



UNITED NATIONS
Office on Drugs and Crime

Government of India



Protocol on Inter State Rescue and Post Rescue Activities

Relating to Persons Trafficked for Commercial Sexual Exploitation

ACKNOWLEDGMENTS

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

The Working Group of Project IND/ S16:

Dr. P M Nair, Project Coordinator

Dr. Geeta Sekhon, Project Officer

Ms. Swasti Rana, Consultant

Mr. Varghese John, Admin/ Finance Assistant

UNODC is grateful to the following for their support:

Ms. Deepa Jain Singh, Secretary, Ministry of Women and Child Development

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

Mr. K Skandan, JS (CS), Ministry of Home Affairs

Ms. Manjula Krishnan, JS (EA), Ministry of Women and Child Development

Ms. Nandita Mishra, Director, Ministry of Women and Child Development

Mr. Umapathi Sattaru, IPS

Mr. Mahesh Bhagwat, IPS

Ms. Shyamala Ashok

Ms. Vijayalakshmi Arora, UNICEF

Dr. Sunitha Krishnan

Ms. Vithika Yadav

Ms. Anuja Tiwari



UNITED NATIONS
Office on Drugs and Crime

Government of India



Protocol on Inter State Rescue and Post Rescue Activities

Relating to Persons Trafficked for Commercial Sexual Exploitation

© UNODC, 2007

Year of Publication: 2007

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

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

Disclaimer

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

Language Editor: Ms. Bindu Badshah

Illustrations by: Sujeet Kumar and Sunil Kumar

Designed and printed by:

ISHTHAAR

Tel: 91-11-23733100

CONTENTS

i. INTRODUCTORY NOTE	5
ii. PREAMBLE	6
1. GENERAL PRINCIPLES/ GUIDELINES	7
1.1 Human Rights Approach	7
1.2 Organized Crime	7
1.3 Nodal Officers	7
1.4 Database	7
1.5 Synergy amongst Stakeholders	7
1.6 Directory of Services	8
1.7 Victim versus Accused	8
1.8 Validation of Harm	9
1.9 Protection of Identity	9
1.10 Legal Representation	9
1.11 Non – Discrimination	9
1.12 Right to Information	9
1.13 If the Rescued Person is a National of Another Country	9
1.14 Categorization of “Rescued Persons” and the Agency Responsible to Provide all Services	9
2. PRE RESCUE PROTOCOL	10
2.1 When should Rescue be conducted	10
2.2 Planning Inter State Rescue	10
a) Composition of Joint Team	10
b) Leader of JT	11
c) Briefing by JT Leader	11
d) Logistics for VT	11
e) Involve NGOs	11
f) Witnesses	11
g) Logistics for Witnesses	11
h) Decoy	11
i) Transportation of Rescued Persons	11
j) Evidence Collection	11
k) Information to all Concerned	11
l) Information to Shelter/ Children’s Homes	11
m) Safeguarding Confidentiality	11
2.3 Where should FIR be Registered	11

2.4	Timely Sharing of Intelligence	12
2.5	Reconnaissance/ Recce of the Area	12
2.6	Search Warrant	12
3.	PROTOCOL ON ACTIVITIES DURING RESCUE	13
4.	POST RESCUE PROTOCOL	15
4.1	Immediate Responsibility	15
4.2	Avoid Further Victimization.....	15
4.3	Ice Breaking	15
4.4	Interview.....	15
4.5	Transfer of Rescued Persons from the Place of Rescue	15
4.6	Legal Counseling	16
4.7	Medical Care and Attention	16
4.8	Sending Rescued Person to Shelter/ Children’s Home	16
4.9	Home Verification Report	17
4.10	Closure of Places of Exploitation u/Cr. PC	17
4.11	Closure of Places of Exploitation u/ ITPA	17
4.12	Repatriation	17
4.13	Transfer of Documents/ Materials	17
4.14	Offenders.....	17
4.15	Police/ Judicial Remand of Offenders.....	17
4.16	Contingencies	17
4.17	Interim Relief	18
4.18	Prosecution of Trafficking Crimes	18
4.19	Media Briefing	18
Annexure 1		
	Comparison of Two Inter State Rescue Models	19
	Points to Learn.....	20
	Highlights of the Bangalore Rescue Operation	20
Annexure 2		
	Government of Andhra Pradesh Abstract	21
Acronyms	22

INTRODUCTORY NOTE

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

Though the Code of Criminal Procedure 1973 (Cr. PC), the basic procedural law on criminal justice delivery, prescribes the procedure for transfer of accused person from one jurisdiction to another, it does not specifically list out the procedure for transfer of the rescued person in a crime of trafficking. The Immoral Traffic (Prevention) Act, 1956 also does not provide any procedure for inter-state rescue and transfer of victims of commercial sexual exploitation. All inter-state rescue operations and post-rescue activities entail comprehensive planning and implementation. Besides, law enforcement officials have to deal with jurisdictional constraints in conducting such rescue and post-rescue activities. This Protocol has been developed specifically to address these gaps.

PREAMBLE

Trafficking in human beings and their exploitation in various forms by traffickers is one of the most despicable violations of human rights. Trafficking in persons is a violation of several human rights including the very right to life; the right to liberty, human dignity and security of person; the right to freedom from torture or cruelty, inhuman or degrading treatment; the right to a home and family; the right to education and proper employment; the right to health care and everything that makes for a life of dignity.

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

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

In India, every state has its own police agency under a unified command and control. Consequently, the post rescue care, support and transfer of rescued persons from the jurisdiction of one police station to another or from one district to another within the state, are guided by the directives/ protocols/ orders issued by the Home Department or Director General of Police (DGP) of the state, including the Commissioner of Police (CP) in the cities. Furthermore, India does not have a federal law enforcement structure. As a result, there are no mechanisms or protocols for activities relating to inter state rescue and post rescue activities. This Protocol is an effort to address these gaps.

The Protocol has four segments:

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

1. GENERAL PRINCIPLES/ GUIDELINES

1.1 Human rights approach

The rescued persons/ victims of trafficking, **irrespective of the place they are trafficked from or to**, are 'victims of crime' and therefore, all efforts should be made to ensure that:

- Jurisdictional limitations, of any sort, do not impede rescue and post rescue activities in any way.
- There is no delay in rescue and post rescue activities.
- The rescued person's human rights are protected and are not further violated.
- Adequate care and attention is extended to rescued persons during and post rescue.
- All actions and decisions that are initiated are based on the principle of 'the best interest of the victim/ rescued person'.

1.2 Organized crime

Trafficking of persons is one of the gravest violations of human rights and a serious form of organized crime. Traffickers operate through networks created across states. There are generally a series of offenders in crimes of trafficking, ranging from the spotter, recruiter, agents of recruiters, transporter, harbourer, brothel manager, brothel keeper, exploiters, etc. Concerted and mutual actions are to be carried out by police, other govt. agencies and NGOs across various states to deal with this multifarious crime.

1.3 Nodal officers

As per the recommendation of the National Human Rights Commission and the Government of India, the state governments have earmarked two Nodal Officers on Anti Human Trafficking, one representing the police department [Police Nodal Officer (PNO)] and the other representing the Departments of Women and Child/ Welfare/ Labour [Government Nodal Officer (GNO)]. The PNO and GNO should make extensive efforts to publicize their name, telephone no., email id and contact address and ensure their accessibility to the public. All police stations (PS[s]) should display their contact details on their display boards. The PNO will be the key contact person for all inter state rescue activities and the GNO for all post rescue activities. All responders, including government departments and NGOs, should be associated with the PNO and the GNO in all actions taken. Since trafficking is a borderless crime, the responders will have to function beyond their limited jurisdictions to prevent and combat trafficking. This should be facilitated by the PNO and GNO.

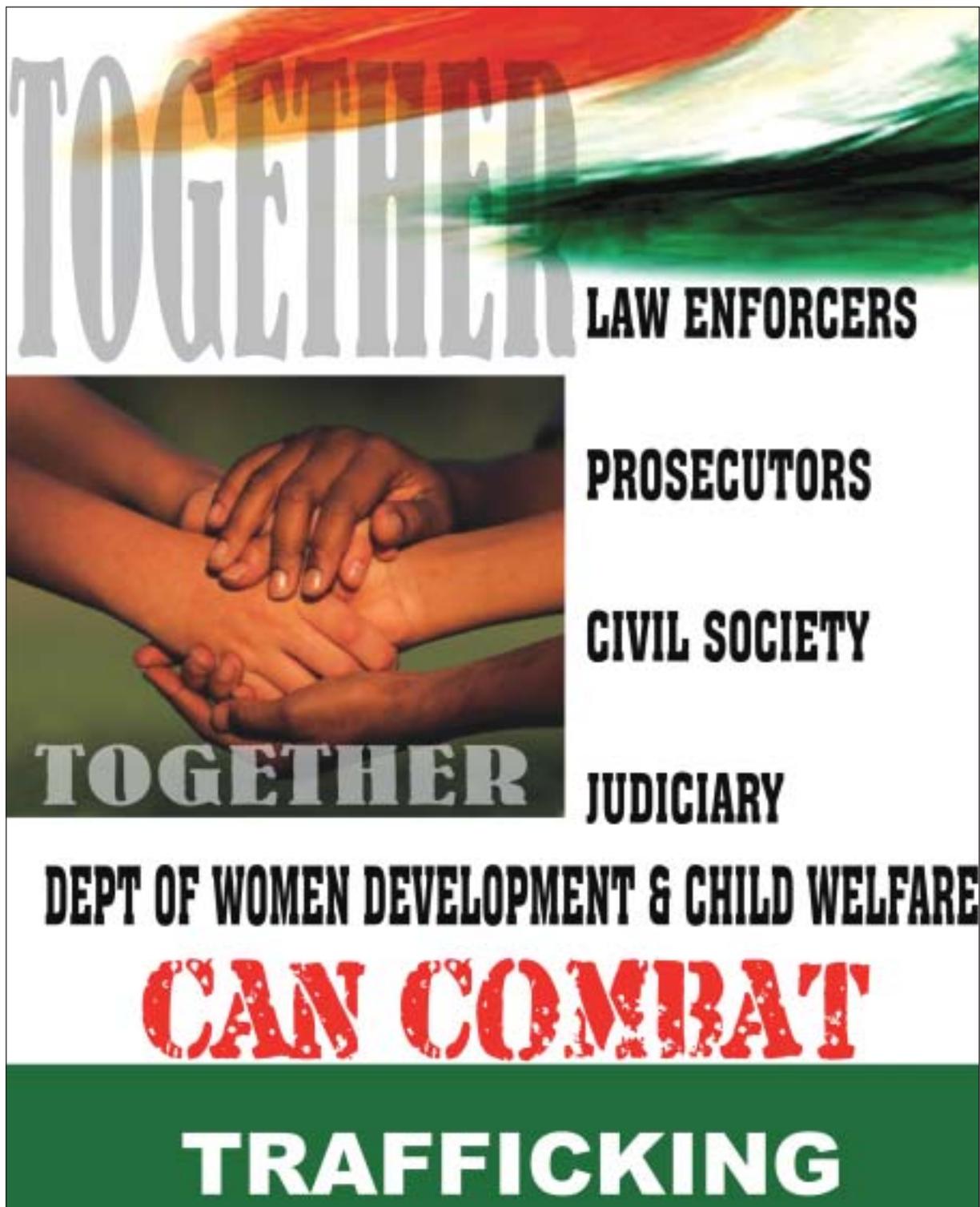
1.4 Database

One of the major challenges, today, in inter state activities on preventing and combating trafficking, is the complete lack of a database of traffickers and persons trafficked across states. Sometimes, despite having intelligence, local police are unable or do not share this knowledge with their counterparts in other states. PNOs of the source, transit and destination areas should take the initiative in developing intelligence data and creating a database, which should be updated at least once a month and disseminated among all concerned PNOs.

1.5 Synergy amongst stakeholders¹

Preventing and combating human trafficking can be effectively undertaken in a comprehensive and holistic manner by involving all stakeholders and responders. The police should develop effective partnerships with NGOs working in this field. The PNO should take steps to ensure that government notifications are issued for constituting the 'advisory body' envisaged under S. 13 (3) (b) ITPA. However, pending such notification, the police may associate with an NGO of its choice.

1 See also Protocol on Structure and Function of Integrated Anti Human Trafficking Unit by UNODC



1.6 Directory of services

The GNO and PNO should bring out a comprehensive directory of all services available to address issues of human trafficking. This should include details of responders like police officials, prosecutors, welfare officers, NGOs working in the field etc. and all referral services including health care. The Directory should be widely disseminated.

1.7 Victim versus accused

A trafficked person, irrespective of nationality, place of domicile, sex or age is a 'victim of crime' and therefore, should **NEVER** be treated as an accused.

1.8 Validation of harm

During the process of trafficking, a trafficked person's rights are violated and they are deprived of dignity, which causes them immense trauma. Therefore, every effort should be made to inform the rescued person that she/ he is a 'victim of crime' and not an 'offender' or 'accomplice'.

1.9 Protection of identity

Trafficked persons have the right not to disclose their identities to the media or public. Adequate steps need to be taken to ensure the **anonymity** of rescued persons and the **confidentiality** of the rescue operations. S. 21 of JJ Act, 2000 mandates ensuring the anonymity of a rescued child. S. 228A IPC provides anonymity to all victims of rape. If the media gets to know of a rescue operation, media persons should be immediately briefed about the need and manner of maintaining anonymity.

1.10 Legal representation

A rescued person is entitled to legal representation during prosecution. All steps must be taken to ensure that the rescued person is legally represented (In *Delhi Domestic Working Women's Forum v/s UOP and Zahira Habibullah v/s State of Gujarat*³ the Supreme Court has laid down a victim's right to representation by a private lawyer). PS(s) need to maintain a list of lawyers who are aware and sensitive to the issue of trafficking.

1.11 Non-discrimination

Non-discrimination is the right of every rescued person. All steps must be taken to ensure that the rescued person is **treated with dignity** and provided access to all services of care and support without discrimination of nationality, place of domicile, sex, age or any other document.

1.12 Right to information

The rescued persons have a **right to be informed** and consulted on all matters and decisions that affect them.

1.13 If the rescued person is a national of another country

If the rescued person has been trafficked from another country, the Host Team⁴ (HT) and the PNO concerned should ensure that all care and support is extended, in exactly the same way as to any other victim.

1.14 Categorization of "rescued persons" and the agency responsible to provide all services

Women and children who are domicile of the state where rescue is carried out	HT should provide necessary services
Women and children who are domicile of the state of the Visiting Team (VT) ⁵	VT should provide necessary services
Women and children who are domicile of a third state	HT should provide necessary services
Women and children who are from outside India	HT should provide necessary services

² 1995 (1) SCC 14

³ 2004 (4) SCC 158

⁴ The Host Team shall comprise of police officials of the state where rescue is to be carried out.

⁵ The Visiting Team shall comprise of police officials of the state whose victims are to be rescued.

2. PRE RESCUE PROTOCOL⁶

2.1 When should rescue be conducted?

Immediately. The moment information reaches the PS, through whatever means, the PS official should consult the District Superintendent of Police (SP)/ Deputy Commissioner of Police (DCP) and the PNO of the state. The PNO should then immediately alert the PNO of the state to be visited and ensure all follow up actions.

Rescue cannot and should not wait

2.2 Planning inter-state rescue

The PNO (s) of the concerned states or the SP/ DCP of the concerned districts should consider the following aspects in planning a joint rescue:

a) Composition of Joint Team (JT)

Ensure that adequate number of officials are placed in the JT, which is composed of the HT and VT. The JT should have at least two women officials of any rank (u/s. 15 (6A) ITPA) and at least one police officer who is legally empowered to conduct rescue:

Include two women police officials, of any rank, in the JT

- A special police officer notified u/s. 13 (1) ITPA, or
- Subordinate police officer, authorized by the state government u/s. 13 (3) (a), or
- Central (Anti) Trafficking Police Officer u/s. 13 (4), or
- An officer authorized u/s. 16 (1) ITPA.



Composition of Team

⁶ See SOP on Investigation of Crimes of Trafficking for Commercial Sexual Exploitation, UNODC

- b) **Leader of JT**
The VT and HT should together decide the leader of the JT. However, it would be appropriate for the VT to work under the command of the HT.
- c) **Briefing by JT leader**
The leader should brief all members of the JT regarding their respective roles, responsibilities, including Dos and Don'ts⁷ during the rescue operations. A list of government officials and NGOs stating their respective responsibilities, be maintained by the HT.
- d) **Logistics for VT**
The HT should arrange for transport, place of stay and other logistics for VT members and HT members, if required.
- e) **Involve NGOs**
Ensure that NGO members are co-opted in the JT. It would be appropriate to associate local NGOs working at the place of rescue. NGOs that have Shelter Homes should definitely be involved.
- f) **Witnesses**
Search and rescue operations require two or more witnesses - at least one of whom shall be a woman - from the locality where the search is situated. However, the woman witness need not be from the locality where the rescue operation is to be conducted (u/s. 15 (2) Proviso ITPA). Therefore, the JT can involve a female witness from an NGO located anywhere.
- g) **Logistics for witnesses**
The HT shall be responsible for the security, transportation and other basic amenities (food, lodging, etc.) for the witnesses. Care should be taken to ensure protection of identity of the witnesses.
- h) **Decoy**
If a decoy is being utilized, brief the appointed person clearly on the protocols, procedures, and methods to maintain anonymity and ensure security.
- i) **Transportation of rescued persons**
HT should arrange an adequate number of vehicles and escorts for rescued persons so that they are always segregated from the offenders.
- j) **Evidence collection**
HT should organize the materials and equipment required for documentation and evidence collection (writing pad, white paper, pen, pencil, box for transporting the exhibits, box for safe-keep of the belongings of the rescued persons, camera, video and audio recording equipment, first-aid kit, torches, hammers, cutters, etc.)
- k) **Information to all concerned**
HT should inform all the concerned authorities like SHO of PS, SP/ DCP, PNO, etc. regarding the places to be visited, proposed time, approximate manpower required, etc.
- l) **Information to Shelter/ Children's Homes**
HT should alert the authorities of Government/ NGO run Shelter Homes at the place of rescue/ nearby, regarding the approximate number of persons likely to be rescued and the probable time when they will be brought to the Home (s).
- m) **Safeguarding confidentiality**
The leader of the JT should take all steps to prevent leakage of intelligence and preserve secrecy of the rescue operation.

The woman witness need not be from the same locality where the rescue is to take place

Inform Shelter / Children's Homes for reception of rescued persons

2.3 Where should the FIR be registered?

Trafficking is an organized crime and a continuing offence. The FIR can be registered, u/s. 5 (3) ITPA, at the place of demand/ destination/ transit area, or at the place where the person was trafficked from (source area). It can be registered on the statement of any person (including an NGO) u/s. 15 and 16 (1) ITPA and s. 149, 150, 151 Cr. PC.

FIR can be registered at source, transit or destination area

⁷ See SOP on Investigation of Crimes of Trafficking for Commercial Sexual Exploitation, UNODC

Therefore, the VT should register an FIR in their jurisdiction before proceeding for the inter-state rescue. However, in case of an emergency rescue is possible even without an FIR u/s. 149, 150, 151 Cr. PC.

Rescue can be conducted even without registering an FIR

2.4 Timely sharing of intelligence

The PNO, SP/ DCP should share all information and intelligence on victims and offenders with the corresponding officials of the other states. Timely sharing of intelligence among officers in source, transit and demand areas should be ensured by the PNO.

2.5 Reconnaissance/ survey of the area

Prior recce of the search and rescue area should be conducted. An official conversant with the local language should be sent incognito, to the rescue area. Take the help of local officers/ NGOs, provided their identity remains undisclosed. Empowered survivors, who are willing to co-operate, could be ideal sources of information and recce. After the recce, draw a map of the area for briefing and assigning specific duties like cordoning off entry and exit points, locating hide-outs, etc.

2.6 Search Warrant

The VT should obtain a search warrant from the jurisdictional Magistrate u/s. 166 Cr. PC and / or u/s. 15, 16 (1) ITPA, wherever possible.

3. PROTOCOL ON ACTIVITIES DURING RESCUE

3.1 On reaching the rescue site, every person (police officials, witnesses and NGOs) should take his/ her respective positions as agreed upon during the pre-rescue briefing. The area should be immediately cordoned off and all entry and exit points sealed before entering the building/ house/ hutment/ or any other place.

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

3.3 Children and relatives (if any) of the rescued persons should also be traced and rescued.

3.4 Victims, children and relatives should be segregated from the offenders to avoid any threat, pressure or intimidation.



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

- Other hidden victims, children, relatives, if any;
- Offenders; and
- Incriminating materials.

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

All rescued persons should be segregated from the offenders

Ensure that the possessions and personal belongings of all rescued persons are retrieved and taken into safe custody. These may include clothes, jewelry, cash and any other relevant documents that may have been kept locked by the offenders.

3.5 For collection of material objects and evidence, ensure that:

- The scene of crime is fully searched.
- All materials, exhibits, documents, etc. are collected and preserved (such as mobile phones; diaries and registers in the brothel; financial records and papers that show networking with other traffickers/ customers; electricity, water, telephone and other bills; ration cards; municipal tax receipts; travel documents; photographs; albums; used and unused condoms, etc.). Proper documentation should be done by carrying out the seizure in front of two or more independent witnesses u/s. 15 (2) ITPA and s. 100 (5) of Cr. PC.
- Videography/ photography of the scene of crime is done.
- Videography/ photography of the offenders is done.

- Videography/ photography of the witnesses, if willing, while recording their statements is carried out
- Proper chain of custody is maintained.

3.6 Identify persons less than 18 years of age so that they can be sent to the Child Welfare Committee, as they are 'children in need of care and protection' under the JJ Act. The rescued adult persons are to be sent to the Magistrate u/s. 15 (5) or 16 (2) or 17 (1) ITPA. The leader of the JT in consultation with the NGO partner and based on the prima facie appearance of the person should take a decision as to whether the rescued person is less than 18 years of age or an adult. If there is any doubt regarding the age of the rescued person, it would be appropriate to leave it to the decision of the CWC.

The Supreme Court has held that when the expert's opinion is given within an age bracket, the lower age in the bracket should be the one taken into consideration, so that the benefit of doubt favours the victim. This was held in *Jaya Mala vs the Home Secretary, Government of Jammu & Kashmir. Therefore, if the age verification report says that the girl is in the age bracket of 17-19 years, for the purposes of law enforcement, the age has to be considered as 17 years (and not 19 or even 18).**

***AIR 1982 SC 1297**

4. POST RESCUE PROTOCOL

4.1 Immediate responsibility

Though the rescue is jointly conducted by the HT and the VT, the basic and direct responsibility for post rescue activities, especially the immediate follow up, rests with the HT.

4.2 Avoid further victimization⁸

Validation and confirmation that the rescued person has been harmed gives them strength and support. Their rights have been violated; their dignity robbed and they are highly traumatized. Therefore, every effort should be made to ensure that they are not further victimized/ harmed.

4.3 Ice breaking

Rescued persons under trauma may appear unwilling to co-operate. The services of sensitized counselors/ NGOs should be utilized⁹ to interact with them, and no hurried conclusions reached against them.

4.4 Interview

A detailed interview of the rescued persons is necessary to get information on their personal details such as age, native place, health status, family history, etc. Such information will be helpful in identifying the victim's 'best interest' so that post-rescue measures can be oriented accordingly and in understanding the entire dimension of the crime. The interview must be carried out by a woman police officer or conducted in the presence of a female representative of an NGO, as mandated u/s. 15 (6A) ITPA. It is advisable that a specially selected team of sensitive officials from both HT and VT conduct the interview.

Rescued person shall be interviewed by a woman police officer and in her absence ONLY in the presence of a female member of an NGO

The following points should be noted whilst interviewing the rescued persons:

- i. Do not delay the interview.
- ii. If the rescued person's statement is required for more than one FIR, being part of the same continuing transaction, it would be appropriate to record the statement once and its certified copy utilized for the other court. However, if the rescued person speaks a different language, it would be appropriate to get the statement u/ s. 164 Cr. PC, recorded by a Magistrate who speaks the same language. If this is not possible, the services of an appropriate translator (not in collusion with the accused) may be utilized. The JT leader should ensure and take initiative for this task.
- iii. Do not force the rescued person if unwilling/ not ready to speak. Do provide counseling by trained counselors.
- iv. Being traumatized or out of fear, the rescued person may not reveal complete facts in the initial statement. Therefore, do make provision to have further statements recorded.
- v. Avoid repeated interviews by different police officials to avoid trauma and distress to the rescued persons.

4.5 Transfer of rescued persons from the place of rescue

During rescue from the 'scene of crime', the JT may exercise either of the following options:

- Rescued persons may be escorted, without any public display, to the local PS where they are kept segregated from the offenders.
- If the Magistrate/ CWC is in office and the required documents (such as forwarding report, injury report, etc.) have been prepared at the place of rescue, the rescued persons may be escorted to the Magistrate/ CWC (u/s. 15 (5) or 16 (2) or 17 (1) ITPA).

⁸ See Manual on Psycho Social Intervention by UNODC

⁹ For trauma counseling of victims, networking with NGOs is ideal. A list of such volunteers/ NGOs should be maintained at the police station. Services of trained counselors in the Family Counseling Centres (FCC) available at designated police stations, in most States, can be utilized. Care should be taken to provide the services of an NGO that speaks the language of the victim.



Producing the victim before CWC

Producing the victim before Magistrate

- When the rescue is conducted after sunset and if the Magistrate/ CWC are not in office, the rescued persons should be transferred to a Government/ NGO Shelter or Children's Home. Under no circumstances should the rescued persons be kept in the PS overnight.

4.6 Legal counseling

Legal counseling for the rescued persons is a positive step in their empowerment. The HT should contact lawyers, the District Legal Services Authority or the Bar Associations for an experienced lawyer. A list of sensitized lawyers should be maintained at all PS (s).

4.7 Medical care and attention (including mental health)

This is the responsibility of the HT. After the rescued persons are produced before the Magistrate u/s. 15 (5) or 16 (2) or 17 (1), they should be sent to the nearest hospital for detection/ treatment of any injuries resulting from sexual abuse and to determine the age. Steps should be initiated for de-addiction counseling, if required.

4.8 Sending rescued persons to Shelter/ Children's Home

HT should make a request to the Magistrate/ CWC to send the rescued person to an appropriate Shelter/ Children's Home. The rescued person should be produced before the appropriate Magistrate u/s. 15 (5) ITPA or a Magistrate u/s. 16 (2) ITPA (who in both sections may be the Metropolitan Magistrate, Judicial Magistrate of the First Class, District Magistrate or Sub-Divisional Magistrate). When it is not possible to produce the rescued persons before the Magistrates mentioned above, the rescued persons shall be, forthwith, produced before the nearest Magistrate of any class, who may pass orders for the safe custody of the persons u/s. 17 (1) ITPA. In such a case:

- intermediate custody of the rescued person can be obtained for a period not exceeding 10 days by which time the person has to be produced before the appropriate Magistrate, and
- it should be ensured that the rescued persons are not restored to or placed in the custody of a person who may exercise a harmful influence over them.

4.9 Home Verification Report

HT should make a request to the Magistrate/ CWC to order the Home Verification report and medical examination report (u/s. 15 (5A) or 16 (2) or 17 (2) ITPA). Adult victims should also be sent to Shelter Homes and the decision regarding their repatriation taken only after carrying out the Home Verification.

4.10 Closure of places of exploitation u/Cr. PC

The HT should approach the jurisdictional Executive Magistrate u/s. 133 (1) (b) Cr. PC and obtain a conditional order to close down places of commercial sexual exploitation and take further steps thereafter. Shutting down places of sexual exploitation is a potent tool in the hands of law enforcement agencies since an order of the Magistrate under this provision cannot be challenged u/s. 133 (2) Cr. PC.

4.11 Closure of places of exploitation u/ITPA

The HT should take steps towards closure of brothels and eviction of the offenders from the premises u/s. 18 (1) ITPA. This order of the Magistrate/ Court is not subject to appeal and cannot be stayed or set aside by the order of any court u/s. 18 (3) ITPA.

4.12 Repatriation

The VT has the discretion to take the rescued persons back to their own state. This should be carried out only after approval of the Magistrate/ CWC. The HT should provide the required security/ transport for their transfer. In this regard para 1.14 above may be referred to.

4.13 Transfer of documents/ materials

The VT may require the transfer of documents/ materials seized from the scene of crime for investigation and prosecution. Since the HT is responsible for their seizure they may hand over the documents/ materials to the VT on receiving a receipt. If both HT and VT require these documents, either of them can proceed with xerox copies for investigation.

4.14 Offenders

The HT should produce all arrested offenders before the local Magistrate. If the accused persons include women, all provisions of Cr. PC in this matter may be considered, such as: except in unavoidable circumstances women should not be arrested after sunset and before sunrise (u/s. 46 (4) Cr. PC), etc.

4.15 Police/ judicial remand of offenders

If the VT requires police/ judicial remand of offenders, the VT may approach the Magistrate concerned, get appropriate orders (eg. transit warrant) and thereupon the HT should provide adequate escort for their transfer.

4.16 Contingencies

If the VT does not have adequate funds/ resources for proper transportation, boarding/ lodging, medical care, etc. of rescued persons, witnesses and offenders who are to be transferred to another state, HT should provide the necessary support.

The exploiters involved in the crime may appear before the Court/ CWC and claim to be parents/ guardians/ well wishers of the rescued persons and seek their release. Police officials should oppose this and request the Court to release the rescued person only after the Home Verification Report is received. The NGO (s) associated with the rescue may be utilized for this purpose as provided u/s. 17 (5) ITPA.

Eviction of offenders and closure of brothels can be ordered u/s. 18 (1) ITPA

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

4.17 Interim relief

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

If such relief/ compensation has not been extended to the rescued person at the place of rescue - for whatever reason - the GNO and PNO of the place where they are repatriated to, should ensure that all relief/ compensation is immediately provided to them. The Andhra Pradesh Model of Relief is detailed in Annexure 2. Other states may consider a similar package/ model for grant of relief to victims.

4.18 Prosecution of trafficking crimes

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

4.19 Media briefing

The HT should associate the VT, if the media needs to be briefed. However, the anonymity of the victims and witnesses must be maintained at all times. Alerting people about the interstate linkages of the traffickers will make them vigilant against such violators and help in preventing and combating trafficking.

ANNEXURE 1

COMPARISON OF TWO INTER STATE RESCUE MODELS

The following table presents a comparative understanding of the issues involved in two rescue operations conducted by AP police in Delhi and Bangalore in the year 2007.

ISSUES	DELHI	BANGALORE
Liaison	AP police (VT) with Delhi police (HT)	AP police (VT) with Karnataka police (HT)
Initiated by	AP police	AP police
Sources of Trafficking	AP (Anantpur & Guntur dist.)	Nuzvid, Krishna dist. of AP
Destination of Trafficking	Delhi city	Bangalore city
Main purpose	Arrest of traffickers	Arrest of traffickers
Legal support	Non – Bailable Arrest Warrant (NBW) against 5 traffickers	Open NBW against “any” number of persons
Visiting Team	<ol style="list-style-type: none"> 1. IAHTU Hyderabad 2. IAHTU Anantpur 3. Dist. Police, Guntur 4. Officials of DWCD 5. NGO – STHREE, Anantpur 6. NGO – REDS, Kadri 	<ol style="list-style-type: none"> 1. IAHTU Eluru 2. IAHTU, Hyderabad 3. IAHTU, Anantpur 4. NGO Prajwala
Host Team	<ol style="list-style-type: none"> 1. Delhi Police Crime Branch officials 2. Delhi Police Central District officials 3. Kamla Market PS, Delhi Police 	<ol style="list-style-type: none"> 1. Bangalore city police 2. NGO - Prajwala
Offenders Arrested	8 Traffickers	5 Traffickers
Persons Rescued and Sent back with VT	3 Persons (from AP)	12 Persons (from Nepal, West Bengal, Maharashtra, AP, Karnataka)
Rescued but missing	Many	Nil
Association of local NGO	No	Yes
Protocols followed	No	Yes
Victim’s rights violated?	Reportedly violated	Nil
Difficulties with local police	Yes	Nil
Local Home alerted by HT	Yes	Yes

ISSUES	DELHI	BANGALORE
Local Home alerted by VT	No	No
Local NGOs alerted by HT	No	Yes
Local NGOs alerted by VT	No	Yes
Success	Partial	Full

POINTS TO LEARN

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

HIGHLIGHTS OF THE BANGALORE RESCUE OPERATION

1. The Integrated Anti Human Trafficking Units (IAHTU) set up by UNODC, conducted a textbook rescue operation.
2. All the 3 IAHTUs of Andhra Pradesh jointly participated in this operation.
3. The entire operation took place under the close supervision of the Inspector General of Police and the Superintendent of Police of CID, Andhra Pradesh.
4. The entire operation of rescue and post rescue involved the personal participation of the General Secretary of Prajwala, Hyderabad; an NGO working for more than a decade in Anti Human Trafficking.
5. Victim's needs and 'best interest' were the primary focus throughout the operation.
6. It was a successful example of inter state police coordination and a well-integrated police-NGO partnership.

ANNEXURE 2

GOVERNMENT OF ANDHRA PRADESH ABSTRACT

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

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

D.O. Ms. No. 13

Dated: 21 – 4 – 2006

Read the following:-

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

ORDER: -

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

2. In the G. O. 2nd read above, Government have issued orders on the policy for combating trafficking of women and children for commercial sexual exploitation and Government have also decided to utilize the existing rehabilitation and relief fund for providing relief to victims of trafficking. It was also ordered therein that the fund should be utilized for the purposes as enumerated under the Rehabilitation and relief fund.
3. In the G.O. 3rd read above, government ordered that an amount of Rs. 5,000/- or actuals, whichever is lower, be paid either by the Director, WD & CW or the District Collectors to the children / women who are rescued from trafficking as immediate relief for the purpose of travel, clothing, medicine and other immediate necessities as indicated in the Annexure for the women and children rescued from trafficking.
4. In the review meeting of State Level Coordination Committee on Policy for Combating Trafficking of Women and Children for commercial sexual exploitation held on 16-12-2005, it was decided to increase the immediate relief to women and children rescued from trafficking from Rs. 5,000/- to Rs. 10,000/-.
5. After careful examination, Government hereby order that the immediate relief to women and children who are rescued from trafficking be enhanced from Rs. 5,000/- to Rs. 10,000/-.
6. The other conditions stipulated in the G.O. 3rd read above remain unchanged.
7. The expenditure in this regard shall be debited to “2235 SS & W – 02 SW – MH – 103 Women Welfare (SH) 27 Financial Assistance to women and girl affected by cognizable offences under criminal procedure code and victims of trafficking, 310 Grant – in – aid 312 Other Grant - in – aid”.
8. This order issues with the concurrence of Finance Department vide their U.O. No. 6842/61/ Exp. WD/06, dt. 21-3-2006.

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

PRABHAKER D. THOMAS
PRL. SECRETARY TO GOVERNMENT

ACRONYMS

AP	Andhra Pradesh
CID	Criminal Investigation Department (of the State Police)
Cr. PC	Criminal Procedure Code
CWC	Child Welfare Committee
DGP	Director General of Police
DSP	Deputy Superintendent of Police
DWCD	Department of Women and Child Development
FIR	First Information Report
GNO	Government Nodal Officer (representing the various Departments of the Government, other than the Police department)
HT	Hosting Team
ITPA	Immoral Traffic (Prevention) Act, 1956
JJ Act	Juvenile Justice (Care and Protection of Children) Act, 2000
JT	Joint Team
MWCD	Ministry of Women and Child Development
NGO	Non Government Organization
PNO	Police Nodal Officer
PS	Police Station
SI	Sub Inspector
SP	Superintendent of Police
VT	Visiting Team

DO'S & DON'Ts



Rescue team should have a lady police officer and a lady representative from any reputed anti-trafficking NGO.



Children and personal belongings of victim should be recovered during rescue.



Treat victim with dignity and respect.



Victim should be segregated from the accused and suspects.



Victim has a right to privacy.
Avoid media publicity.



सत्यमेव जयते



UNODC