173 CrPC) provided it is for the very same offence, and thereby avoid double jeopardy. Law of double jeopardy will not be attracted if the offences alleged (though they are essentially part of a continuing offence) are independently acted upon. For e.g., FIR in one place is u/s 370 IPC and 5 ITPA for trafficking and the FIR in another place is for exploitation u/s 7 ITPA, 376 IPC, and POCSO etc., coupled with 370 IPC.
- Since attempt to trafficking is also a specific offence under ITPA, it gives a strong weapon to the law enforcement agencies to bring to book the traffickers as well as abettors and conspirators in trafficking, even if the trafficked victim was not sexually assaulted.

3.4.6 Law of presumption in ITPA is a good instrument for preventing and combating trafficking: There are five presumption clauses in ITPA, where the onus of proof shifts to the accused. Therefore it provides a powerful tool for investigators and prosecutors. This may be used in conjunction with the presumptions in the POCSO Act which provides the presumption of the commission of an offence under s.3,5,7,9 of the Act as well as a presumption towards the existence of sexual intent where it is required as an ingredient to the offence. The presumption clauses are below:

- (i) Section 3 ITPA provides punishment for keeping a brothel or allowing premises to be used as a brothel. It shall be **presumed**, says section 5(2A), that the concerned person (owner, tenant, lessee, occupier, in-charge of any such premises) has knowledge of the same if :
 - A report is published in a newspaper with local circulation that the premises concerned is being used for prostitution, as revealed during a search (done anytime earlier)
 - A copy of the search list is made available to the person concerned (at any point of time)
- (ii) If any person A, who is above 18 years of age, has exercised control, direction or influence over the movements of another person B, in such a manner that A was aiding, abetting or compelling B to prostitute, it shall be **presumed** that A is knowingly living on the earnings of prostitution of another person and is liable u/s 4 ITPA.
- (iii) If a person is found with a child in a brothel, it will be **presumed** that the person has detained the child for CSE and is, therefore, liable for the same u/s 6(2) ITPA.
- (iv) If the medical examination shows that a child, who has been detained in a brothel, was sexually assaulted, it will

be **presumed**, u/s 6 (2A ITPA), that the child was detained for CSE and was sexually exploited. This legal presumption is a good tool to establish the liability of the offender, whenever it is seen that the rescued child has been sexually assaulted.

- (v) According to S.6(3) ITPA, a person shall be **presumed** to have detained a woman or girl (of any age) in a brothel or upon any premises for CSE, if the person withholds from her any of her property (like jewelry, dress, money, I Card etc.), with intent to compel/induce her to stay there. Further, he is also liable if he threatens her with action if she takes away any such property lent/supplied to her by, or on the direction of, such a person.

3.4.7 CSE of child/minor: Law views CSE of children/minors (meaning any person under 18 years) as a grave offence and, therefore, has the following special provisions u/s 7 ITPA, regardless of that person's consent:

- Enhanced punishment for prostituting a child/minor
- Minimum punishment is rigorous imprisonment for 7 years
- Mandatory fine along with jail
 - Note: Section 370A IPC also provides for enhanced punishment and fines if the victim of trafficking is a child. Hence, in such situation, the charge sheet should include, besides ITPA sections and 370 IPC, the section 370 A also, besides relevant sections of POCSO.

3.4.8 Who can rescue a trafficked person (i.e., a victim of trafficking)?

S.16 ITPA authorizes rescue of any person (irrespective of age) who is made to carry on prostitution in a brothel. The powers to order rescue are available to both Judicial

Magistrates (MM or JM) and Executive Magistrates (DM or SDM). Therefore, any of these officials may be moved by anybody seeking the rescue of any such person. The Magistrate can order rescue of any person if he has reason to believe that any person is carrying on or is being made to carry on prostitution in a brothel. However there is no such stipulation u/s 370 IPC or 370A IPC, where such power has not been given to DM/SDM.

3.4.9 Can any civilian (or an NGO) move the Magistrate and seek orders for rescue of any person?

The answer is yes. U/s 16 ITPA, the Magistrate has powers to direct any police officer (not below the rank of SI of police) to rescue any person if the Magistrate has reason to believe that the rescue is required, and the source of information for the Magistrate could be government agencies or **otherwise** and, therefore, it includes **any** of the following viz., (a) Police; (b) Any person authorized by the State Government (e.g. rescue officer notified by U.P government); (c) Any NGO; (d) Magistrates, acting on own intelligence; and (e) Any other source.

3.4.10 Can rescue be done if a notified Special police officer is not available?

Yes, u/s 16 ITPA, the Magistrate can authorize any police officer (whether notified u/s 13 ITPA or not), provided the police officer is of the rank of SI of police or above. However, there is no such restriction of rank of police under s.370 IPC and therefore all Investigating Police Officers can act upon the FIR in such cases.

3.4.11 How to prevent/combat misuse of public places?

The legal provisions u/s 7 ITPA envisage a significant role of law enforcement agencies in not only taking action against the offenders who misuse public places, but also in preventing

such misuse. In this context, the following aspects be taken note of:

A) What is a public place?

A public place, u/s 7 ITPA, includes the following:

- Any premises within an area notified by the Government
- Any premises within a distance of 200 meters of any place of public worship, educational institution, hotel, hospital, nursing home or other official/public domain.
- As defined under S.2(6) of the Hotel Receipts Tax Act, 1980, any place where residential accommodation is provided by way of business, for a monetary consideration, is a hotel.
- Any transportor vehicle to which public has access.

B) In *Vishal Jain Vs. UOI*, AIR 1997 SC 3021, Supreme Court has held that “any place intended for use by or accessible to public in a public place. It is not necessary that it must be a public property. Even if it is a **private property**, it is sufficient that the place is accessible to public”. This gives wide scope for all concerned agencies to address the issue accordingly.

C) Can a hotel license be suspended if prostitution is carried on in the hotel?

Yes, u/s 7(2)(c) ITPA, if the public place which is misused happens to be a hotel, the hotel license may be suspended for a period not less than 3 months and may be extended to one year. In such circumstances, the police officer should move the concerned court (District Magistrate is the competent court) for the suspension of the hotel license.

D) Can the hotel license be cancelled?

Yes, u/s 7(2) (c) ITPA, if it can be proved that the victim

of prostitution or CSE in the hotel happens to be a child or minor (i.e. any person, male or female, who is under 18 years of age), then the hotel license is liable to be cancelled. The police officer has to move the court of the District Magistrate for the same.

E) Who are all liable for misuse of public places? Under section ITPA, the persons liable are –

- Any person who carries on prostitution
- Any person with whom such prostitution is carried on (customers/clientele etc.)
- Any keeper of a public place who permits such misuse
- Any tenant, lessee, occupier or person in charge of any premises who permits the place or part thereof for misuse
- Any owner, lesser, landlord of any such place, or their agents, who lets the place or part thereof for misuse or is willfully a party to the same.

3.4.12 Closure and Eviction of Places of Exploitation after notice⁶:

- Under section 18(1) ITPA, The District Magistrate (DM), the sub divisional Magistrate (SDM) and a Police Commissioner (specifically notified by the State Government under this Law) can act on information from police or NGO or anybody else to close and evict offenders from a place of CSE.
- This magistrate can issue notice to the owner, lesser, landlord of the house, room, place or portion thereof or their agent, as well as the tenant, lessee, occupier of, or any other person in charge of such house, room, place or portion thereof.

⁶ For details in respect of drafting a speaking order as well as the case laws, see the booklet by Nair PM, "Role of DM in Antihuman Trafficking", published by National Law University, Odisha, Cuttack and TISS, 2017.

- The show cause notice sent to them by the Magistrate would direct them to reply within 7 days of the receipt of the notice stating why the property should not be attached for its misuse.
- The Magistrate should hear the party before taking a decision.
- After hearing, if the Magistrate is satisfied about the misuse, he can (a) direct eviction of the occupier within 7 days of the order and (b) direct that prior approval of the Magistrate be obtained before letting out the place again during the following one year (and during the following 3 years if a child or minor has been found during the search of the premises). The order of the DM/SDM has to be a concise, cogent and comprehensive speaking order⁷.
- The order of the DM, if done with due diligence, is final. There is no appeal or stay, by any Court, Civil or Criminal, as stated u/s. 18(3) ITPA. Since closure of brothel would entail loss of 'income' for the exploiters, and no relief is available by way of appeal, this is **a stringent section of law** which the police, prosecutors, the DM/SDM and NGO's can effectively utilize to combat and prevent trafficking. (This is a provision in the Indian law which, perhaps, has no parallel anywhere.)

3.4.13 Closure and eviction of Places of Exploitation without notice:

According to S.18 (2) ITPA, the court convicting a person of any offence under S.3 ITPA (keeping a brothel, etc.) or S.7 ITPA, (misuse of public places for CSE) may pass orders of closure and eviction without any notice to any such person. Therefore in the event of a conviction u/s 3 or 7 ITPA, the police/prosecutor should immediately move the court for

⁷ Ibid

closure/eviction u/s 18 ITPA. The IO need to have a case management system wherein he can advise the prosecutor, at the right time, on this matter. It is to be noted that this remedy is extremely effective as such an order is non-appealable and cannot be stayed or set aside. {s.18(3) ITPA}.

3.4.14 Surveillance of convicted persons under ITPA:

According to S. 11 ITPA, any person convicted under ITPA or relevant sections of IPC (363, 365, 366, 366A, 366B, 367, 368, 370, 370A, 371, 372 or 373) who is convicted again under ITPA, for a period of 2 years or more may be subjected by the court to notify, according to the rules made by the State Government in this regard, of any change of his residence or any absence from such residence after release, for a period upto 5 years. If the State rules exist, this is a potent weapon for the law enforcing agencies to keep surveillance on the movement and activity of the convicted person so as to prevent any such crime in future. If there are no rules, the state government be moved for bringing out comprehensive Rules under ITPA.

3.4.15 Externment of convicted persons under ITPA:

According to S. 20 ITPA, the District Magistrate, Sub-Divisional Magistrate, or an Executive Magistrate authorized by the State Govt., has power to extern (remove) a convicted person to another place within or outside the limits of his jurisdiction. This is a powerful weapon against convicted exploiters so that they are prevented from carrying on further exploitation. The police have to move the concerned Magistrate immediately after conviction so that the Magistrate can start the externment proceedings.

3.4.16 Finality of proceedings and enabling provisions:

ITPA is a special legislation which has certain inherent

provisions to ensure that the legal proceedings are not long drawn. These provisions and restrictions are meant to be invoked by the agencies concerned (police, prosecutors and judiciary) so that the trial is expedited and justice is delivered without delay. In this context, the following are noteworthy.

- U/s 18 ITPA, there is neither appeal nor stay against the order of eviction by a Magistrate or the Court.
- Any appeal against the order for protective custody u/s 17 (4) ITPA, issued by the Magistrate (SDM, DM, MM or JM), shall go to the Court of Sessions, whose decision shall be final. Therefore, there is no appeal beyond the Sessions Court.
- Special Courts (including Exclusive Courts) for the trial of offences under ITPA can be constituted not only by State Government (u/s 22 A) but also by the Central Government (u/s 22 AA ITPA). This is a provision which can help in expediting the Court Proceedings and justice delivery.
- Summary Trial: Whenever necessary, the State Government may authorize the Court to try cases summarily (in accordance with the provisions of CrPC dealing with Summary Trial, i.e. Sections 262, 263, 264 and 265 CrPC). However, the maximum punishment in Summary Trial is up to 1 year. If the Court thinks that enhanced punishment is called for, then the case be reverted to regular trial.

3.4.17 Special Police officer (SPO) of the State Government:

U/s 13 (1) ITPA the State Government can notify one or more police officers, not below the rank of Inspector of Police, as SPO having powers over a specific jurisdiction, which may include the entire state. Since many trafficking cases have inter-district and even inter-state ramifications, it is advisable to issue such notifications, without narrow restrictions. The

jurisdiction of the SPO is to be at least co-terminus with “that of the offender” so that the SPO can carry out unrestricted investigation⁸. This point can be taken note of while states issue the notification of SPO. However, under 370 and 370A of IPC, there is no requirement of an SPO. Any investigating officer can do investigation.

3.4.18 If there is a **shortage of police officers in the district**, is there any mechanism to overcome the situation in addressing trafficking?

Yes, S.13 (2A) ITPA authorizes the **District Magistrate** to notify **any retired police officer** (who, when retired, was not below the rank of Inspector of Police) **or any retired military officer** (who, when retired, was a Commissioned Officer), as SPO.

3.4.19 **Are women police officer essential?**

U/s 13(3) (a) ITPA, the SPO notified by the State Government shall be assisted by an adequate number of **Subordinate Police Officers including women police officers, wherever practicable**. The best situation would be to notify a combination of male and female police officers for each unit. Wherever women police officers of the rank of Inspector or above are available, they should be notified as SPO.

3.4.20 **Can Government of India notify special police officers under ITPA?**

U/s 13(3) (4) ITPA, Govt. of India can notify Anti-trafficking police officers (ATPO) with powers throughout India. Such ATPO can be appointed for investigating offences under ITPA and under any law dealing with sexual exploitation of persons committed in more than one State. Therefore, a notified ATPO will have powers to investigate crimes relating

⁸ A case in point is the Anti-trafficking Act, 2000 of USA, where the law enforcement agency has jurisdiction anywhere and everywhere in the world where ever the investigation of the crime leads to.

to not only trafficking but also other related crimes, viz., crimes relating to pornographic rackets, 'sale' and 'purchase' of women etc. which have inter-state and international ramifications. Accordingly, such an ATPO can investigate offences under 370 and 370A IPC too.

3.4.21 Central (Anti) Trafficking Police Officer:

The Government of India (refer notification No.2 – 27/2001-CP of the then Department of Women and Child Development, Ministry of Human Resource Development), has appointed officers of and above the rank of Inspector of Police in CBI (Central Bureau of Investigation) as (anti) Trafficking Police Officers having jurisdiction throughout India to investigate any offence under ITPA or any other law dealing with sexual exploitation of persons committed in more than one State.

How to invoke CBI investigation:

Since CBI derives its strength under the DSPE (Delhi Special Police Establishment) Act, and since law and order is a 'State subject' under the Constitution of India, the State Government has to issue notification u/s 6 DSPE Act authorizing CBI to take over such crimes. This is to be followed by a notification of Govt. of India u/s 5 DSPE Act, extending the powers of CBI to carry out the task. Therefore, despite the notification dated 28 August 2001 by the Govt. of India, quoted in the previous paragraph, CBI can take over investigation of a crime of trafficking only when the State Police, having original jurisdiction over the case, hands over the case file to CBI. However, if there is an order by the Supreme Court or any High Court, directing CBI to take over such a case, CBI cannot and will not wait for the notifications by the Govt. Often such directions of the High Court or the Apex Court arise out of Public Interest Litigation (PIL).

How to invoke NIA investigation:

The National Investigation Agency of the Government of India, set up under the NIA Act 2008, enacted by Parliament on 31 December 2008, has been empowered, wef 2nd August 2019, to take up investigation of crimes of human trafficking. Under Section 6 of the NIA Act, the Central Government can ask NIA to take over a case, on the request of the State Government concerned. Central Government has even powers to take over the case *suomotu*, vide Section 6(6). Though the amended schedule of offences, which the agency can investigate includes only 370 and 370A IPC, the section 8 of the Act empowers NIA to investigate any other offence connected with the offence and, therefore, if ITPA or any other law is involved, the NIA can investigate into them too. By the same amendment of 2019, NIA has been empowered to register a crime and investigate an offence in the schedule to the Act, even if it has been committed anywhere outside India. Here is a great opportunity for NIA to take over important crimes, especially those having trans-border ramifications and even trafficking of Indians committed abroad.

3.4.22 Role of NGOs in law enforcement and justice delivery under ITPA:

ITPA is a special legislation which envisages a large role for NGOs/CBOs and social workers. The following are noteworthy:

- a) **Advisory Body:** The State Government may notify, u/s 13(3) (b) ITPA, a non-official advisory body of leading social workers (up to a maximum of five persons), including women social workers. This body has powers to advise the SPO on questions of general importance regarding the working of ITPA. Therefore this body can advise and also extend all services to the SPO to (a) carry

out rescue, (b) ensure that the rights of rescued persons are protected (c) initiate steps for victims' best care and attention, keeping in view victims' best interests, (d) take steps for empowerment and rehabilitation of victims (f) enumerate public support to the law enforcement agencies in investigation, detection prosecution etc., (g) initiate and implement steps for prevention of trafficking and (I) facilitate convergence of all stakeholders viz. Government agencies, NGOs, corporate Houses etc. in preventing and combating human Trafficking.

b) Accompanying Police during search

The SPO, while carrying out search for victims or even accused persons should arrange two or more respectable persons of the locality and one of whom should be a woman as provided u/s 15(2) ITPA) to attend and witness the searches. NGOs are the appropriate agencies to be contacted by police in such situations. The male witness should be from the locality, whereas the female witness could be from anywhere, vide proviso to S.15 (2) ITPA. It would be good if the Police officials maintain a list (ready reckoner) of women activists and NGO's, whose services can be called upon in such situations.

c) Interviewing rescued/removed persons

U/s 15(6A) ITPA, any female person rescued or removed during a search (this includes, victims, suspect and accused) can be interviewed only by a female police officer, or by a male police officer in the presence of a female police officer and if a female police official is not available, in presence of a female member of NGO. This is an enabling provision for the NGOs. Nowhere in the World exists such a provision enabling NGO participation in the investigative process.

d) Home verification of rescued persons.

A mandatory duty is cast upon the Magistrate u/s 17(2)

ITPA to cause home verification of the rescued person, both child and adult, before taking a final decision regarding her rehabilitation. Direction is to be given to the Probation Officer (appointed under the Probation of Offenders Act, 1958). The Magistrate can call upon NGOs to carry out the task. Even the Probation Officer who has been tasked for the same can, in turn, associate or entrust the job to NGOs. This is a provision which will help the Magistrate decide whether the home is a place safe enough for sending the victim back.

e) **NGOs to assist Magistrate on rehabilitation**

The Magistrate may, as provided u/s 17(5) ITPA, summon a panel of five respectable persons, three of whom shall be women, to assist him. It is, therefore essential that the DM/SDM maintain an updated list of NGOs working in the field so that their services can be utilized at the appropriate time. SP/SHO may provide to them the list of appropriate local NGOs.

3.4.23 Can a witness refuse to cooperate with police in search and rescue?

As per S.15(3) ITPA, any person who, without reasonable cause, refuses or neglects, to attend and witness a search when called upon to do so by an order in writing, delivered or tendered to him, by a competent Police Official, shall be deemed to have committed an offence u/s 187 IPC (Refusal to assist public servant when bound by law to give assistance, which though is a non-cognizable and bailable offence, nevertheless entails punishment up to 6 months imprisonment and fine. These offences are non-compoundable and the parties cannot enter into any 'settlement' in lieu of closing the matter. Hence there is a duty on the public to cooperate in such genuine requirement in law enforcement.

3.4.24 How to carry out Home verification of the Rescued persons?

Being a mandatory requirement u/s 17(2) ITPA, Home verification of the rescued person needs to be undertaken by the Magistrate before deciding on the follow up action. The points of verification include:

- a) The correctness of age
- b) Character and antecedents
- c) The suitability of the parents/guardian/husband for taking charge of the person.
- d) The nature of the influence which the condition at home is likely to have on the person if she is sent back home.
- e) The personality of the person(meaning strengths, interests, aspirations etc.)
- f) The prospects of rehabilitation u/s 17(5) ITPA.

Since the task of verification can be entrusted to probationary officers and even to NGO's, the law enforcement officials need to network with these agencies and bring to the notice of the Magistrate the name, address and other details of the agency concerned. Once the task is assigned to the NGO's, it needs to be facilitated and followed up so that the verification is expedited. Objectivity is called for in the process of verification. Therefore due caution is to be exercised in the selection of NGO. The verifying authority should consult the victim, her well-wishers, friends, parents, guardians, neighbors', community and all persons who can share information. There are instances where the guardians themselves have indulged in trafficking. Therefore extreme care is called for in arriving at conclusions⁹. A Rights-based approach should be the mantra in verifying the 'character and

⁹ See Patkar, 2004, for details on Home Verification

antecedents'. The focus should be whether the person was trafficked earlier, and if so why she was re-trafficked, what are the strength and challenges which are useful to decide if the person can be sent home or requires institutional Home care etc.,

3.4.25 Protection and safety (estoppels) for police officers and NGO's against litigation.

ITPA is an empowering legislation. Section 15(6) ITPA provides a safety clause for *bonafide* work. The authorized police officer, the witnesses, and the NGOs who take part, attend, or witness a search shall not be liable to any litigation, civil or criminal proceedings, against them for any *bonafide* work in connection with or for purposes of the search being carried out u/s 15 ITPA. NGOs getting legal support against litigation is a unique feature, unknown in the similar legal regime across the world.

3.5 Administrative guidelines and systems:

Advisories by Government of India: In the Context of preventing and combating sex trafficking, some of the significant guidelines applicable across the country are as follows:

- a) MHA advisories in respect of sex trafficking:
 - i) Advisory dated 23.07.2015, for associating SSB and BSF in the crime meetings of the District in the bordering Districts.
 - ii) Advisory dated 01.05.2012, that trafficked foreigners are to be treated as victim and not as offenders.
 - iii) Advisory dated 30.04.2012, on the need and method of treating human trafficking as organized crimes and orienting investigation accordingly.

- iv) Advisory dated 31.01.2012 on missing children and measures to trace them and prevent their trafficking.
 - v) Advisory dated 09.09.2009, on strategies in preventing human trafficking.
- b) MWCD has put in place the '*trackthemissingchild*' portal which helps in locating the missing child. It's citizen's corner, titled The *khoya-paya* site helps public share information on children who may have been lost or abandoned.

Chapter 4

INVESTIGATING SEX TRAFFICKING

4.1 Investigation Models: Investigating crimes of sex trafficking calls for high degree of professional standards. Some of the features which make this investigation distinct are (i) complexity of the crime, (ii) the distraught victim, (iii) the borderless and seamless spread of the crime (iv) the anonymity of the offenders, (v) use of technology, internet etc., (vi) multiple crimes by multiple offenders who are well networked, (vii) the huge illicit generated etc., Therefore the investigative strategy also needs to be scientific and professional.

The common parlance strategies existing today are as follows:

- a) **Victim-centered investigation:** The focus is on the victim's plight and evidence is built up accordingly. Victim remains cardinal to the prosecution framework. Consequently there is undue pressure on the victim and if the victim is not able to sustain repeated questioning by investigators, prosecutors, defence attorneys etc., the offenders can manage to scoot. Hence the thinking world over is to shift the centre away from the victim.
- b) **Offender-centric:** The focus, if placed on the offender, provides disruptive action and can prevent crimes including re-trafficking. However, as per the Indian legal system, the admission by the accused before police is, unfortunately, not admissible as evidence in the Court of Law, and, therefore, the strategy to put the thrust and weight on the accused has often bounced back. The reasonable doubt that they can create in the judicial mind comes to their rescue. They scoot at the earliest opportunity.
- c) **Offence-Centric:** The focus on the process i.e. the different facets of problem-solving the crime, the criminalization process and proceeds etc., render a problem-solving

situation. However, the focus on the process may give rise to lesser focus on the human elements, including the victim and offenders. The crime of trafficking has several dimensions and if all the aspects are not investigated, the story remains incomplete. The story built up with lot of efforts can collapse like a pack of cards. Therefore the offence centric effort has not really taken off.

- d) **Evidence-based approach:** The focus being on evidence gathering and evaluation is paramount for a logical conclusion of the investigation and prosecution. However with the adversarial system of jurisprudence in India, the evident collation and acceptance is a huge challenge and the conclusion of the trial has not been yielding the desired result. The IO and prosecutor may build up evidence brick by brick, but the defense can bring up even peripheral issues like high handedness of the IO, and create confusion in the trial process.
- e) **Rights Based Investigation**¹⁰: This is a new mantra where the focus of investigation is in espousing, upholding, ensuring and protecting the rights of the victim, including efforts to restore the lost right, along with ensuring the rights of suspect as well as that of the investigator. Herein the tasks are done in a full compliance of the legal system and human rights principles. The balanced approach helps the investigator in arraigning the offenders based on the evidence, avoiding secondary victimization of the victims and allegations of torture of the suspects etc. The task of the investigator is equally distributed towards victims and offenders as well as witnesses. Thrust is on scientific evidence, use of technology, science, internet, forensics etc. The IO, working in convergence with all stakeholders

¹⁰ For a detailed understanding, refer to the booklet “Right-Based investigation-RBI”, by Dr.PM Nair, Published by Tata Institute of Social Sciences, Mumbai, 2017.

makes it even. There is less pressure on the victim, rather no pressure, but more emphasis is on the evidence including circumstantial and direct collated from the scenes of crime, documents, communication system etc. Even though the IO is free to adopt the model that he/she is comfortable with and is used to, RBI can be the best in the given situation. With this preamble, let us delve deeper into the different steps in investigating sex trafficking crimes, on an RBI framework. The salient points are presented below in the format of DO's and Don'ts

4.2 Registering the Crime (FIR) at the Police Station (PS): Do's and Don'ts

- **Reach out to the Crime:** The PS and AHTU officials should adopt an outreach method. Instead of waiting for the crime to be reported to the PS, reach out to the crime. This is required because the victims may not be aware of the crime, they may think they are part of the crime or they may be unable to reach out to the Police. Their guardians may not be aware of the exploitation or they may be part of the problem. Therefore, to ensure justice delivery, and to prevent crimes, the police must adopt a “one-step-forward approach” and reach out to the crime and get the FIR registered and commence investigation.
- **Delay:** There should not be any delay in registering FIR. Trafficking can move the victims away in short time. Hence swift action is called for. If there is any delay, record the reasons in the and CD.
- **The Content:** The FIR has to be on the statement (FIS-First Information Statement) of the complainant. The statement cannot be altered or amended by the police. If the complainant is the victim herself, she may be traumatized and, therefore, may not be able to recall the events which constitute specific offences. The police

officer can help her to recall such events. Even otherwise, the statement of the victim u/s 161 or 164 CrPC, recorded in due course, should bring in all details, including those which have been missed out in the FIR. Therefore, there need not be any anxiety to fill up the FIR with every detail, even though all efforts should be made to make it as comprehensive as possible incorporating all that the victim/complainant can say. Even a cryptic, hand-written note, which make out a cognizable offence, is adequate to get the FIR registered.

- **Complainant:** Anybody can be the complainant. If nobody comes forth, the police official should be the complainant.
- **Jurisdiction:** Jurisdiction of the PS need not be disputed. As trafficking is a continuing offence, the FIR can be lodged with the police at any of the places at the source, transit or destination. All these courts have jurisdiction, as specifically provided u/s 5(3) ITPA. Therefore, the police at all these places can take up the FIR and investigation. However if two or more FIRs are lodged at different PS on the same issue, the police officials can eventually consult each other and transfer the evidence and case documents to one of the PS, who can follow it up thereafter. This is no reason to deny FIR or not commence investigation. Even if the crime falls outside the jurisdiction, the SHO has to register FIR and then take steps to transfer the case to the PS concerned.
- **The copy of the FIR** has to be given free of cost to the complainant.
- **Female witnesses/victims are to be interviewed** at the place of their choice. Police should go to them for the interview, and not vice versa..
- **Never after Sunset:** No female witness should be summoned to the police station after sunset.

- **No distortion:** FIR is the first document in the process of justice delivery. The steps that follow are mostly dependent on the FIR. Distorted FIR where the victim has been shown as accused entails further violations and harm to the victim. Therefore, victim must be projected as victim and never as an accomplice.
- **Which law and which provisions of law:** Do register cases under the relevant provisions of IPC, ITPA, POCSO ACT and other laws which are applicable, such as Bonded Labour System (Abolition) Act, 1976, Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, Maharashtra Control of Organised Crime Act 1999 etc., SC/ST (Prevention of Atrocities) Act etc.,
- **GC/SR case:** All cases of trafficking be treated as ‘Grave Crimes’ or ‘Special Report’ Crimes (depending on the terminology in vogue) and be investigated and supervised by senior police officials, specially sensitized and trained for the same.

4.3 Rescue: Dos and Don'ts.

- 1) Special police officer (SPO) **can search without warrant** u/s 15 ITPA and **carry out rescue**. Therefore the SPO is free to act on his own and promptly.
- 2) The Magistrate can authorize **any police officer** (SI and above) u/s 16 ITPA to rescue anybody any time. If a notified SPO is not available, the next available police officer should feel empowered under this provision. He/she should go to the Magistrate, get orders and then go for rescue.
- 3) In cases of emergency, even when an SI rank official is not available, any official whosoever is in charge of the PS must act. CrPC empowers the officer-in-charge of the PS

to take all steps to prevent crimes. He must record the reasons in the GD and act swiftly. When the senior official arrives he can take over and can continue the rest of the work.

- 4) **Do not delay** rescue at any cost. Delay denies justice delivery and also exacerbates exploitation often, the accused can cause disappearances of victims and evidence, if there is delay. Therefore, do gather intelligence and act in time.
- 5) **Information source** for rescue could be anybody, where NGOs also play a role. Develop good contacts with all stakeholders, especially students (by setting up AHTC), Anganwadi SHG, RWA, Panchayats etc.
- 6) The Magistrate can take cognizance of report by **anybody** including NGO (S.16 ITPA)
- 7) The Magistrate can be **anybody** from the categories of JM/MM/SDM/DM (S.16 ITPA), having jurisdiction over the area.
- 8) The search/ rescue party should have two **women police officers** (WPO) as required u/s 15(6A). Maintain a list of WPOs residing in the jurisdiction of the PS, neighboring PS and other nearby locations. If there is shortage of WPO, Consider getting retired WPO notified as SPO u/s 13(2A).
- 9) Two respectable persons are required as **prosecution witnesses** (PW) during search and one of them shall be a woman u/s 15(2 ITPA). Utilize the services of local NGO's. Do network with NGO's of integrity in the area.
- 10) **Interview** of rescued person should be done only by WPO and, if WPO is not available, along with a woman from an

NGO, as mandated u/s 15 (6A) ITPA. Maintain list of appropriate NGO's in the P.S. (see chapter 6 for details)

- 11) Rescued persons are to be **produced** before the Magistrate forthwith (s.16 ITPA). If they are children, produce them before CWC. If there is a delay due to unforeseen situations (like traffic jam in transit or child being unwell required medical attentions etc.), do document and justify the delay in the GD and CD.
- 12) Keep the victims **segregated** from the accused and suspects, so that they do not intimidate or violate the rights of the victims.
- 13) **Rights** of rescued persons are to be ensured during rescue and post rescue situations. This includes the following:
 - (a) **Facilitate** the rescued person to carry along with her all her possessions like dress, money, jewels, etc.
 - (b) If the rescued person has **children**, they should be allowed to accompany her. Extra care should be taken to see that the children are not left behind in the brothel and are not harmed in any manner.
 - (c) One should be **careful** in the use of language/gestures/demeanors. They should not be abusive or intimidatory and should no way violate her rights.
 - (d) Avoid **publicity** of the victims so that anonymity is maintained. It is mandated under law and any violation is an offence too.
 - (e) Carry out a quick brief **interview** of the victims at the place of rescue to know their age (so that the applicability of JJ Act and POCSO could be decided) and to locate their movable assets and possessions at the place of rescue (which could be carried along with

them before leaving the place). One official be earmarked exclusively for this purpose. Interview should be friendly and not intimidatory. This is only a preliminary one, as detailed interview will come up at a time when the victim is comfortable to speak.

- (f) Ensure proper handing over of **victim's possessions** to her at the appropriate place and time (i.e. the victim's clothes, etc. should be delivered to her immediately after recovery).
- (g) Provide **counselors** for trauma counseling. Keep a list of NGOs and trained counselors who are willing to work in this field. Untrained counselors can do harm and therefore, associate only trained and competent ones.
- (h) **Legal counseling** be provided to the victim, if required. Keep a list of lawyers willing to work for the victims. Services of ParaLegal volunteers (PLV) with DLSA be utilized.
- (i) Immediate **medical relief** be provided. Medical relief should include mental health also. As per S.15(5A) ITPA, the Magistrate has to order medical examination for – (a) age determination, (b) Injuries, (c) Sexual assault, (d) Presence of STD. Depending on the medical condition, further medical care has to be provided.
- (j) Psychosocial care is as important as medical care. Trained counselors can help. Therefore, if situation demands, provide such case with professionally trained health care persons.
- (k) **Progress of Work:** Do not deny the right of the

victim/complainant to know the progress of information. Do maintain appropriate contact with the victim and her well-wishers, including the NGO who is attending to her.

- 14) **Children** are to be dealt with under JJ Act. Therefore, while rescue is going on, please do segregate the children from the adult victims and proceed with them under JJ Act, as they are children in need of care and protection. Child victims must be produced before the Child Welfare Committee with jurisdiction to provide for adequate care and protection of children and decide upon the residence of the child.
- 15) The police officers need to know beforehand as to where the **Rescue Home** is available. If there is a need for such Homes, it should be taken up with the concerned authorities. Of late many NGO's have set up such Homes. Do verify their credentials and keep a list of address, telephone, contact person, etc. of appropriate NGOs. Their integrity, capability and experience should be the criteria for selecting such Homes.
- 16) As and when the rescue is done, please **notify** the authorities of the concerned Home regarding the number of persons going to be lodged so that they could be prepared to receive them and organize themselves.
- 17) Rescue Party should have adequate number of **vehicles** so that the rescued persons could be transported without publicity and glare. Ensure that victims are kept safe from accused so that the latter do not intimidate or harm them.
- 18) **Search and seizure** of all material evidence, including documents in the brothel, is an important job. This should be done at the first available opportunity so that evidence

is not destroyed or made to disappear by anybody, especially the exploiters. (See box 'D')

Box D

A case study of a Register in a brothel

In a case of rescue in Mumbai in 2002, the document which was left behind by the rescue party included a register maintained by the brothel owner regarding the details of money received in CSE and payments made to various exploiters, abettors and conspirators. Investigation into the document would have brought out the nexus in trafficking and brought evidences to nail many/ all offenders to book. (For details see the case study in *the Trafficking in women and children in India, NHRC Study, by Nair PM, Published by Orient Longman, 2005*)

- 19) **Listening to the victim/witnesses:** This is a professional area of work where the investigator needs to be skilled. The best investigator is a great listener too. Often people hear but do not listen and in this process, much is lost. Active listening, with complete attention on all that is spoken and not spoken will give a complete picture to the investigator. (For a detailed discussion on listening techniques, see chapter 6).
- 20) **Training** of police officials on victim protocols and fundamentals of child psychology is a pre-requirement to see that they are aware and sensitized to the issues concerned. A copy of this handbook, translated in the local language, would be an appropriate reference guide.
- 21) Ensure **accountability** of all the officials taking part in the rescue. Brief them well in advance on all the points

mentioned above and ensure compliance. Accountability demands appreciation of good work as well as condemnation of all wrong-doings, including acts of omission and commission.

22) **Evaluation:** Do undertake a critical evaluations of the entire rescue and post rescue processes so that the response is better during the subsequent ones. Keep a check list and use it during search and evaluation. (see model Check list as appendix)

4.4 Search & Seizure: Search and seizure of all material evidence, including documents in the SOC, is an important job. This should be done at the first available opportunity so that evidence is not destroyed or made to disappear by anybody, especially the exploiters. Do keep an index of the seized documents so that weeding out or selecting important ones as well as the security of the documents can be done with ease.

When it comes to material evidence from the scene of crime, do not miss out the following:

- **At the source area:** age proof, ID proof, school certificates of the victim, victim's parents and siblings; documents and material showing the challenges at home, like broken home, alcoholic parentsetc. victim facing issues in the family or outside; communication the victim had with the family etc.
- **At the transit area:** Documents; materials which may indicate harboring and transportation, accommodation, food, medicines etc provided; money trails of the accused; evidence on physical, sexual assault etc.
- **At the destination area:** Documents and materials which speak about:
 - (a) **The accused:** this would include register of customers, traffickers, agents; payments made to and

by them; unused and used condoms which can help link the customers to the exploitation; documents on money trail, savings, deposits, etc; documents relating to the building where the exploitation took place; materials kept in safe controls; materials that speak about exploitation, physical, sexual, financial etc.

- (b) **The Victim:** All that would speak about the age, health, harm, exploitations of victims, the contacts and messages in cell phones and other communication devices that would link up the customers, agents, traffickers etc. the information that would help rescue other victims at other places, and so on. (For details see para 4.13)

4.5 Post Rescue Care: Dos and Don'ts.

- i) Distinguish victim from the suspect/accused by a process of intelligent observation and interviewing. **Do not treat victims as suspects or accused.**
- ii) Do not allow suspects and accused to mix up with victims.
- iii) Do not **intimidate** or abuse victims by words/action/gesture/demeanor.
- iv) No **publicity should** be allowed. Ensure anonymity.
- v) **Empower** the victims. Make them aware of their rights so that they can also ensure that their rights are not violated.
- vi) See that the victim gets **possession** of all her belongings, assets, etc. Help the victim to get all her **dues and rightful claims**, as most brothel keepers are reluctant to part with her earnings.
- vii) See that the **children of the victims** are provided due care and attention and are not separated from the mother, if they were living together before rescue.

- viii) Ensure **safety** of victims during rescue and post-rescue transfers and movements.
- ix) Get the **medical examination** of the victim done without delay. Utilize the services of female doctors/Para medical staff, as far as possible. Do provide lady constables to accompany the victim. Make arrangements for expert (like gynecologist) if required. In this context, the dos and don'ts in respect of a female victim are:
 - o All examinations should be done by a female doctor. If no female doctor is available, do associate other female persons like nurses/counselors/NGO workers during medical examination.
 - o Male police officers and male attendants should keep away. Bring in lady officials/staff.
 - o The doctor should do a mapping of not only physical injuries but also the psychological harm. If required associate a psychologist.
 - o Medical exhibits should be carefully preserved and the chain of custody be ensured.
- x) For **psychosocial care**, adequate arrangements need to be made early. Traumatized victim needs such care. For trauma counseling of victims, networking with appropriate counselors or NGOs is ideal. A list of such trained and competent Counselors/NGOs be maintained at the police station. The Family Counseling Centres (FCC) available at designated police stations in most states, one-stop centers etc. also have trained counselors, whose services can be utilized.

4.6 Psychosocial care of victim: Dos and Don'ts

Mental health care is an area often neglected by the police and other after-care agencies despite its crucial role in victim care

and rehabilitation. Do associate appropriate government/non-governmental agencies to attend to this issue. An untrained counselor can cause further damage and trauma to the victim and, therefore, try and provide a trained and qualified expert, from the very beginning itself. Trauma counseling should be ensured even at the home/lodging house. This should be a continuous process as the victim will take time to get over the trauma. Further, the counselor/psychiatrist can be an important witness in the court of law, if cited as an expert witness in the charge sheet filed against the accused persons.

There are many strategies available in the psychosocial counseling. However the focus should be to empower the victim. Therefore it needs to be ensured that all steps and initiatives are Rights-based and are in the best interest of the victim.¹¹

- i) For **legal counseling**, do network with Para legal volunteers, provided by SLSA. Further, lawyers working with NGOs etc. are also available. A list of willing lawyers should be maintained at the police station. Private Lawyers can also be allowed to defend and extend legal counseling to the victim, as provided for in Section CrPC.
- ii) Translators will have to be arranged if the victim speaks a different language. The translators be briefed well in advance to see that the victim is not traumatized during interview.
- iii) Special Educators require to be arranged where the victim suffers from a speech or hearing disability.
- iv) Do not delay production of the rescued persons (legally speaking, the victims) before the Magistrate. SPO can produce the rescued person before any Magistrate (s.17 ITPA).

¹¹ (for details, refer to The Sounds of Silence; A Manual for Forming Therapeutic Relationships, by Dr. Achal Bhagat of SAARTHAK).

- v) Intermediate protective 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)
- vi) Rescued children should be produced before the Child Welfare Committee (CWC).
- vii) During the pendency of verification, the person can be kept in a recognized rehab institution after obtaining orders from the Magistrate concerned.
- viii) Home verification is to be done by a civilian official like the Probationary Officer, who can utilize services of NGOs.
- ix) Suitability of the rehabilitation home should be verified before the person is lodged.
- x) Magistrate may utilize the services of five NGOs (including three female NGO workers) for home verification and also consult with them in the process of decision making (u/s 17(5) ITPA).
- xi) **Age verification:** The Magistrate, before whom the rescued person is produced, shall u/s 17(2) ITPA, cause verification of the age of the person. Age is crucial in deciding on the application of IPC Sections like 372, 323, 375, 366 A, 366 B, 370, 370 A etc. and that of JJ Act. If the person is less than 18 years of age, JJ Act and POCSO Act come into effect and the Magistrate should refer the person to the appropriate authority, i.e., the CWC. Therefore, correct assessment of age of the rescued person is an important step. Though under JJ Act, and POCSO Act, the competent authority is authorized to take steps in determining the age, in practice, it is left to the rescuing officials to take a prima facie decision as to whether the rescued person is an adult or a child.

This is a significant matter as any person under 18 years has to be produced before CWC and deserves special care as a child. The traffickers and the exploiters will try their best to declare even the child as an adult, as offences against children get severe penalty. Therefore age verification is an important aspect. The first test that a police official should apply is the look of the person. If the person looks to be a child, produce the person before CWC. As per S.94 JJ Act 2015, the criteria for determination of age has been clearly laid out. Go by that. School certificates are crucial. In case of serious dispute or doubt, go for medical exam. If any malafide is suspected, go for a medical board. However medical report is only an opinion. Documentary evidence like school certificate etc. will have predominance.

- Presumption of age, at first sight, be drawn in favour of the rescued person.
- Interview the person to arrive at objective yardsticks, like date of birth in school records etc. There are several events in the life of a person which can reveal her age.
- Associate social workers, CWC members etc., can assist the police official in age determination.
- Do not go by the age stated by the brothel ‘madam’ or the exploiters. They may mislead law enforcement officials due to personal stake.
- The victim may be under pressure by the exploiters to speak out wrong age. Careful interviewing of the victim is likely to bring out the truth.
- Age verification by the medical/professionals and forensic experts involve ossification test and other

parameters. Do involve these professionals if required and, if so, as early as possible.

- If the expert is not able to categorically state the exact age, but opines it to be falling under a range (say 17-19 years) the benefit of doubt should go to the person (and in this case the person should be treated to be a child of 17 years)

Box E

Age Verification: A Case Study

In a case of age dispute where the police held that the person is a child, the accused held her to be above 19. Medical report said “age appears to be between 17 to 19. The Police went to the village and obtained the school certificate of the elder sister of the victim. She was only 17. Therefore this could be proved that the younger sister is, at best, 16 and can never be more than 17 years.

- xii) Considering the **social stigma** attached to prostitution, there is a tendency to look down upon trafficked persons by branding them as ‘prostitutes’. This should be condemned and deprecated. A victim of trafficking is neither accused, accomplice nor abettor. Generate public awareness in the community that the person is a victim and not an offender. The **victim’s status** should be maintained and ensured all through. Several terminologies are in vogue to describe the victim as “Survivor” etc. However, legally speaking the person is a victim of crime. The police is duty bound to extend all care to the victim, under the law and also to ensure that the victim is not re-trafficked. Prevention is a mandate under under Act 23 of constitution.

4.7 Interviewing victims of sex trafficking:

Interview of the rescued persons be carried out with care and caution. Make the person comfortable before asking questions. Ice breaking is an art. Help the victim to develop trust in you and then proceed. The important aspects that are to be covered in the interview are personal details like age, nativity, health status, family history, etc., Identify their best interests and strengths so that rehab actions can be oriented accordingly. Identify also the harm, loss, problems faced etc, so as to assess the damage and provide relief accordingly. Interview will help to locate the sequence of the offences starting from the source till rescue, to identify the offenders in each step and to document the issues faced by the victim at every stage and also to prepare the victim to present her case in the Court or during section 164 statement. Careful interview can help them locate more victims, more crimes, more offenders, more evidence and at the different processes and proceeds of the crime. Reliable NGOs and trained counselors are useful in de-traumatizing the person and help in ice- breaking so that the police officials can carry on with the interview. Interview of a rescued female victim/witness be done by a female police officer or by a male Police Official in the presence of a female NGO worker as mandated u/s 15(6A) ITPA. (For details on interviewing techniques see chapter 6)

The specific Dos and Don'ts in interviewing victims and witnesses of sex trafficking are as follows:

- Female victims should be interviewed by WPO. If WPO is not available, involve women NGO's or counselors during interview.
- Ensure that the accused/suspected offenders are nowhere in the vicinity.
- Conduct the interview at a place where she is comfortable. It should be a place of her choice.

- Keep the ambience child friendly.(try fixing some festoons, balloons, pictures of birds/ animals/smiling kids etc.)
- Do associate the person whom she is comfortable with. A ‘child minder’ would be appropriate. (Refer SC Ruling in Sakshi vs. UOI)
- Avoid too many onlookers, interventions and interruptions during interview.
- Include psychologists and forensic experts, as and when required.
- Avoid repeated interviews, unless essential. Senior officers and supervisory officers may ensure that they participate in the interview by the IO, so that repeated interviews can be avoided. This would help victim from reliving the trauma.
- Effort should be made to help the victim come, out of trauma so that she is able to recall events properly, logically and fully.

4.8 Mapping the harm done to the victims:

This is an area usually neglected in the present day investigation process. Do map and document the entire harm and damage done to the victims. This includes the following:

- Injuries of physical assault (beating, cigarette burning, etc.)
- Injuries of rape and other sexual assaults
- Injuries consequential to the various act of exploitation (e.g. abortion or sexually transmitted infections due to denial of safe sex methods)
- Injuries consequential to the denial of medical care and attention (e.g. UTI, which arises due to lack of timely treatment of minor injuries) or lack of hygiene etc.,
- The psychological harm (ie. the mental torture, trauma, tension, etc on the person) not only due to exploitation,

intimidation, and denial of privacy and dignity but also as a result of neglect of oneself, one's children, and abuse of children.)

- Physical and mental harm to the dependent children of the victim, especially those who are staying with them.

The mapping of harm could be professionally done with the expert assistance of doctors, forensic experts, psychiatrists, and psycho-social experts. However, documenting the victim's own experience and the observation of the NGOs, counselors, etc. associated with the victim are also relevant. They should be cited in the case records. Do not distort the language. Record the statement in the language spoken to by the victim. Do not ignore the emotions, the feelings, etc conveyed by the victim. Do document them all. As regards child victims, their own version of the events be appropriately recorded without editing the language and content.

4.9 Plan of action (POA): Developing a POA, revisiting it at regular intervals and follow-up action on all points is another aspect of the professional investigation. POA be drawn up in consultation with other investigators in the team, the supervisors, if available and other professionals, if required, and keeping the victims rights in focus. POA should include all steps that are to be undertaken at all places, sources, including the transits and destinations. Additional POA will emerge from the interviews of Victim/witness, interrogation of suspects, scrutiny of documents, statement analysis as well as reports of experts etc. Follow-up each step in a meticulous manner and keep revising the POA till all actions are accomplished.

Dissect the law and list out the elements of the offence. Thereafter attempt to check out the contents of each of these elements. Develop POA for investigation into each element so that none of the elements is missed out. The evidence be marshalled element-wise so that the presentation is cogent and

convincing. The elements vary with the offence alleged, though there are certain common points in all the offences. A ready reckoner on the major elements of the penal sections of ITPA and 370 IPC, along with the nature and type of evidence which can be adduced is given in the Checklist at Appendix-I.

POA should include all steps that are to be undertaken at all places, sources, transit and destinations. POA will include interviews of victim/witnesses, interrogation of suspects, scrutiny of documents, statements analysis, reports of experts etc. Follow up each step in a meticulous manner and keep revising the POA till all actions are accomplished.

4.10 Recording Statement v/s. 161 CrPC: Do's and Don't's

- (1) The statement of the victim and witnesses are **recorded after their interview** so that the picture is clear and cogent. Interview will be an exercise to help the victim recall the events and also the sequence. Help the victim to recall the experience from destination, to transits and to source. Adopt the best, interviewing skills (refer next chapter) to help the victim speak out.
- (2) Record the statement **as is told** by the victim/witness. Avoid fillers, padding, conjectures, presumptions, and comments of any type. The statement be recorded in the same **language** spoken by the victim.
- (3) The **process of interviewing** should not be intimidatory or violative of victim's rights. For example, avoid repeated interviewing by several levels of police officers as the victim is made to recall and relive the trauma repeatedly. Better to go as a small team and be done with it.
- (4) Prepare the 161 statement well, **read it out** to the person so that he/she is clear as to what has been recorded and can also add if anything is missing or amend if required.

- (5) While interviewing the victim and recording 161 statement, develop all the **points that need corroboration**, with document, materials, exhibits, etc., which may be even electronic. For example, if the victim was trafficked by train from Katihar to Patna the train tickets, the CFTV footage at Katihar and Patna railway station etc. will be relevant. This evidence will clinch the offence against the trafficker even if the victim, under intimidation, fumbles, as is happening. Such a professional investigation will put less strain on the victim, and also ensure victims' rights.
- (6) **Respect the victim's rights** during interview. If a distraught child chooses to remain silent, let her be. Employ counselors who will counsel her and help her speak out. This might take time. Therefore one need not hurry up with recording 161/164 statements, till the victim/witness is ready and willing. The law demands this be done early, nevertheless it can and need be done only when the person is ready.
- (7) A victim/witness, especially one under trauma, may give **several versions** of the trafficking process. This is not unnatural. Record the entire situation in the 172 CrPC portion of the case diary (see discussions below on the utility of 172 CrPC) where the IO can explain the reason for change of versions. However such comments need not come in the 161 statement.
- (8) If the entire story is not coming forth in one statement, go for **additional** ones. Continue till the entire story and all relevant aspects of trafficking and exploitation are covered in the statement.
- (9) **Statement Analysis:** This is an important aspect of the 161 statement. Do it carefully and meticulously. Look for confirmations, contradictions, gaps, and address them in the subsequent interviews. Statement analysis (see

discussion in chapter 6) is a professional art which the investigators need to be trained.

4.11 Recording Statement v/s 164: This exercise is done as a safety measure, mainly for two reasons. Firstly, because the admission before a police officer is not admissible under the Indian Law(25 EV Act), but a statement is recorded before a Magistrate, it becomes admissible as evidence. In lieu of the advantages of recording a section 164 statement, the Criminal Law (Amendment) Act, 2013 introduced section 164(5-A) which now mandates the recording of a 164 CrPC statement in all sexual offence cases. This is required to be recorded as soon as the commission of the offence is brought to the notice of the police. Secondly, even if the victim/witness whose statement has been recorded turns hostile eventually, the 164 CrPC statement can be used to confront the person and even try to bring up a charge of perjury. Therefore, the witness whose statement has been recorded u/s 164 usually maintains the stand. The precaution to be taken before/while/after recording the statement u/s 164 are as follows:

- 1) Prepare the person to speak without fear and in full.
- 2) Have a detailed interview with the person beforehand, so that he/she could recall the events, linkages etc. and speak with coherence and maintain the flow to the extent possible.
- 3) While making application to the Judge, enclose a note on the important aspects of the crime on which the witness has information.
- 4) Arrange a translator if the witness is speaking a different language. Brief the translator also on the facts of the case and challenges that the victim may have in speaking.
- 5) Ensure safety, smooth passage and care of the person before and after.
- 6) Once the statement is done, ensure that it remains in the

case records of the trial court. Obtain a copy for further investigation.

- 7) There is no restriction in the law that the 164 statement cannot be recorded again. If the first statement is incomplete and is devoid of crucial aspects which the witness/victim was speaking out, move the court for a supplementary 164 statements. It is to be noted that the discretion to record an additional statement remains with the court.
- 8) Statement analysis of the 164 statement is important. Note down the significant points on which corroborative evidence is to be collected. This will strengthen the prosecution, even if the witness is unable to attend the court due to some unforeseen reasons.

4.12 Documenting developments in the Case Diary (CD) u/s 172

CrPC: This is an important aspect which is usually neglected. This portion of the CD is not available to the defence, but the court can have access to this. The IO usually makes only a short and cryptic entry about the work done, place and time, but there is much more to be done here. Capture the emotions, the untold story, the trials and tribulations, the harm etc. that the victim faced, when she/he was the subject of the crime. The steps undertaken to help the victim overcome the trauma, the response of the victim to these initiatives etc. also be recorded. Further, it is quite possible that the victim may have changed her statement several times, due to the trauma, fear or ignorance. The explanation for such changes be documented in the 172 CrPC portion so that the presiding officer of the Court gets comprehensive picture of the entire scenario. Such recording is a boon to the IO to marshal the evidence amidst contradictions and amendments in this subsequent statement by witness.

4.13 Scene of Crime (SOC) investigation: Dos and Don'ts

- a) **What is SOC:** Investigation is a professional art, which is in the exclusive domain of the investigating police officer. It is the prerogative of the police where nobody can tread in. In this context, the investigation at the SOChas to be comprehensive and holistic. SOC investigation, as often seen, should not be perfunctory or superficial. Usually, as seen in the CD's of several crimes, the SOC is perceived to be a room in a brothel. This is incorrect. The scene of crime extends to the place from where the person was trafficked, the places where she was taken to, all the transit places, all the destinations where she was exploited, etc. Therefore the SOC should include:
- the **source point** (e.g., place of recruitment)
 - the **trafficking routes** (including mode of transport)
 - the **transit points** (e.g., halting places enroute)
 - the **destination point**
 - the **points of exploitation** (e.g., brothel)
 - the **places** where the 'products' of exploitation were **transferred to** (e.g., in a case where the CSE was to produce pornography, the SOC includes places where the pornographic materials were edited, value added, published, copied, stored, sent to, transported, and places where they were sold/purchased, etc)
- b) **Documents at the SOC:** Investigation should be caused into the records maintained in the various SOC (e.g., the register in the brothel regarding income, expenditure and persons involved). Role of the various exploiters whose names may find mention in the register in different forms like codes, pseudonymous etc., are to be investigated and evidence extracted against them. These documents have tremendous value, informatory and evidentiary, if

investigated properly.

- c) **Photograph/video graph of the SOC:** Electronic documents can present a better picture on the extent, intensity and impact of exploitation and therefore, are advisable. Care should be taken to see that the photographs and videographs do not violate the rights of the victims. (e.g., avoid exposing the identity of the victims).
- d) **Forensic Evidence:** The different materials that are relevant in a SOC of rape, ipso facto, apply to a trafficking SOC too. The IO/rescuing official should carry out thorough search of all the scenes of crime, collect, preserve and document all relevant materials and get them examined by forensic experts. The materials at the SOC that call for forensic evidence include the following:
 - i. Used condoms: this will help link the exploiters, usually called as ‘customers/clientele’, to the crime. They should be carefully collected, packed and sent for forensic examination. This can be matched with the samples, including that, from the offender to link them to the crime.
 - ii. Collect all samples like Cigarette packets, cigarette butts, bottles, match boxes, match sticks, eatables, eatable wrappers, biological materials (blood, semen, phlegm, saliva, spit, fecal matter), undergarments, bed spread, curtain, cloth, droppings from, shoe/slipper etc., which will help link the accused persons with the crime. Saliva on the cigarette butt can link the offender to the crime. Equally significant are the finger print on the liquor bottles or the glasses. This list is only illustrative and depending on the type of crime, the items to be seized will vary.
 - iii. Electronic Evidence: cell phone calls and messages;

social media messages, Emails; Pen drives; Computers and Electronic recorders etc. are relevant in this context.

iv. Depending on the type of Crime, the materials to be collected will vary and will include more items. For example, in a case of Goa, where the trafficked boy was exploited by developing pornographic pictures and the accused used injections to excite the sex of the child, the injected medicine vials, the syringes, etc. which remained in the dustbin, the courier receipt of delivery of the materials, etc. were of great relevance.

(e) **Technological Evidence:** Due to the intrusion of the internet by the traffickers, online trafficking and on-line sexual exploitation of women and children are on the increase. In all such crimes, as an extension of the forensics, technological evidence assumes importance. In a crime where pornography was developed by abusing a trafficked girl and the pictures were instantaneously uploaded and dispatched and soon after the accused had scooted with their camera and laptops, it was found during investigation that the WIFI services of the hotel were used by the accused. This linkage was of forensic value to help in tracking the link from the hotel room to the places where the accused had contacts. In all such crimes, the IO should use the services of experts to locate, segregate, document, lift preserve, transfer and record the technical evidences and technology related forensics.

(f) **SOC Map:** Since trafficking crimes have several crime scenes, each with many accused and, may be, many victims rescued at several places. There is a need for a physical and electronic map showing all the SOC, the offenders thereon, the victims and witnesses at each of these places

etc. The map can also show the trafficking process, the trafficking routes, its direction and inter linkages. Such a map will give a clear picture to the court also and will be of great help in the trial process to decide on the sequence and processes. (For a detailed discussion on documentation skills, see Chapter 6)

- (g) **Observation:** Investigation is an art which is richly dependent on observation. It is not only at the SOC but applicable in interviewing victim and witnesses as well as interrogating suspects. This is an area where the investigator has to be proficient. Smart observation at the soc will help in locating the evidence, collating and collecting them and utilizing them as required. (For a detailed discussion on Observation Techniques, see Chapter 6)

4.14 Investigation and prosecution of offenders: Dos and Don'ts

- (a) Investigation should bring **to book all the exploiters**. (The list of offenders is in para 1.8 and 3.4.3). Do not leave any one untouched in the investigative process.
- (b) **Bring out the linkages** of the offenders with victims, with the different facets of the crime, linkages among the offenders etc. do marshal evidence to prove these linkages.
- (c) **Track the Trafficking Chain:** The network/matrix of the offenders, as it emerges from the trafficking Map, be used to Track them down one by one. Start with the one who can be easily tracked. Move to the next. Sometimes tracking at different levels of the matrix will be better. Use all the leads. Once located, interview him/her, pick up leads and track further for others. If the person's role is suspected, interrogate him. Confront him with evidence, oral, documentary etc. While tracking, interrogating and nabbing offenders, it is quite likely that more victims will

be rescued. Interview them, develop leads and this might lead to more traffickers and exploiters. Continue the investigation to its logical end, when all offenders are tracked and all victims are rescued. Document the entire ballooning effect of the investigation in the trafficking Map, and keep it as part of the case records.

Under ITPA, even **attempt** for trafficking is an offence. Therefore the IO has a **long list of persons** who can be brought into the trafficking net. Anybody who is involved in any act, even partly, or contributes to, or leads to the process of trafficking, should be investigated and brought on book. The offender's intention and knowledge are two relevant aspects to establish the offence. Even if the person had no intention, but had the knowledge that the act indulged in by him contributes to trafficking, it would suffice to bring him under the realm of offender. Therefore investigators should probe not only into the acts of omissions and commissions by these aspects, but also into the frame of mind behind such acts.

- (d) **Arrest of offenders:** This should be done only at the appropriate time and only when it is warranted based on the evidence. There is no point in rushing to arrest, as it will delimit the time available for filing a charge sheet. As per S. 167 CrPC, if the charge sheet is not filed within 60 days (90 days in cases of graver offences) of arrest, the arrestee will be bailed out. However, human trafficking being a serial crime, when the traffickers network can destroy the evidence and intimidate victims and witnesses and also destroy the money trail, arrest of the offenders will be required to be done **without delay**. As regards 'customers', their arrest will be required so that they do not destroy the evidence, especially forensic evidence that would link him to the crime and soc. (ref disc in para

4.1.3.d). If the evidence could be adequately built up and marshaled before arrest, it would be useful for opposing his bail in the court of law. However, in certain situations, (for example, where the accused, if not detained, would go underground and be untraceable or would harm the victim or the witnesses or would damage the case, arrest has to be done without any delay¹².

(e) **The Legal Provisions** to be kept in mind in the arrest of accused:

- The cognizable offences are sections 370 and 370A IPC as well as S3, 4, 5, 6, 7, 8 and 9 ITPA. Utilize appropriate sections of ITPA and also IPC as well as other laws which are attracted. Invoke JJ Act and POCSO when the victim is a child and there is sexual exploitation of any sort. Graver sections of law will act against easy bail.
- Invoke the provisions of special laws wherever applicable (for example, the Bonded Labour System (Abolition) Act, 1976, Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, Maharashtra Control of Organized Crime Act, 1999 etc.,
- A notified SPO is fully empowered to arrest without warrant,
- SPO can authorize and order any police officer in writing for arrest. Ensure that it is properly recorded in the SD,
- SPO can authorize any police officer, even without a written approval, in case of urgency if:
 - o The accused is likely to escape
 - o The identity of the accused is suspect

¹² For details, see “Right Based Investigation- RBI” by Dr. PM Nair, TISs, 2017.

- The grounds for authorization should be specifically recorded in police documents (General Diary and Case Diary).
- The authorization should be by name and not a general authorization.
- Authorization for arrest is distinct from authorization for investigation.
- Only the competent and notified official can take up the investigation of the crime. Technical errors often lead to discharge of the case in the court. If an SI had to do for rescue, hand over the case records to the SPO, as and when the SPO is available.
- The arrest of the accused is guided by the provisions of CrPC and Evidence Act, as it applies to any other offence.

4.15 Assessing the illicit:

Mapping the exploiter's profit is another investigative component, usually neglected. Trafficking in human beings is an organized crime where the different layers of criminals make huge profit and at almost low or nil, cost. The exploiters gain monetarily and otherwise, while the victim continues to remain resolved. Younger the girl, higher the level of exploitation and, consequentially, more 'earning' for the exploiter. The 'NHRC study'¹³ has brought out the unbelievably high profits that the traffickers and other exploiters have made the illicit flows into the licit and thereby impacts the economy, the polity and therefore, everybody. Forfeiting and confiscating the illicit will be a deterrent in containing the crime thereby in preventing trafficking. The following are the dos and don'ts in this context:

¹³ Nair PM, S.Sen "Trafficking in Women and Children in India", for NHRC published by Orient Longman 2005

- Investigate in detail and bring on record all assets, incomes, earnings, profits and expenditures of all offenders involved and in respect of all activities related to trafficking.
- Do not leave any paper/document relating to money trails without causing inquiry.
- Associate IT department, enforcement directorate and Customs department, if the facts warrant of the fact warrant their intervention or assistance.
- Establish the linkage of the crime of trafficking to the “fruits of crime” through documentary and oral evidence. For example, investigate the movable and immovable property acquired by the traffickers, the details of their extravagant lifestyle and expenditure incurred by them etc. the bank accounts, the chits of paper, the sms/whatsapp messages etc. are relevant in tracking. The traffickers are clever and will try to demolish the evidence by erasing such messages or formatting the computers. Please be assured that every electronic message leaves a trail which can be tracked.
- Collect intelligence regarding these aspects from the trafficked victims, their parents/wards, etc., through careful interviewing. Focus investigation into these leads, so as to get evidence from the ground.
- Conduct sustained interrogation of the accused and suspects to bring out the details of profit, places of deposit, utilization of money/assets, etc. (see Chapter 6 for details on interrogation techniques)
- The case diary should specifically list out the details of investigation in this regard and should invite the attention of the court during trial so that in the event of conviction,

the court could be moved to attach and confiscate the properties.

- **Confiscating the illicit:** This is a significant aspect of law enforcement, which requires application before the competent authority, by presenting a cogent story with all the required documentations. Money laundering, through known and unknown channels, are adopted by the trafficker's network. Hence technical intelligence can help in unearthing the links.

The provisions of 105C to 105J CrPC has been put to use in certain crimes. The provisions of the **Criminal Law (Amendment) Ordinance, 1944** can be invoked if the offence is registered under IPC also (as the appendix to the ordinance does not include ITPA, but does include IPC). The provisions of the Prevention of Money Laundering Act, 2002 can be invoked where laundering has come up in the investigation. Under section 76 of the Information Technology Act, 2000 there is a provision for electronic evidence systems and follow up action. If the money trails have reflection in the electronic space, this act can help in tracing, trafficking and even in tracking assets and eventually their confiscation.

Chapter 5

VICTIM CARE, CASE MANAGEMENT AND SUPPORT TO PROSECUTION

- 5.1 The Charge Sheet:** The charge sheet should be made under all relevant sections of all laws that are applicable (example, SC/ST Atrocities (prevention) Act, information Technology Act, PMLA Act etc). The sanction of the competent authority must be taken whenever required. All evidence be marshalled and presented in a cogent manner including all the medical and psycho social reports, electronic and documentary as well as material evidence needed for prosecuting the offenders. Keep the Trafficking Map as an important aspect for reference. The evidences must be presented offence-wise, so that the court can appreciate them. A list of all witnesses with their postal address, contact numbers, email ids, etc., should be part of the charge sheet.
- 5.2 Case Management:** Effective follow-up after charge sheet is essential for the logical conclusions of the crime in a court of law. Keep a tab on the day to day progress. Prepare for the day's work in advance; inform witness and all concerned, keep data/ documents/materials/exhibits ready. Brief the prosecutor. Associate the victim's lawyer/legal counsel if any link up with the prosecutor is required. Record the progress of work on each day of hearing and intimate all concerned. Do share the progress with the victim. If witnesses are turning hostile, take time to identify the causes and undertake remedial steps possible under the law. Take steps for victim/witness care. Once the court decides on the offence, move the prosecutor for action u/s.7 ITPA, 18(2) ITPA etc. The Impulse NGO Network¹⁴ has

¹⁴ Based out of Shillong, Meghalaya.

brought out an effective model for case management which is a self-contained mechanism.

5.3 Victim Care & Protection during trial: Dos and Don'ts

- **Preparation:** Victims are wary of the court ambience. Do orient and counsel them. Assure them that their rights will not be violated and that their truthful version of all facts is essential for delivery of justice which is in their interest and also in the larger public interest. Mock trials have been of great help in empowering the victim/witness.
- **Briefing:** Victims require briefing on the facts of the case, especially to recall the events in a logical way. This should be done before she is put in the witness box.
- **Ensure Rights:** Prosecutors ought to ensure that the defense does not violate the rights of the victim. Embarrassing and intimidating questions should be avoided. Intervention of the court should be sought immediately to prevent any such violations.
- **Anonymity:** All efforts should be made to ensure the anonymity of the victim. Anonymity provides strength and confidence to the victim.
- **In-Camera Trial:** Move the court for allowing in-camera trial. The Supreme Court of India (*Refer Judgment dated 26 May 2004, in 'Sakshi vs. Union of India'*) has directed that in-camera trial should be extended to all cases of sexual assault on children. A screen has to be provided in the trial court so that the child victim is not exposed to the suspect and accused persons. A child counselor should be provided to assist in the court. Adequate recess should be allowed during the trial proceedings, so that the child victim gets rest. The police and prosecutors should move the trial courts for the same. This is also provided under section

327(2) of the CrPC which mandates in-camera trials in all rape cases.

- **Video conferencing (VC)** is an ideal mechanism to prevent victimization of the trafficked victim. It should be done whenever and wherever possible. The Supreme Court, in *State of Maharashtra vs. Dr. Praful B. Desai 2003 4 SCC601*, has underscored the utility and significance of video conferencing and enumerated the safeguards to be ensured during the trial of cases. For details of the steps to be undertaken for VC within India or even across borders, an SOP is available. Do utilize this SOP.¹⁵
- **Protective Measures:** The ITPA permits the provision of certain protective measures for persons who are carrying on or being made to carry on prostitution. An application may be made to the magistrate under s.19 of the Act for protection through an order for being kept in a protective homes, in a corrective institution, or under the supervision of a person appointed by the Magistrate. Such order may also be made suo moto by the Magistrate under s.17(4) of the Act. This provision is to be used keeping in mind that the ITPA is a social welfare legislation and must not be used to curtail the liberty of the victim.¹⁶
- **Child-Friendly Trial:** Where the victim is a child, the Special Court under POCSO is obligated to ensure a child-friendly trial keeping in mind the age and circumstances of the child.
- **Victim care and protection** also calls for the following steps:

¹⁵ SOP on Videoconferencing in trafficking crimes, Nair PM et al, IJM and Maharashtra Judicial Academy 2017.

¹⁶ NurjammanLokman Lashkar v. The State Of Maharashtra, WP (Cri) 4781/2018 (decided by the Bombay High Court on 15 July, 2019), Pavithra v. Inspector of Police, Cri.O.P. 11322/2012 (decided by the Madras High Court on 19 June, 2012)

- o Depute a sensitive liaison officer with the victim, preferably a WPO
- o Brief the victim on the facts of the case
- o Orient the victim to the court scenes
- o Debrief the victim immediately thereafter
- o Follow up on the debriefing and make required amendments on the follow up action.
- o If the victim speaks a different language, make arrangements for appropriate translator.
- o If the victim is a person of a disability and requires a special educator to communicate, make arrangements of the same.
- o Ensure transportation of the victim to and fro.
- o Provide for all unforeseen and contingency expenditures.
- o Take care to return the victim safely to the concerned destination
- o Do look after other logistics and contingencies such as providing facility for rest, easement, etc.
- o Where the rescued victim is a child, the Child Welfare Committee with jurisdiction must immediately be informed for the provision of care and protection of the child.

5.4 Victim's Rights:

This is a significant aspect of law enforcement and justice delivery in all crimes. In respect of sex trafficking, there are several rights, many having been discussed in the earlier paragraphs. The following are pertinent for an investigator and prosecutor as much as a victim and care giver too.

Sl no	The rights	The Reference
1.	Right of a female victim not to be called to the Police Station after evening	S.160 IPC
2.	Right of rape victims and child victims of sexual abuse to be interviewed at a place of her choice	S.24 of the POCSO Act S.157 of the CrPC
3.	Bail of accused should be after due verification Bail should be denied to offenders of ITPA offences against minors	Guria Vs State of Uttar Pradesh, 2010 (2), Cri.L.J 1433
4.	Video conferencing allowed in trial so that victim need not be called to Court	Praful Desai Vs UOI, 2003 4 SCC 601
5.	Provision of compensation even in the absence of conviction	Delhi Domestic Working Women's Forum Vs UOI, 1995(1) SCC 14
6.	Flawed investigation is no ground to deny justice to victim	Zahira Habibullah Vs State of Gujarat 2004(4) SCC 158
7.	Non examination of victim is no ground for acquittal	State of Himachal Pradesh Vs Mohan Misra, 1995 CrLJ 3845
8.	Character and antecedents of victim has no bearing or relevance	State of Haryana Vs Premchand 1990 (1) SCC 249
9.	Minor contradictions in evidence are irrelevant	AP Vs Gagula Satya Murthy JT 1996 (10) SCC 550
10.	Sex workers also have a right to live with dignity under Art 21	Budhdev Karmaskar Vs State of West Bengal 2011 ALL MR (Cri) 943 (SC)
11.	In trafficking cases, bail is a discretionary relief to be given with caution as perpetrators can tamper with evidence and influence witnesses.	Shaikh Jaffar Ahmaed Vs State of Maharashtra 2008 CrLJ, 2413
12.	Hotel owners who let the hotel to the accused are liable under the category of running the hotel	PK Unnikumar Vs State 1974 CriLJ 377

Sl no	The rights	The Reference
13.	A person is also guilty if he procures a prostitute for himself (<i>meaning that customer is liable</i>)	Cheriyam Vs State of Kerala, 1973 CriLJ, 839
14.	Failure to record warrantless search or lapses related to panchas do not vitiate trial	Bai Radha Vs State of Gujarat, 2002 Cri LJ, 3152
15.	Court will be failing in its duty if the accused's sentence is not consistent with the brutality they inflicted on the victim	State of Madhya Pradesh Vs Kashiram, 2009 CriLj 1530
16.	The Courts are not expected to be tape recorderspresiding officers to elicit all necessary materials by playing an active role in the evidence collecting process.	Zahira Shaikh vs State of Gujarat, 2004 SC (91) AIR 3144
17.	Child victim of trafficking are to be regarded as 'children in need of care and protection' and not 'children in conflict with the law' under the Juvenile Justice (Care and Protection of Children) Act, 2015	Prerana Vs State of Maharashtra, 2003(2) MhLJ 105 (Bombay High Court) Delhi High Court Legal Services Committee Vs UOI, CrI/ Rev. No. 443/ 2009 (Delhi high Court) dated 12.08.2014
18.	Women or girls rescued from the searched premises must be interviewed by a woman police officer or in the presence of a lady member of a recognized welfare institution/ organization.	Apne Aap Women Worldwide Trust India Vs State of Bihar, 2015 (1) PLJR 268
19.	Right to protection of identity of the victim of sexual offences	Section 327(3), CrPC Section 23, POCSO Act Nipun Saxena Vs Union of India, WP(C) no.565 of 2012, (2019) 2 SCC 703
20.	Prohibition on the use of two-finger test to establish rape	Lillu Vs State of Haryana, (2013) 14 SCC 643

Sl no	The rights	The Reference
21.	A prosecutrix of a sex-offence cannot be put on par with an accomplice and is a victim of the crime. Her evidence must receive the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more.	State of Maharashtra Vs Chandra Prakash Kewal Chand Jain, AIR 1990 SC 658
22.	It is legally mandatory for the union, all states and union territories to enforce the Witness Protection Scheme, 2018 in letter and spirit in order to ensure that a witness has the “right to testify in courts in a free and fair manner without any pressure and threat whatsoever.”	Mahender Chawla Vs Union of India, WP (Crl) 156 of 2016 (decided on 5.12.2018)

5.4.1 Compensation of victims

- Section 357A CrPC was introduced in 2009 to provide for compensation to victims of crime or their dependents. In addition to the Central Government Victim Compensation Fund Scheme, the National Legal Services Authority (NALSA) in the year 2018 released a compensation scheme specifically for women victims or survivors of sexual assault or other crimes. This scheme sets up mandatory grant of compensation to victims with minimum amounts specified. The Supreme Court in May of 2018 passed an order mandating all states to implement the scheme in addition to any other reliefs available in the state or union territory.¹⁷ An application for compensation is to be made to the District Legal Services Authority (DLSA).

¹⁷ Nipun Saxena v. Union of India, WP(C) no.565 of 2012, Order dated 11.05.2018

- Compensation is an extremely critical relief in aiding victims of trafficking access medical services, psychological help, take steps to protect themselves and preventing the cycle of vulnerability that lead them to being trafficked in the first place. It becomes incumbent on the IO to inform the victim of this right and aid them in access of compensation. The following factors require to be kept in mind by the IO while aiding the victim:
 - o Victim compensation may be initiated by the court hearing the case or through an application to the DLSA. The DLSA may conduct an enquiry prior to ordering compensation and determining the quantum. The IO may ensure that the enquiry must complete within two months of the court recommendation or the application as per section 357A(5) of the CrPC.
 - o The IO need not wait until the completion of the enquiry by the DLSA or the court trial and may inform the victim of the availability of interim compensation and make an application before the DLSA for the same. The final amount may be adjusted with the interim compensation provided.
 - o The IO may aid the DLSA in respect of any document or evidence required to complete the enquiry.
 - o The IO may also aid in ensuring that the order for compensation made by the DLSA is disbursed to the victim by the SLSA in a timely manner without delay.
- Special provisions on compensation to child victims: Where the trafficking of a child has resulted in sexual exploitation, compensation may be sought under the POCSO Act. The following points require to be kept in mind regarding the compensation to child victims under POCSO Act:

- o The POCSO Act in section 33(8) empowers the Special Court hearing the POCSO case to pass an order for compensation. Rule 7 of the POCSO Rules is also relevant in the procedure for compensation. The victim thus need not approach the DLSA and can make an application to the court itself.
- o The Special Court can also order compensation (including interim compensation) *suo moto*.
- o The Special Court is not subject to the monetary limits under the Victims Compensation Scheme and may pass any value of compensation depending on the facts of the case and the needs of the victim.¹⁸
- o The Supreme Court in 2018 has passed an order directing the Special Courts to use the NALSA scheme as a guideline in ordering compensation to POCSO victims.¹⁹
- o The Court can order compensation even in the absence of a conviction if it is established that an offence has been committed against the child.

¹⁸ Bijoy v. State of West Bengal, 2017 Cri.L.J.3893) (Calcutta High Court) at para 9

¹⁹ NipunSaxena v. Union of India, WP(C) no.565 of 2012, Order dated 05.08.2018

Chapter 6

SKILLED INVESTIGATION IN SEX TRAFFICKING CRIMES

Professional investigation of any crime calls for skills, besides knowledge, attitudinal orientation and resources. For investigating an organized crime like human trafficking, the level of skills required will be of high order. Though the list of skills required for the investigators and supervisors is long, this chapter focuses on the significant ones in the Indian context and more from the perspective of IOs.

6.1 Observation Skills: Comprehensive and close observation of the scene of crime (soc), the persons who come across the IO, the materials, documents and messages, both physical and electronic, are all significant. Careful observation can get the suppressed and hidden materials and matters out. A skilled observation, therefore has the following steps:

- Seeing, looking, watching, all are relevant. Watch the patters and characteristics. In a case of trafficking of children from Bangladesh to Gulf through Chennai, the traffickers who claimed to be parents and had all fabricated documents looking genuine, had managed to get immigration clearance and were waiting to board the aircraft. The traffickers took it easy and went for tea. That was the only time the children got some freedom to talk. The alert police officer on security noticed that the children were communicating with each other but there was some fear in their demeanour. He did not even know the language, but alerted the immigration, who came back, took the children away, interviewed them and exposed the trafficking racket. Language is no barrier in observation.

- **Hearing, listening:** Listening involves cognitive assimilation and understanding of what is being heard. IO should listen to the victim, witnesses, suspect and the crime scene and try to listen to what is spoken and not spoken. This is a professional art required for an investigator.
- **Understanding, assimilating, analysing, and interpreting:** The mind of the IO should be agile and alert to analyse the events, situations, statements, materials etc. In a case of paedophilic exploitation, where the father was sodomising the child for long, the child was saying that the “father feeds me, he feeds with feeding bottle, it stinks” etc. The bottle was the child’s language as that was the way the father had told her. By careful listing, the IO could make out as to what the child meant by ‘bottle’.
- **Detailed study of the materials and facts:** Much of the evidence lies in the mess that is around the scene of crime (soc). Vigilant and in-depth study of them will bring out the evidence. In a sex trafficking crime, the condoms are relevant to link the ‘customer’, i.e., the sex offender with the crime. Therefore they have to be collected, preserved, forensic examination conducted and further investigation undertaken to locate the offenders.
- **Looking for the details.** It is well said that the devil lies in the details. Go for all the details. If not relevant, they can be rejected later, but not in the beginning where one may not be able to visualize the relevance. For example, in a case of international child sex abuse that took place at Goa, the accused used medical injection to stimulate the male organ of the children, who were subjected to sexual exploitation, thereafter. The used vials and their wrappers which were discarded along with other wastes, by the accused in the far off dump yard, were relevant to the case.
- **Looking for the patters and distortions, normal and**

abnormal: To cite an example, (though it is in a different context, the principle is relevant here too) in the soc of the assassination of Rajiv Gandhi, many pictures were taken by the photographer who died later in the explosion. The audience were seated by noon, as the VIP was to reach by afternoon. But the VIP reached only later at night. The pictures of the audience showed they were dull, dreary, tired, sulking, sweating and so on, which was quite normal in the intense humid summer in Chennai. But the pictures showed 2 persons always ale, vigilant and watchful, which was abnormal in such a weather. Careful observation led the IOs to them and investigating into them. One of them has been convicted for life. Therefore normal in an abnormal situation and abnormal in a normal situation are both relevant. Only careful observation can bring them out.

- Understanding the relevant from the non-relevant ones and segregating the relevant ones: This requires comprehensive and careful understanding of the crime. In a case of sex trafficking, the papers in the office of the labour contractor who facilitated sending the young women for domestic labour, though innocent and innocuous it looked to be, was relevant, as the contractor was using the contract work as a façade for trafficking.
- Developing their linkages, and correlating them with other facts, facets, ingredients, materials, etc. in the crime *per se* or earlier crimes. For example, if the offender keeps repeating that he has not done the crime, the fact that he was involved in a crime with similar m.o, that he was seen at the CCTV shortly before the occurrence, etc are the linkages that can be co-related;
- Listening actively is an essential ingredient of observation. (Details in sub chapter 6.2)
- Deception check is another significant concomitant of

observation, with lot of relevance and significance, both in interrogation and interview of suspects. For example, if the offender keeps repeating that he has not committed the offence, careful observation can reveal the deception in his words, gestures, demeanour, and so on. The observation of the deception between two suspects can be used for confronting them and bringing out the truth. For example, in a case the suspected trafficker kept denying having any contact with victims. However, the deception check indicated otherwise. Quick action to pull out the call record data of all the mobile phones used by the suspect, helped to expose the bluff. The data revealed the linkages of other suspects too. Therefore observation is a tool for action.

- Integration of all senses: Careful observation requires that all sensory organs of the IO are in sync and work in perfect coordination. Usually one tends to lean more on seeing than hearing or vice versa. When the suspect keeps telling lies, notice the dry lips (use your optic senses), listen to the stuttering of words (use your auditory senses), watch the smell of the sweat from the body of the suspect (use your olfactory senses) etc. While one suspect was telling lies, though a pat on his saying ‘relax’ was done with a comforting hand, yet the suspect had a shock that the IO was patting him, despite his telling lies! This shock was an indicator of deception. Here you are used your tactile senses too. How one has to use which sensory system, depends on the facts and circumstances, but it is essential that observation is at its best when the senses of the IO converge.
- Developing plan for action (POA) and taking follow up action: The leads that emerge from observation be listed out and POA be developed and action be taken forthwith. Here time is

essence. For example, the emails exchanged between the suspect and the co-suspects were to be investigated, for which clues emerged from observation and deception check. The suspect can get the mails deleted and even destroy the computer. While there are high-tech mechanisms even to retrieve lost/damaged/formatted mails and messages, nevertheless, it is better that the opportunity is not lost in promptly seizing the computer and intercepting the mails.

6.2 Listening Skills: The usual practice of hearing is not enough, as an ace investigator has to listen. In listening, one not only hears with the ears, but also observes with the eyes, with all other faculties in sync. Listening is different from hearing, though the latter is part of the former. Listening means cognitive understanding and appreciation of what is heard and not heard, i.e. understanding and appreciating both verbal and non-verbal communications. Accordingly, the salient features of listening are as follows:

- Listen actively. This means listening with rapt attention, not missing out anything, including the gaps in what is being said.
- Listen with the context in mind. Link up the statement or dialogue with the context of the crime, the SOC, the statements made earlier, the statements of others, the documents and materials seized in the case, etc.
- Listen to the gaps, pauses, intervals, silences, breaks, hiatuses, fillers, etc. as they are all relevant. They would indicate, depending on the facts and circumstances, falsehood, avoidance, suppression, padding, exaggeration, digression, deviation, parenthesis, etc. These will give clues to interview/interrogate on these aspects. Only careful observation can help detect and locate these issues.
- Listen to the words, phrases, the language, the sentences,

the catchwords, the watchwords, etc. The abrupt change in nouns, pronouns, syntax, etc. are relevant. For example, in a case, the offender kept saying that “I saw this, I went there, I heard this” and so on, but when the question came about his specific role in the issue, he started using ‘we’, saying ‘we did this, we did not do this’ etc.’. The change from ‘I’ to ‘we’ is relevant in the context. In such a situation, one needs to ponder many aspects. What is the reason for this change? What is the context? Was it inculpatory? What are the conclusion that can be drawn from this change?

- Allow the person to speak out all that he/she wants to speak, before the IO starts asking questions that matter. Facilitate the person to ‘empty’ his/her mind. If you want him to hear you, let alone listen to you, first you need to allow him to unburden himself. He may say trash, but let the trash come out. Let the mind become receptive to take in what you are going to say. Usually the IO starts bombarding him with questions or suggestions, one after another, even before allowing him to unburden himself, which can prevent free flow. Therefore, let him pour out all that is in his mind. Once the flow starts, IO can regulate with questions and suggestions. Only careful observation will help identify the mind of the person being interviewed/interrogated, so that these processes can be undertaken.
- Listen without much intervention, interference and interruption. Normally one likes to listen to one’s voice. This is natural. But in a listening mode, one has to be ready to lend one’s ears and mind to her and listen to the other person. This does not mean that the IO should remain silent. Rather the IO should be watching attentively and intervene, interfere or interrupt at the required time. The suspect cannot take the IO for a ride. The interrogation will be effective

only in a controlled ambience (see para 6.4 for interrogation techniques). But careful listening is precursor and forerunner to these controls.

6.3 Interviewing Skills: In both interviewing and interrogation, science and technology combines with human skills. Harnessing the human skills assume significance interviewing victims and witnesses in sex trafficking crimes. The essentials in the process are as follows:

- **Why Interview:** The purposes are many, as follows: (a) To know the truth of the crime; (b) To identify the victim(s) and cause rescue; (c) To gather information about the scene(s) of crime, witnesses, sequence of events, name and details of the suspects/ accused, evidence against them, etc. (d) Interview is also relevant to prepare the victim for statements u/s 161 and 164 CrPC.
- **Interview Plan:** Make a plan with all the pointers for interaction and the expectations, i.e. the outcomes expected of the interview. The pointers will need revision as the interview is in progress.
- **Prepare Oneself:** This is to be done before the interview starts. Sharpen one's skills of observation, listening, recording etc. One should be oriented, willing and prepared to listen to the victim.
- **Know the Victim/Witness:** The style of the interview has to be oriented according to the victim's (a) background, (b) Person, (c) Mind and (d) Experience. Background refers to the external environment. Most of the trafficked victims are from vulnerable sections of society. Socio-cultural subjugation, economic deprivation, illiteracy, lack of awareness, lack of access to rights/redressal of grievances, poor governance etc. add to the vulnerability of the person. The victim may be trafficked across the State/national

boundaries. The challenges in a new language, ethnicity, culture, custom, food habits, etc. will act upon the person and the IO needs to recognize these and act accordingly. As regards the person in the victim, the injuries on the body, the handicaps, age, sex, gender etc. all count and the interview has to be tailored accordingly.

- **Knowing the mind of the victim is essential to orient the interview.** If the person is distraught, do not expect her to say everything, and never in one sitting. An unwilling person is to be given time to heal herself or by a counsellor. Finally, the victims' experience has to be understood by the IO to orient the interview. If the victim is disturbed, a counsellor or a child minder can help. A victim who has been ravished by many men may hate even to see male police officials and therefore a female official should do the task on interviewing such a person.
- **Types of Interview:** It can be single or in a group. IO may associate a counsellor, and NGO, a translator, a child minder, a close family person etc. depending on the requirement and appropriateness. However all of them have to be oriented to the sensibilities involved before they are associated. It is essential that multiple interviews are avoided and therefore all those who are required to participate, like senior and supervisory officers, also can join in the group interview. If there are subsequent interviews, which may be required for clarification or verification etc. the questions which the victim need not be questioned should not be repeated. (Example: name of the person, parentage, village, etc. should not be asked again by the second interviewer, if there is no dispute or doubt).
- **Cognitive Interviewing:** The model put for the by Fisher and Gieselman can be of great help to the victim in recalling

events. This is based on two principles of memory, that (a) Memory consists of several elements arranged in a sequential manner and therefore the retrieval is good if the retrieval aid synchronizes with the mental record of the event. (b) Memory has several access routes and therefore if one access route fails or is closed, move to another one. If facts do not help, link facts with feelings and emotions and emotions so as to help the victim to recall and retrieve memory. For example, the victim may not recall who the trafficker is, but may speak how she felt when the various persons in the trafficking network had committed different types of exploitation on her. With these clues, the IO may be able to trace back the role of the various offenders.

- **Recreating the Scene in the Mind's Eye** of the victim is an effective method of helping the victim to speak out the facts and more so in a sequential manner. In order to recreate the scene, while interviewing, facilitate the victim to recall events in a sequential order. If one route fails, do adopt another route, but here also try to maintain the sequence. Allow the different perspective to seep/creep in so that it will generate flow in the mind of the victim. For example, if the victim is not able to connect herself as a victim of trafficking, continue the interview as if it was a case of abduction to start with, followed by rape or forced sex etc. One of the perspectives may work, if the other fails. Recall will be better if the facts are linked to feelings. The trauma, the harm, the shock, the disgust, the revulsion, the harassment etc. are never forgotten and if they can be linked to each act of the offender, the victim may be able to narrate the events better.
- **Allow the victim the freedom to speak.** Avoid being regimented, controlling, authoritarian, dominating,

invective, discriminating, etc. The victim may be comfortable if she is facilitated to speak and give the freedom to do so.

- **Record the interview in the language of the victim.** Avoid editing, rephrasing, etc. If the victim speaks a different language, and record the victim statement in the same language spoken by her. It can eventually be translated by a professional, if translation is called for.
- **The Case Diary (CD)** needs to be complete with all relevant facts noted in the operational part of the CD written under section 172 CrPC. All the challenges in the interview, the emotional outbursts, the trauma and related responses etc. of the victim be captured without editing, in this part of the case documents, so that the Court will have the benefit of the complete picture.

6.4 Interrogation Skills:

Interrogation is the art of making someone tell something which he does not want to say. It is a scientific method of skilful questioning of the suspect to elicit the truth.

Difference between interview and interrogation: Whereas a victim or witness is interviewed, a suspect/accused is interrogated. However, before interrogation, the suspect is also interviewed to know the strengths and weaknesses as well as to develop the themes for interrogation and decide on the techniques to be used thereon. Interrogation is accusatory in nature, where the interrogator dominates, with structured questions, done in a systematic manner and after careful preparation. The IO dominates the environment, which is largely controlled. But an interview is done in a friendly ambience.

Forms of Interrogation: It can be done singly or in a team. In

an organised crime like sex trafficking crime, team interview is good as one can question, another can observe and a third can take notes. They can rotate roles as required. Translator, if required, be associated from the local educational or research agencies, where different language speaking persons are likely to be available. Translators also be briefed before interview. Female staff is essential to interview all children (under POCSO) and all rescued women (under ITPA). If they are from NGO, they also be briefed on their roles and the protocols.

Why interview: In sex trafficking crimes, interrogation of the suspects should be focussed on the role that they had in the crime. The questions to the ‘procurer’ will be different from that of ‘transporter’ or the ‘customer’. Essentially, the interrogation of the suspects is aimed at the following aspects: (a) Get at the truth of the crime, all its details from the source through transits and at the destination, all that happened, the entire process of trafficking, including the modus operandi, the incidents that happened as part of the exploitation; (b) know the specific roles played by the suspect, as well as his antecedents and future plans; (c) the roles played by other suspects, including their whereabouts and antecedents and future plans; (d) get intelligence on the victims in subjugation (so that they can be rescued forthwith); (e) get intelligence on the revenue generated in the crime, the investments, the expenditure details, the methods of utilization of the illicit, the assets, the methodology used in the transfer and investments (all these will help in confiscation and also help nail the suspect to the crime); (f) the role of conspirators, abettors, accomplices etc.; (g) the communication systems used and the evidence in respect of communications; (h) the demand patterns, the linkage of demand with supply, method of demand and supply; (i) how the traffickers subvert the legal systems and law enforcement, the nexus, if any; (j) the method of taming the victims, treating them, subjugating them, and also the method

of medical and other care of the victims if they become injured; (k) the role of financiers in the process; (l) any information that can be helpful in preventing and combating human trafficking there or elsewhere.

Qualities of an interrogator: It pays to be self-controlled, patient, confident, optimistic, objective, sensitive to individual rights, aware of the facts and circumstances of the crime as well as the suspects, and well prepared. The interrogator need to interview the suspect so as to develop themes for interrogation. Plan out the methodology of presenting the themes in a skilful manner. Appropriate themes coupled with smart presentation skills will give the best results.

Preparation includes developing pointers for interrogation, selection of venue, time and period, briefing all those who are in the team, making arrangements for documentation and essential assistance to the person being interviewed (like rest room, drinking water, etc.). If there is a team, allocate the tasks among the members, like one will be talking, other will be observing and the third taking notes. Keep mobiles and such distractions away. In fact, if you do not want to disclose your location, the mobile need to be switched off. Prepare for audio/video/physical recording, as per requirement.

Essentials of Interrogation: The two significant components of interrogation are (a) **Themes** and (b) **Techniques**. In respect of developing the appropriate themes, as said above, interview is of great help. Knowing the strengths, weaknesses and opportunities will generate ideas on themes. The fear, the anxiety, the background, the personality, the family situation, the habits etc. and the roles that the person is involved, are also relevant. For example, the information that the suspect was known to be working as a labour contractor, meaning ‘human contractor’, located at the middle rung of the trafficking

network, that he is used to recruiting girls and boys in the name of jobs, and sending them to the destination by transport, are relevant to bring out the trafficking process and the *m.o.*, even if he had no idea about the exploitation at the destination. His interrogation should be focussed on the activities and the personae at the source and transit. If the IO keeps interrogating him on the issues at the destination aspects, the interrogation may be frustrating. This sort of focus on the theme is possible when the person is interviewed before interrogation.

Techniques: As said above, start with interview and gradually move into the realm of interrogation, when you are ready with the themes. It is a gradual transformation. The techniques to be applied depend on the facts and circumstances. Start with open questions and narrow down to accusations. Bring in points for confirmation as well as confrontation. The IO has to be prepared with the points for confrontation.

Confrontation, which is the second degree in the process, has multiple facts. The suspect can be confronted with another suspect, a witness, a victim, a document, a material exhibit, and so on. Be careful when the suspect is confronted with victim/witness so that the former does not intimidate the latter. Position them accordingly. Watch the body movements and unspoken words of the suspect in each aspect of confrontation. Documents can help tame the suspect who refuses to cooperate. In a case of molestation, where the accused was in a position of authority in government, his defence was that he was never at home on that day as it happened to be a holiday. He said that he would always move to his own home during weekends, as was widely known, and he used this as the alibi to prove that he was not at all present in the soc during the alleged crime. But the smart investigators had taken pains to get the landline telephone print outs of all these days, which showed several national and international calls received and made by the

accused. Nobody will have access to the official telephone of the accused, especially to make and receive international calls. The accused, being in high position, was vociferously denying his presence at the soc, but only to cool down when confronted with the telephone print out. This art of confrontation is an important stage in the interrogation process.

Torture and ‘third degree’ are not permitted at all and shall be shunned completely. They have no place in a civilized society. They should be deprecated and scrupulously avoided. Even fear and threat constitute torture. Torture, in any form, is the weapon of the weak and the incompetent. A professional police officer will never use torture and third degree, even remotely. Therefore to avoid torture, the IO has to be skilled and made professionally sound²⁰. Interrogation, therefore, has to be rights-based.

As the interrogation progresses, use psychological pressure on the accused by skilful, focused presentation of themes and arguments, coupled with the confrontation strategy as stated above. IO should recall that admission of the accused before the police officer, as per Indian Evidence Act, is not admissible, unless it leads to discovery or recovery. However, the admission of the accused is important from a managerial perspective, as it helps the IO understand if the suspect is the real accused, who are all there in the crime, what the role of each and the alibi that each one has, as well as in locating and securing evidence. This will help verify the alibi and bring in evidence to disprove the alibi too.

While there are many scientific techniques in the field of rights based interrogation. The commonly referred ones are the P.E.A.C.E Model, Kinesic Model and the RPM Model. In the

²⁰ For details see “RBA- Rights Based Investigation- A Change Mantra in Law Enforcement” by Dr PM Nair, published by TISS, Mumbai, 2017.

P.E.A.C.E model, the acronyms stand for Preparation & Planning; Engage & Explain; Account, Clarification & Challenge; Closure; and Evaluation. The process of interview is sequential starting with preparation and concluding with evaluation. In the Kinesic model, the emphasis is on analysing the gaps between the verbal and non-verbal communication of the suspect. There is greater emphasis on verbal communication and observation.²¹

The RPM technique, which has been developed by professionals has been commonplace in the Indian context. Herein, R stands for Rationalization, P for Projection and M for Minimization. All the three techniques in the RPM model give the suspect some opening, leeway or scope to admit to the crime and involvement.

While **Rationalization**, the suspect is made to feel that ‘everyone does it’. For example, in the sex trafficking crime, the suspect who was not admitting to the crime of trafficking children for slavery, was told that “you were working like a labour contractor and providing jobs to the poor children. You were, in fact, helping out the poor children and their families, who were in dire straits, isn’t it?”

In **Projection**, the suspect is made to feel that it is someone else’s fault. Let us take an example. The sex trafficker was not admitting to the crime of trafficking. He was told that “You were only recruiting persons who were willing for jobs, and had sent them to the place of need, but you didn’t know that they were going to be exploited. You were only acting on the request of the person at the destination”.

In **Minimization**, the seriousness of the crime is watered down to make way for the suspect to admit to his role. The suspect is

²¹ See article by C.D. Hoffman at <https://www.ifpo.org/wp-content/uploads/2013/08/interviewing.pdf>

given to feel “It is no big deal, as no one was hurt”. As an example, in the case of labour trafficking, the suspect was told, “what is wrong if one gives employment to the poor, as it is at the most, child labour only?. The “customer” who was caught was not admitting to the crime and hence he was told, “after all, you had paid for the services, and what is the big deal when the manager of the place had already accepted the money paid by you?.

These three methods, can be coupled, with one more aspect in the Indian context. This is ‘**Assurance**’. The suspect can be assured of a possible help to lead him to admit. Care should be taken that only possible and legally practical assurance be given. For example, law provides for turning a co-accused to ‘approver’ and treating that person as a witness and letting him off. The admission needs to be inculpatory, i.e. Involving oneself and not exculpatory. Secondly, the role of the person has to be of minor nature and cannot be that of the mastermind. Further, certain protocols also are involved. The prosecutor has to agree and place it before the court and finally the court has to agree. Therefore the IO can, at best, assure the suspect that if he admits his role besides that of others, the IO will suggest to the prosecutor and court to consider treating the ‘suspect’ as approver in the crime. Further, it has to be dependent on the seriousness of the crime and the complicity of the suspect.

All the points explained in the sub-chapters on observation skills, listening skills and interviewing skills will be of great significance in interrogation, as the latter is a culmination of all the others. In short, the interrogator has to have an open mind, start with open-ended and easy questions, and move on to issues one by one following a sequence, keep one’s opinions to oneself and focus on facts, watch the feelings and expressions and non-verbal communications besides what is being stated, look for contradictions, use the method of confrontation as an

essential strategy, and go for the options to give comfort to the suspect to admit to the crime, his role and other's role. Verify the alibi and bring the evidence on record.

6.5 Documentation Skills: FIR shall be registered as and when the police official comes to know of any crime, irrespective of the jurisdiction. If the soc is another jurisdiction, the case can be transferred eventually. For example, if a girl victim of trafficking was moved from her village in Kokrajhar in Assam by bus to Guwahati railway station, brought to Kolkata Railway Station and then moved to Pune via Mumbai, the police at Kokrajhar, Guwahati, Kolkata, Mumbai and Pune all can register crime and start investigation. All of them should investigate too and, as the story unfolds, one of them can file the charge-sheet, when the others can transfer the evidence to that IO and close their case files. If in the process of trafficking, the victim manages to escape at Mumbai and the police gets to know of this, the Mumbai police should act to rescue the child, provide safety and care and also register crime and investigate. The Mumbai police cannot take an alibi that the child was not exploited at Mumbai, that the child was trafficked from Kokrajhar and therefore the crime should be registered at Kokrajhar. Further, after registering crime Mumbai police shall also commence investigation, collect evidence, and detain the accused if they are around and undertake all that is required in investigation including documentation. If, eventually, the crime is to be transferred to Kokrajhar police, it be done, but till such time the case records are received at Kokrajhar Police, it is the duty of Mumbai Police to continue with investigation. Traffickers have no boundaries and therefore the investigation and documentation of the crime records cannot be compromised on the grounds of jurisdiction.

The scene of crime extends from the source to transits and finally the place of rescue. All these places have to be

investigated, all evidence recorded and all offenders at all these places brought to book. The materials to be seized from the soc will include, besides other items, the used condoms too as they have to be subjected to forensics examination to nail the persons who exploited the victim, even though they may be termed as “customers”, but in reality they are part of the crime and are as much involved in the crime as anybody else.

The 161 and 164 statements have to be recorded as per the procedure in ITPA and POCSO Acts. Remember, under ITPA, the 161 statement of the rescued woman, irrespective of age, shall be recorded by a female police officer and if a female is not available by a male police officer in presence of a female social worker. In POSCO also it is mandatory to have a female official to interview and record statements of children, both male and female. If female police officer is not available, go for a female government official and if that is not possible, a woman from an NGO. While considering whether a senior male police officer supervising the case can interview the person, it is to be noted that the law does not exclude male police officers from interviewing the child under POSCO or the women under ITPA, but it only says that the statement be recorded by a female person. The issue is of sensitivity and care to the victim. One needs to follow the spirit of the law.

The documentation of the progress of work, written under section 172 CrPC in the Case Diary (CD), need to be done in detail. Do record the trials and tribulations that the victim had to undergo, the trauma that made her change her statements, if it was so, the efforts made to help the victim come out of the trauma, the feelings and nonverbal communications observed etc. This part of the CD is available to the Presiding Officer of the Court and therefore it is important for the court to know what all happened and how it happened.

The charge sheet should have, besides other documents that are usually attached with it, a Trafficking crime Map showing the linkages of the source, transits and destination. The map can graphically display, even electronically too, the various offences at each place, the offenders involved as well as the evidence and witnesses. Do file charge sheet under all sections of law under all laws that are applicable. Legal vetting, wherever possible, will enhance the quality and content of the charge sheet.

6.6 Technology and Forensic Interrogation Skills: This is of great significance as the offenders are using the same, not only in on-line trafficking, but also in other crimes as well. The use of internet, social media and such platforms are to be unearthed and evidence brought in. The Information Technology Act provides for this, but those protocols are to be followed. Associating a technical expert, preferably from a government agency, will be of immense help. Document the process as well as the neutrality in the selection process so that the defence cannot question the integrity or capability of the expert. If the trafficked victim is traumatized, use trained counsellors and qualified psycho-social professionals. They may also become witnesses in the case and therefore they be briefed accordingly. Supervisory officials have to ensure that the IO gets all support from these experts and that their activities are synergized.

6.7 Coordination with Other Stakeholders: This skill, though may not apply to other crimes, is essential in the investigation of sex trafficking crimes. Victims need to be given care and protection including counselling, rehabilitation etc., which are not in the ken of the police and therefore requires association of the various agencies, as below:

- CWC, if the rescued person is a child.
- Judicial Magistrate, if the rescued person is adult.
- Health Department/Hospital for medical care of the rescued

person.

- Forensics agency for their association in investigation.
- Head of the Home/Institution where the rescued person will be lodged for protective stay.
- Head of the NGO, if the decision is to lodge the victim in an NGO-run Home.
- Nodal department for the welfare of women and children: for support in rehab and counselling.
- Department of Information Technology, for technical staff in helping in investigation, if there is an element of cybercrime.
- Department of labour, if the child/woman has been employed in any labour. They need to issue Release Certificate of Bonded Labour, give relief, compensation etc.
- Prosecutor in getting the legal matters attended to.
- SDM/DM if the decision after investigation is to get the place of exploitation evicted.
- Academic institution or agency which can provide translators if the victim speaks a different language or requires a special educator/interpreter on account of a disability.
- The District Legal Services Authority for processing application for victim compensation

The coordination cannot be taken for granted. Sending formal notice is required, but personal linkages will be essential to expedite and also make the other person aware of the urgency, seriousness of the work at hand, any issues that need priority or specialized attention etc. Example, when the victim girl was having bleeding due to her menstrual periods, or was having an infant born to her to be carried along with her etc., they

require special attention. When the victim is being sent to the Home, the IO must visit and see that there are facilities for proper care and if not, notify the person or the agency concerned to ensure the same. These one-step-forward steps will also help the victim to develop confidence in the police and the institutions of care.

The association with these stakeholders can be of immense help to the police for support in the form of resources too. To cite an example, the ICPS (Integrated Child Protection Scheme) of the MWCD has funds for the transfer, care, rehab of the rescued child as well as care givers. It has provisions for funding foster care. Police should utilize these facilities by linking up with the district administration.

Appendix 1: Acronyms Used in the Book

CD	Case Diary
CrPC	Code of Criminal Procedure, 1973
CSE	Commercial Sexual Exploitation
CWC	Child Welfare Committee
DCPU	District Child Protection Unit
DLSA	District Legal Services Authority
FIR	First Information Report
GD	General Diary in the PS
IO	Investigating Police Officer
ITPA	Immoral Traffic (Prevention) Act 1956
JJA	The Juvenile Justice (Care and Protection of Children) Act, 2015
MHA	Ministry of Home Affairs, Government of India
MO	Modus Operandi
MWCD	Ministry of Women and Child Development, Government of India
NALSA	National Legal Services Authority
NGO	Non-governmental Organization
PMLA	Prevention of Money Laundering Act, 2002
POCSO	The Protection of Children from Sexual Offences Act, 2012
PW	Prosecution witness
RI	Rigorous Imprisonment
SI	Sub Inspector of Police
SOC	Scene of Crime
WPO	Women Police Officer

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