



UNITED NATIONS  
*Office on Drugs and Crime*

Government of India



# **Training Manual for Prosecutors**

## **On Confronting Human Trafficking**

## 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 Apne Aap Women Worldwide, New Delhi for developing this document:

Ms. Ruchira Gupta

Ms. Aparna Bhat

Mr. Saurav Dutta

Ms. Vinita Saraf

Ms. Anjali Pathak

Ms. Tinku Khanna

Ms. Reecha Upadhyay

Ms. Rajni B. Arora

### UNODC acknowledges the support of:

Mr. Syed Raji Ahmed Rosedar, Directorate of Prosecution, Andhra Pradesh

Mr. M. Bhaskar, Directorate of Prosecution, Andhra Pradesh

Dr. Gopi Natha Reddy, IPS, Hyderabad

Ms. Shobha Dhumaskar, Director of Prosecution, Goa

Mr. Taj Mohammed, Deputy Director of Prosecution, West Bengal

Mr. Sarfaraz Ahmed Khan, National University of Juridical Sciences, West Bengal

Prof. D. Banerjea, National University of Juridical Sciences, West Bengal



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# **Training Manual for Prosecutors on Confronting Human Trafficking**



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Apne Aap Women Worldwide

D - 56 Anand Niketan  
New Delhi 110 021  
Phone: +91-11-24110056  
www.apneaap.org

## Author's Note

With great pleasure I would like to present the Training Manual for Prosecutors on Confronting Human Trafficking. The Manual will enable prosecutors to treat trafficked persons as victims rather than criminals and confront the demand for human trafficking by providing the tools to prosecute and convict traffickers, and end exploitation.

Victims and survivors of trafficking, international and national experts, activists, lawyers, prosecutors and members of the judiciary have supported the development of this Manual with ideas, advice and case studies. I acknowledge their contribution and support, even if I cannot name them all.

I would also like to thank UNODC for their financial and technical support especially Mr. Gary Lewis, Representative UNODC ROSA and Dr. P. M. Nair, Project Coordinator, UNODC.

I hope that this Manual will empower prosecutors and others in the anti-trafficking movement to confront the epidemic of human trafficking.

**Ruchira Gupta**  
Executive Director  
Apne Aap Women Worldwide  
ruchiragupta@gmail.com

## Preface

Trafficking of women and children is one of the gravest organized crimes and human rights violations, extending beyond boundaries and jurisdictions. Combating and preventing human trafficking requires holistic approach by all stakeholders with integrated action 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, funded by the US Government, has undertaken several initiatives ever since its launch 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), Compendiums and other resource materials.

As the trainings conducted by UNODC progressed, with the support of various stakeholders in the field, it was felt essential to develop this training manual, especially in the context of institutionalizing and systematizing the training schedule and programmes. The Manual is a guide-book for the Trainers on conducting training programmes for prosecutors. The aim of the manual is to provide the best training, empowerment and capacity building for the prosecutors in addressing the issues of human trafficking in all its dimensions. This should help in empowering the prosecutors in attending to their duties with a high degree of professionalism. This would facilitate them to ensure conviction of traffickers with celerity, surety and certainty, empower them in taking all effective pre-conviction and post-conviction steps, sensitize them to undertake the required steps in ensuring the best care and attention to the victims and also orient them to help prevent trafficking.

This Manual developed by UNODC, with the support of Apne Aap Women Worldwide, is the first of its kind. Effort has been made to make it a user friendly resource material for not only the trainers but also other stakeholders concerned with the issues of prosecution of crimes of human trafficking.

## Introduction

### What's this Manual about?

This manual has been designed to provide the best training, empowerment and capacity building for trainers who will train prosecutors in addressing the issues of human trafficking in all its dimensions. This manual should empower trainers to equip and motivate prosecutors towards pro-active conviction of traffickers with celerity, surety, and certainty, from pre-trial to post-trial and to take all steps in ensuring the best care and attention to victims and survivors.

This manual provides a train-the-trainer workshop format. The activities outlined in this manual explore the concepts and information contained in Indian laws and international conventions related to confronting human trafficking. It uses an active learning approach and legal techniques.

This approach focuses on:

- involving participants in identifying learning goals;
- relating the subject matter so that it is relevant to participants;
- structuring activities so that participants brainstorm solutions to problems identified;
- engaging participants in high levels of thinking such as analyzing, critiquing and assessing;
- using a variety of training approaches, such as small group process, case studies, lecture and experiential activities;
- meeting the participants' needs by remaining flexible;
- providing ways of linking familiar and new information approaches;
- reiterating and reinforcing information throughout the workshop.

### Goals of the Training

The overall goal of the training outlined in this manual is to equip trainers with different training approaches, strategies, skills and knowledge to motivate, empower and equip prosecutors on confronting human trafficking. This manual explores all the interconnections between trafficking, gender violence, organised crime, and strategies of addressing the same. The focus is on the interface between the prosecutor and the issue. The need is, to understand the victim, to analyse the crime and crime motivation, and to explore what more can be done within the ambit of the existing criminal justice system so that successful prosecution, crime prevention and protection of victim's rights is ensured. This manual attempts to communicate the legal process in an interesting and user-friendly way.

To accomplish this goal, the training provides an opportunity for participants to focus on the process of facilitating the activities while exploring the actual content of the activities.

During the training participants will be supplied with relevant selected case laws to work with as examples. These issues will provide a common focus for participants as they explore the planning steps to deal with a human trafficking case. The process of exploring these issues and leading the activities will help participants develop their expertise in group facilitation.

### Who is the Training for?

This training is for trainers who will train prosecutors, their staff and individuals who are active in anti-trafficking work and want to explore certain topics in greater depth. This manual can be used by anyone seeking to provide higher level training even to experienced prosecutors on issues related to human trafficking. The manual can also be used by training academies, training institutions and other trainers, including individuals, NGOs etc.

## Contents of the manual

The manual is composed of four main parts:

**Part One:** This part contains fifteen activities that puts forward the rationale for anti-trafficking work and equips trainers with technical information and techniques of imparting that information. Each exercise is described in detail so that they can be reproduced easily in future trainings. They review the definitions and concepts around trafficking and suggest methods for prosecutors to counter trafficking through case laws, fact sheets and handouts.

**Part Two:** This part contains a sample session that trainees can use when training prosecutors in the field. It describes a four-hour session that can be presented to a group of prosecutors.

**Part Three:** This part contains 24 participant handouts that can be used in the two day training. These handouts include case laws, check-lists, laws related to trafficking, quizzes and questionnaires on the trafficked and the process of trafficking and ideas for court-craft.

**Part Four:** This part contains a catalogue of selected resources containing bare acts, guidelines for TOTs, research resources, guides, training manuals and useful websites. The annexes use samples of additional training exercises.

## Notes to Trainers:

### Members of training team should include:

- a) Men and women to demonstrate equal participation
- b) Experts in relevant areas
- c) Drama teachers, actors, theatre artistes or experienced trainers.

### Training Note:

Trainers play several roles:

- a) Trainer transmits knowledge and skills, answers questions ( or promises to obtain information) and clarifies misconceptions.
- b) Trainer strives to share values and ideals-for examples that adults should treat women and men as equals.
- c) Trainer leads the sessions in such a way that participants are encouraged to participate fully and interactively in acquiring new knowledge and skills.

### Trainers can facilitate different types of learning:

- Learning about subject matter-for example, what is the difference between trafficking, smuggling and migration?
- Learning about the relationship between the subject matter and real life situations-for example, understanding that a woman rescued from a brothel might be a farmer's daughter tricked with the promise of a Bombay job.
- Learning how to apply knowledge required-for example, how can a prosecutor ensure victim protection<sup>1</sup>?
- Learning about training techniques required to empower prosecutors to achieve best results in prosecuting offenders.

## Overview of Training

Part One contains exercises/ activities for the training. These exercises are to be conducted over two days. Each exercise/ activity in Part One provides the Trainer with the objectives, materials, preparation and suggested process for the Trainer to follow. Related Handouts/Worksheets are attached in Part Three.

---

<sup>1</sup> For detailed discussion, see *Journey to Justice – Manual on Psychosocial Intervention*, UNODC, 2008

## Part One

# Activities

## Day One

**Activity  
ONE****25 minutes**

## Ice-breaker

### Introduction

The “Give and Get” icebreaker is a useful way to begin the training for several reasons. First, it sets a friendly and open mood for the training and helps to put the participants at ease. Secondly, it gives the trainers and the participants a chance to get to know each other a little, particularly in terms of the strengths and capacities they can offer the group, as well as their learning expectations for the training.

### Materials

- Flip chart paper & pens

### Preparation

Before the meeting, prepare a flip chart with three headings:

- Who I am (what I would like the group to know about me).
- What I want to give (what I can offer the group, my strengths as they relate to the training, and to experiences I have had dealing with human trafficking).
- What I want to get (what I hope to gain by participating in the training).

The Trainers can demonstrate the activity themselves by asking each other the questions in advance and recording their answers on the flip chart, then introducing each other to the group. Make sure the sheet is within easy viewing distance of all participants.

### Suggested Process

#### Step 1 (5 min)

Ask the participants to pick a partner. Give each pair a piece of flip chart paper (they can each use half) and 5 minutes to ask each other the three questions. Tell the participants to try to come up with 1-2 points for each question.

#### Step 2 (3 min. for each pair)

After 15 minutes are up, ask the participants to volunteer to introduce their partners, bringing their flip chart paper to the front so all can see. Ask both members of the pair to remain in front of the group until both people have been introduced. After they are finished with their introductions, the participants can post their paper so that all can see. Wall space permitting leave the papers up throughout the day, and even throughout the duration of the training.

### Closure (10 minutes):

Briefly ask if participants enjoyed the exercise. Lead a group discussion on what is an ice-breaker, the purpose of the ice-breaker and its outcome. Introduce concept of energizers and warm-up activities during this session.

Remind participants that they must set ground rules for their session at this stage for their training sessions.

### Common grounds rules:

- Respecting each other, even when you disagree
- Agreeing to participate actively
- Not passing judgment, or demoralizing participants by commenting on attitude or lack of knowledge or behavior

- Having the right not to participate in any exercise that makes you uncomfortable
- Listening to what other people say without interrupting them
- Using sentences that begin with I when sharing values and feelings
- Not using 'put-downs' or humiliating people
- Respecting confidentiality
- Being on time
- Turning cell phones off

**Notes to Trainer:**

- Remember to welcome each participant to the group after they've been introduced.
- Members of the training team should introduce themselves and briefly tell participants about their background and training, emphasizing their enthusiasm for the opportunity to work with the group.
- Ice-breakers are activities that are undertaken at the start of an exercise to help people feel at ease.
- Energizers/warm ups are activities used to stimulate and motivate participants during training sessions

Activity  
TWO

25 minutes

## Initiation

### Introduction

It is important at this stage to help participants understand the nature and purpose of a training of trainers and to gain insight into the mechanisms of behavior change of trainers and how these will facilitate them to better train prosecutors against trafficking.

At this stage the course material should be introduced and discussed with participants. All the course material has been presented as handouts and is available in Part Three of the document. Part Four contains useful websites and resources including links to bare acts that the trainer can use if required.

### Materials

- Flipchart paper & pens
- List of handouts of course material
- Copies of all handouts for all participants

### Preparation

Trainers should write out the workshop questions on a flip chart paper before the session. The participants will most likely come up with the same or similar questions in the course of this activity, but you should have the official questions on hand to refer to.

Suggested questions that you write out on the flip chart beforehand could be:

- What is a training of trainers?
- What are the possible advantages that a trained trainer will take to a prosecutors training?
- What are the possible problems that a trainer may face during a prosecutors training?

### Suggested Process

Conduct three consecutive group 'call-outs' (an activity similar to brainstorming, in which participants call out their responses) on the above questions.

Record all responses on flip charts.

When working on a clear definition of a training of trainers, it is important to come as close as possible to the following description:

*The **overall objective** of the training of trainers workshop described here is to build the capacity of trainers to design and deliver an anti-trafficking training programme for prosecutors.*

### Closure:

Lead discussion among participants on challenges they anticipate on training prosecutors and how they can be overcome. Have the following table on hand to add essential points:

| # | Challenges   | Strategies |
|---|--|------------|
| 1 | May not show up for training   |            |
| 2 | May not accept authority of trainer                                      |            |
| 3 | May not pay attention  |            |
| 4 | May blame police for not collecting full evidence or sharing information |            |
| 5 | May have gender bias   |            |

- 6 May not see countering trafficking as a priority issue
- 7 May not understand full dimensions of role of prosecutor
- 8 May challenge trainer with more detailed knowledge
- 9 Loss of faith in judiciary
- 10 May have bias against victim (for example, the mindset that the victim is a 'prostitute' and therefore an accomplice, or that nothing can help her now)
- 11 Apathy to criminal justice system

**Notes to Trainer:**

Your role as a Trainer is to help the group understand that they may be trainers, but their knowledge level on the issue may be equal to their trainees. They should not pass judgments, or humiliate their participants but simply act as facilitators. They should rely on the experiential learning of participating prosecutors and use interactive methodologies, including role play and drama.

Distribute handouts of course materials and resources that will be made available during the workshop. At this point explain what each handout is about. Keep a list of handouts ready for discussion.

**Overhead slide/ LCD Projector**

Involving participants in a training workshop in an active way that incorporates their own experience is essential to a good training of trainers.

Tell me...I forget,  
show me...I remember,  
involve me...I understand  
*Ancient Proverb*

**Activity  
THREE****15 minutes**

## Establishing Objectives

### Introduction

It is important to establish the objectives of the workshop right at the outset, and to keep them posted throughout the training to help the group stay focused, and to ensure that the learning expectations that you established as a group will be met.

### Materials

- Flipchart paper & pens
- Overhead slide on workshop objectives
- Sample training schedule

### Preparation

Before the meeting, prepare a flip chart with the six headings:

- What do I need to know?
- What resource material do I need?
- How do I plan the schedule for training?
- How do I motivate participants?
- How do I help trainees plan a successful prosecution?
- How do I evaluate the outcome of the training?

The participants will most likely come up with answers to the six questions in the course of this activity, but you should have the official objectives on hand to refer to. These objectives could be as per Table on next page.

### Suggested Process

Working with the participants' input from activity #1, in which they stated what they hoped to get from the workshop, the facilitators can help the participants to brainstorm their own list of workshop objectives. Try to have participants describe the objectives as "To..." statements

For example:

The objective of the workshop is:

- To build capacity of trainers to design and deliver a training programme against human trafficking for prosecutors

### Notes to facilitator:

Your role as a facilitator is to help the group maintain its focus and ensure that the workshop's objectives are met. Participants may bring up many interesting and relevant issues in this exercise, but it might not be possible to address them all within the limited time frame of the workshop. Record these ideas and issues on a separate flip chart, and ask the group about how they would like to see these issues followed up.

Given below is a sample table of objectives that can be used as a guideline:

| Plan  | Need to know                           | Resource material   | Motivate/ Changing attitude   | Providing information  | Evaluate   |
|---|--|---|---|--|--|
| Plan training schedule with topics and time schedule, resources material or people as required, equipment and infrastructure needed | Knowledge and attitude of participants | Flip charts, markers, overhead slides, games and exercise, training videos like <i>One Life, No Price</i> or <i>Selling of Innocents</i> and other UNODC training material listed in annexes, as well as judgments of Supreme Court, High Courts and trial courts | Present slides, handouts and videos to illustrate that trafficking is:<br>a) Organized crime<br>b) Not victimless crime<br>c) Impact on society and security of country | Training sessions must include the following:<br>a) Introduction<br>b) Motivation<br>c) Introduction to laws and conventions<br>d) Ingredients and steps of successful prosecution<br>e) Victim-centred approach<br>f) Addressing the demand and successful convictions<br>g) Evaluation | Design and distribute learning activities at the end of each session |
|   | Laws and Conventions on trafficking    | Relevant bare acts like ITPA, JJ Act, UN protocol, National Integrated Plan of Action, UNODC documents listed in annexure and relevant High Court and Supreme Court Judgments   | Present slides, handouts and videos to illustrate:<br>a) Trafficker liability<br>b) Trafficker can be convicted<br>c) Role of prosecutor                                |  |  |
|   | Best practices                         | Handouts of International and national best practices including UNODC documents listed in annexures   |   |  |  |
|   | Case studies                           | Typed sheets of case laws to illustrate points - refer to UNODC documents listed in annexures   |   |  |  |
|   | Crime in India statistics              | Typed sheets and analysis of crime data from Crime in India, UNODC documents, NHRC publications and other documents   |   |  |  |
|   | Trafficking trends                     | Chart on latest trends  |   |  |  |

Overhead slide/ LCD Projector

The objectives of the Train-the-trainers workshop are:

**Examples of other workshop objectives can be:**  
 what do I need to know, what resource material do I need, how do I plan the schedule for training, how do I motivate participants, how do I help them plan a successful prosecution, how do I evaluate the outcome of the training.

**Or**

To build capacity of trainers to design and deliver a training programme against human trafficking for prosecutors.

**Activity  
FOUR****20 minutes**

## Components of an effective training

### Introduction

It is important for trainers to identify information, motivation, behavioral skills, and resources as the four primary components of successful training.

### Materials

Flip chart and markers

### Process

Distribute handout one. Draw four columns (untitled at this stage) on the flip chart and lead a group call-in, asking participants what they consider to be essential components of a successful training.

The participants are still not aware of the identification of the columns, but you should record their response on the flip chart according to where they belong in the following four categories:

1. Providing information
2. Creating motivation
3. Building skills
4. Referring to resources

It is best not to name the categories beforehand, but to list the participants' suggestions in the untitled columns. Once all the responses have been included, the four categories can be identified and the trainers' responses discussed within that context.

### Closure

Point out that these are four complementary components.

**Activity  
FIVE****40 minutes**

## Using topic lead-ins in training programmes

### Introduction

It is important to know how to lead into a topic related to human trafficking. There are several ways to introduce a new theme or topic to a group of trainers. A topic lead-in can play a number of functions. It can:

1. Generate interest in the topic;
2. Activate participants' prior knowledge of the subject;
3. Encourage the sharing of information and resources;
4. Reserve resistance to discussion or learning.

### Materials

- Chairs for all participants
- Flip charts and markers
- Scotch-Tape
- Handout Four: Sex and Gender

### Process

The exercise below on Sex and Gender can be used as a topic lead-in to anti-trafficking training. Another example of a topic lead-in is the use of 'buzzwords.' The trainer writes a key word on a flip chart and gets the participants to call out words or ideas that they associate with the buzzwords, which are also written on the flip chart (if they are appropriate).

Another way to introduce a topic could be to get participants to fill in a brief questionnaire on the subject. Sometimes a trainer may choose to use some improvisational role play as an introduction to a topic.

### Sample exercise:

Draw three columns on the paper. Label the first column "woman" and leave the other two blank. Ask participants to identify personality traits, abilities and roles ('attributes') that are often associated with women; these may include stereotypes prevalent in the participants' communities. Write down their suggestions in the woman's column.

Next label the third column "man" and ask participants to make a list of personality traits, abilities, and roles that are often associated with men. These may include stereotypes prevalent in the participants' communities. Write down their suggestions in the 'man' column.

Ensure that participants provide examples related to anti-human trafficking cases. Here is an example.

#### Girls and young women:

- Want to buy good clothes
- Experience higher rates of sexual violence and coercion
- Are expected to take care of children
- Are unable to negotiate unprotected or unwanted sex
- Are at greater risk of school drop out

#### Boys and young men:

- Succumb to the lures of seductive women and girls unknowingly
- Experience peer pressure to be sexually active

- Are taught to dominate and control
- Do not feel comfortable using condoms
- Prefer to buy younger girls

### Closure

Ensure that both columns include positive and negative words or phrases. Also, add biological characteristics (such as women can breastfeed, men can grow beards) if none are suggested by participants.

Now reverse the headings of the first and third columns by writing 'man' above the first column and 'woman' above the third column. Working down the list ask the participants if men can exhibit the characteristics attributed to women and vice versa. Place those attributes which are not inter-changeable and label this column 'sex.'

To save time, it is not necessary to discuss each term separately. However, make sure that all the words in the 'sex' column are discussed.

Expect participants to debate the meanings of some words-one of the goals of this exercise is to demonstrate that people assign different meanings to most characteristic which is gender based.

Be prepared to handle discussions on sex and gender. Explain that sex has to do with biological and genetic matters, whereas gender refers to socially constructed roles, responsibilities and expectations of males and females in a given culture or society. These roles, responsibilities and expectations are learned from family, friends, communities, opinion leaders, religious institutions, schools, the workplace, advertising and the media. They are also influenced by custom, law, class, ethnicity and individual or institutional bias. The definitions of what it means to be male or female are learned, vary among cultures and change over time.

Point out that many people confuse sex with gender and vice versa. The word gender is often used inappropriately instead of 'sex' ( for example, when people are asked their gender instead of sex on application forms).

Stress that the stereotyped ideas about female and male qualities can be damaging, because they limit our potential to develop the full range of possible human capacities. By accepting these stereotypes, we restrict our own actions and lose the ability to determine our own behavior, interest or skills. For example, as a result of gender stereotyping, it is considered 'natural' for men to buy sex or not participate in childcare, while women are dissuaded from higher education or most jobs, entrenching the vulnerability to trafficking and reducing their options of dignified livelihoods.

Emphasize that in our work when dealing with victims and traffickers we must look for stereotypes that have influenced our actions and led to a bias and that it is important for all of us to understand victims and traffickers from that perspective.

**Activity  
SIX  
20 minutes**

## Motivational tools and techniques

Guest Speaker or anti-trafficking film, *One Life, No Price* (UNODC)<sup>1</sup> be shown. Besides this, other films, like *The Selling of Innocents*<sup>2</sup> be shown provided they clarify the concepts and are motivational, giving a positive orientation and hope in the process.

### Introduction

If time allows, a guest speaker, a victim-survivor or an expert in the field, should be invited to share his or her experience. It is best if the trainer knows the speaker well and knows that s/he is a good speaker and well prepared. The presentation is most effective when the speaker talks about personal experiences to which the audience might relate. An emotionally engaging film like *One Life, No Price* about human trafficking and its impact on the victim is another way to get people motivated.

In this session participants must be given an opportunity to talk about the meaning of training in their lives, in order to explore and increase trainee's motivations for working on human trafficking and also to be trainers of trainers on the subject.

The session can continue with discussion on tools and techniques that can encourage prosecutors to take anti-trafficking work seriously. Examples of useful techniques and tools can include inviting a guest speaker or showing a film as mentioned above.

### Materials

- Anti-trafficking video or film
- Screen
- Player
- Flip chart and markers

### Preparation

If the guest speaker is a victim or a survivor, it is important to brief her/him and the audience beforehand separately. The audience should be briefed to listen to the speaker with respect and not ask her personal questions which may insult or traumatize him/her. The speaker should be told to be precise and speak firmly and about her rights of privacy and confidentiality. The audience must also be briefed about confidentiality.

### Process

Lead a discussion after the presentation on the trafficking process and its physical and mental impact on the victim. Ask questions about who the culprits were and how they should be tackled.

Put answers and questions up on a flip chart. Leave it up throughout the workshop.

Remind people about the ground rules on confidentiality and privacy. Share some personal experience of why the anti-trafficking work is important to you. Some participants will follow your example.

Note: If the guest speaker is a victim or survivor, please ensure that the victim is fully willing and does so with informed consent.

### Closure

Thank the trainers for participating so openly. Explain that trainers can use the same method with prosecutors to motivate them.

<sup>1</sup> This film has been developed by UNODC and can be made available on request.

<sup>2</sup> This documentary can be made available on request from [www.apneaap.org](http://www.apneaap.org). It is available in Hindi, English, Nepali and Bengali.

Activity  
SEVEN

75 minutes

## Techniques for exploring values and attitudes

*Since this is a post lunch session, start the activity with stretching and warm up exercises to get participants in the mood for the training. (10 minutes)*

### Introduction

This session enables participants to experience techniques that explore values and attitudes and to create awareness of how difficult it is to discuss human trafficking and its outcomes like prostitution, child labor, and bonded labour and sexual exploitation.

The trainer explains that participants will be exploring their own values and attitudes about prostitution, sexual exploitation, trafficking perception of victims and exploiters through discussion and activities.

The trainer points out that although teaching may cover sensitive issues in some detail; it is in no way intended to be judgmental about existing attitudes or values. It just offers a different way of thinking. The sessions are meant to give people information with which to make educated decisions and to build their capacity to help and protect victims and identify and prosecute exploiters and traffickers on the road to countering human trafficking.

Most of our notions about human trafficking and prostitution are influenced by sexual and gender norms, as well as by family and cultural messages that we received while growing up. It is important to recognize that our religious or non-religious upbringing may also play a significant role in our personal attitudes towards how we think about issues related to trafficking and about the victim and the traffickers. All trainers must therefore, examine their own attitudes.

### Overhead slide/LCD Projector

**Values** represent what a person appreciates and esteems. If young men have learned to value their friendships and relationships with women, for example, they will more likely not buy sex.

**Attitudes** are a person's feelings towards something or someone. In the context of human trafficking, tolerance of victim's behaviour, understanding the root causes and vulnerabilities of victims to the lure of traffickers, rejection of discrimination and prejudice, as well as compassion and care, are very important attitudes.

Attitudes and values are not easy to teach or measure. However, there are techniques, such as group discussion, case studies, or 'value-voting', which can help explore and influence people's attitudes and values. Another technique is personal example-trainers can act as role models. If for example one of the aims is to make trainers tolerant and sensitive, the trainers' personal behaviour should reflect their attitude.

### Materials

Flip charts, markers, pens/pencils and paper.

### Preparation

Prepare an appropriate case study for a role play. A sample is given below.

### Process (55 minutes)

Tape four flip chart sheets on the wall, each with one of the following questions written at the top of each:

1. Why do men buy sex?
2. What could be the reasons for men not buying sex?
3. Why do girls end up in prostitution?
4. What could be their reasons for saying yes to their sexual exploitation?

Split the group into four teams, give each group a marker, and tell each group to choose one of the question sheets. Tell them they will have five minutes to write down as many items or ideas as they can on each sheet. Give them a one minute warning when time is nearly up.

After the first sheet ask the group to move on to the next sheet. Tell them to read the other group's responses to avoid repetition before they write down their own ideas. Repeat until each group has written down responses to each of the topics and then ask the participants to reassemble as a group.

Ask them to evaluate the lists. Are some reasons better than others? How do they know? How do the reasons affect the ways in which trainers try to influence their decisions and the decisions that their trainees make?

If you think the participants have overlooked an important reason, tell them your idea now and add it to the list.

At this point, start a discussion with the participants. Using their response to the questions about men's behaviour and women's vulnerability ask them to suggest ways to confront human trafficking, get victim-witness cooperation and protection and nail the trafficker. As a group decide, which strategies would be most effective and positive in getting prosecutors to identify the victim and the perpetrator, and deal with empathy for the victim and elicit information on linking the crime. Put this up on a flip chart.

### Role Play: 25 minutes

If you have enough time, ask the participants to split into a group of five and an audience and role play the character of the victim-survivor; the Chief Judicial Magistrate; the Mother-complainant, the NGO representative and the Prosecutor as provided in the Case Study.

## Case study

The Chief Judicial Magistrate (CJM) of a court in an order passed on 14 March 2007 remanded a girl, NK, rescued from a brothel on 12 March, 2007 to a government correctional home. In the process he named VK, exploiter-accused as the father of the victim and refused the custody application of the victim's mother, MK, the main complainant in the case and a worker in an NGO, Apne Aap Women Worldwide. The girl was rescued after her mother MK lodged a complaint on 12 March 2007. First Information Report was registered in police station as case no. 122/07 dtd. 12.3.07 u/s 366/366A/376/349 Indian Penal Code and sec. 2, 3, 4, 5, 7 Immoral Traffic (Prevention) Act, 1956. MK named four persons as the accused in her complaint. The age verification of the victim revealed that she could be between 14 to 16 years of age.

The magistrate had refused custody to the mother purportedly based on the victim's statement u/s 164 Criminal Procedure Code (Cr. PC). The victim, however, told NGO workers that she had said very clearly in her statement that the accused VK, used to sell her for prostitution to different buyers every day and would beat her if she refused and that the accused used to ask her to call him, 'Papa,' and his wife, 'Ma'. Further, the victim later said that the Magistrate, who recorded her statement asked her who her father was and when she kept quiet, he asked her if she called anyone Papa and then she stated that she used to call the owner of the brothel VK, her father. Accordingly VK was presumed to be her father.

## Closure

The discussion after the role-play should focus on the issues and questions as below and seek answers from the audience:

- Why did the CJM refuse custody to the mother? Was there a gender bias?
- Why did the victim get sent to a correctional home? Was that appropriate?
- Why did the accused get listed as the father in the order?
- What order would have been in the best interest of the victim?
- What role could the prosecutor have played in the interest of the victim?

Activity  
EIGHT

90 minutes

## Understanding the trafficked

### Introduction

It is important at this stage for participants to understand how stigma, discrimination, and other risk factors increase the vulnerability of children, women and men to trafficking and to suggest effective ways to work with prosecutors to make them understand victims and survivors.

This session will create awareness about the inequalities of opportunities in society, among women, caste groups, rural citizens and help participants identify vulnerable and marginalized groups and to promote empathy with those who are different from oneself.

### Materials

One index card for each participant with a character from a typical high risk community in India, written on each (see the list of characters below), tape or CD player and soft/relaxing music (if available), a list of statements (see below), flip charts and markers.

### Process

Write each of the characters listed below on an index card or piece of paper. (Adapt these as necessary for your context).

- Prosecutor
- Police officer, male
- Male judge in sessions court
- District Magistrate
- Mukhiya/ Pradhan of the panchayat
- District Education Officer
- Social Welfare Officer
- Member of district Child Welfare Committee
- School-teacher ( female)
- Boy in correctional home, age 14
- Girl with disability, age ten
- Girl, daughter of parents who belong to *Nat* community, age 13
- School principal, male
- Health worker in NGO, female
- Prostituted girl child, age 14
- HIV-infected pregnant mother, age 23
- Primary school girl, age 13
- Primary school boy, age 14
- Teenage girl, looking for a job
- Victim of cross-border trafficking, girl, age 17
- High caste violent father
- Alcoholic father
- Low-caste migrant worker with family of five

Prepare a flip chart with the list of characters. Do not display the sheet till you start Part 3 of the exercise.

This exercise requires a big space, so if room is not available indoors, you might want to keep the group outside.

## Training Note

- Make the exercise relevant by adapting the characters and questions to your local context.
- When doing this activity outdoors, make sure participants can hear you.
- In the imagining phase, some participants may say that they know little about the life of the person they have to role play. Tell them this does not matter and they should do their best.
- The impact of this activity lies in seeing the distance emerge between the participants, especially at the end when there should be a big distance between those who have stepped forward often and those who did not.
- If you have fewer participants than roles, shorten the list of characters. Be sure there is a balance in the characters who can take steps forward (i.e., can agree on the statements) and those who cannot. This also applies if you have a larger group.

## Part 1

Create a calm atmosphere by playing soft background music or by asking participants to remain silent. Hand out the role cards at random, one to each participant. Tell them to read their card but not show it to anyone. Invite them to sit down.

Now ask them to begin to get into the role. To help read some of the following questions out loud, pausing after each one to give them time to reflect and develop a picture of themselves in the person:

- What was your childhood like? What sort of house did you live in? What kind of games did you play? What sort of work did your parents do?
- What is your everyday life like now? Where do you socialize? What do you do in the morning, afternoon, evening?
- What sort of lifestyle do you have? Where do you live? How much money do you earn every month? What do you do in your leisure time? What do you do in your holidays?
- What excites you? What are you afraid of?

Now stop the music.

## Part 2

Ask participants to remain absolutely silent as they line up beside each other (as if on a starting line). Tell them you are going to read a list of statements. Every time their character can agree to a statement, they should take a step forward. Otherwise they should stay where they are. Ask participants to remember the number of steps they take until the end of the exercise. Now read aloud the statements below one at a time. (Adapt these as necessary to your context).

- I can influence decision making at the Panchayat level.
- I get to meet visiting officials from ministries.
- I get new clothes when I want.
- I have time and access to watch TV, go to the movies, spend time with my friends.
- I am not in danger of being sexually abused or exploited.
- I get to see and talk to my parents.
- I can speak at town meetings.
- I can pay for treatment at a private hospital if necessary.
- I went to or expect to go to Higher Secondary school.
- I will be consulted on issues related to children, young people
- I am not in danger of being physically abused.
- I sometimes attend workshops or seminars.
- I have access to plenty of information about human trafficking.
- I can provide a child what he/she needs.
- I have access to social assistance if necessary.
- I can talk to an adult I trust when I have a problem.
- I am not isolated.

- I can report cases of violence, abuse and neglect of children when I identify them.
- I can provide for and protect my children.

After reading all statements, invite everyone to take note of their final positions; some participants will have moved a long way forward, while others will be way behind. Ask the 'power walkers' those at front to reveal what roles they are playing. Then ask the ones at the back to reveal their roles.

### Part 3

Bring the group back together for the debriefing. Before they take their seats, ask each participant to record the number of steps each took on a table on the flip chart. When everyone is seated, ask how they felt about the activity. Then lead a group discussion about the following questions:

- How easy or difficult was it to play the different roles? How did they imagine what their character was like?
- How did people feel stepping forward? Not stepping forward? How did those who made few or no steps feel as they watched others moving forward? For those who stepped forward often, at what point did they begin to notice that others were not moving as fast as they were?
- Why are some people at the front and some people at the back? Does this exercise mirror society? How?
- What factors might account for these disparities?
- Which human rights are at stake? Could someone say that their human rights were not being respected or that they did not have access to them?
- How does gender account for the different end positions?
- How does caste account for the different end position?

### Part 4

Present the fictitious cases given below to participants where a victim has been made an accused and the proactive role of the prosecutor in treating victim as survivor.

**Case One:** The police raided a brothel in May, 2007. There they found four persons-three men and one underage girl. They took all four to the police station and released the three men and registered a case against the underage girl u/ s. 8 of ITPA as the brothel was near a public place. Police asked for remand of the girl for further investigations in the ensuing court proceedings.

**Case Two:** The police raided another brothel and found five men and two girls. They registered a case against the five men on the basis of the statement of the girls and released the girls. They did not send the girls for medical examination as the hospital was 50 km away from police station. Later they did not make a prayer in the court for recording the victim statement u/ s. 164, Cr. PC. They prayed for remanding the accused person to judicial custody. Even after the relapse of a year, no progress was made in investigation.

### Closure

Discuss the following questions in connection with the cases above.

1. What is the role to be played by prosecutor in Case One on the prayer of remand to protect victim-rights?
2. What role to be played by prosecutor in recording statement u/s. 164, Cr. PC?
3. What role to be played by prosecutor for medical examination of victim?
4. How to identify victim?

Trainers can handout the learning activity *Understanding the Trafficked* for participants to fill out and bring the next day.

**Activity  
NINE****60 minutes**

## Discussing Legal and Procedural Issues

### Introduction

It is imperative that participants discuss the legal and procedural issues/ challenges faced by the prosecutors in prosecuting crimes of human trafficking. This session will help the trainers to empower the participants to effectively comprehend the issues, challenges and the way ahead with respect to the procedural aspects. The trainers are encouraged to extensively refer to the Standard Operating Procedures on Prosecuting Crimes of Trafficking developed by UNODC in this regard.

### Materials

Relevant law books, flip charts, markers, pens/ pencils and paper

### Points for discussion

- Court craft – presentation skills, techniques, support from other professionals (private lawyer representing victim, child counselors, etc.)
- Issues relating to bail, anticipatory bail, interlocutory petitions, etc.
- Appreciation of the evidence – oral, documentary, material objects, forensic and medical reports, expert opinions, etc. and presentation of the same to the court.
- Post conviction steps that a prosecutor can initiate/ be associated with, including – (a) If the sentence awarded is not commensurate with the gravity of the offence, or if the accused is acquitted, filing of appeals before appropriate court; (b) Post conviction steps as mentioned in Sections 7 and 18 of the ITPA, etc.

### Closure

Ask the participants to narrate the problems/ obstacles/ challenges faced by them during prosecution of trafficking cases and how were solutions found to deal with them. Invite other stakeholders like police officers, counselors, victims (if they are willing,) etc. to offer different and innovative solutions.

## Wrap-up

The trainer provides a brief overview of the activities covered in the day. Participants are asked to think back on the day and discuss some of the central themes. They can give feedback on how they feel the training is going.

Trainers can handout the learning activity “Understanding the Trafficked” for participants to fill out and bring the next day.

## Part One

# Activities

## Day Two

Activity  
TEN

50 minutes

## Warm-up and Feedback (5 minutes)

Two participants can be asked to summarize the earlier sessions and collect the learning activity handed out at the end of Day One.

## Human Trafficking: Basic facts and questions

### Introduction

A trainer of trainers needs knowledge about anti-trafficking issues, laws and conventions that the programme addresses. The trainer of trainers may feel he knows the subject thoroughly but it is important he goes through this session as a refresher and also use this session when training prosecutors for the purposes of orientation.

### Materials

- Handout for each and every participant an anti-trafficking quiz (handout seven) and the Indian laws on anti-trafficking (handout nine) and UN conventions (handout eight);
- Pens/ pencils for all participants;
- Flip charts on which to keep score and markers;
- Overhead slide/ LCD projector with computer

### Preparation

Prepare a list of question and answers as an anti-trafficking quiz and a fact sheet on anti-trafficking laws and conventions. Sample handouts are given in Part Three.

### Process

A quiz can be used as an entry point to discuss the basic facts and questions about human trafficking. Hand out the sample quiz and the key information on trafficking fact sheet.

Divide the participants into two, three or more teams (depending on the total number of participants) and tell each group to select a name and a speaker for their team. All team members should work together to find an answer, but only one person should say the answer out loud. Explain that you will be asking questions to each team. If the first team does not know or does not give the correct answer within three minutes, the next team will get a chance to answer it. A point is awarded for each correct answer.

Begin asking the questions. After each correct answer, ask or explain why it is correct. Also address the incorrect answers to clear misconceptions.

### Closure

After the game ask participants if they have questions about the questions or answers, if so answer them immediately.

## Explaining the role of the prosecutor

### Introduction

This session will enable trainers to develop an understanding of the core characteristics of the role of a prosecutor in confronting human trafficking. This understanding in turn will enable trainers to develop skills required to explain what the role of a prosecutor should be.

### Materials

- Flip chart and markers
- Handout on check list for prosecutors
- 4 Case laws
- Standard Operating Procedures for Prosecution of Crimes of Trafficking, UNODC

### Preparation

Prepare a handout for each and every participant which is a check list for prosecutors on anti-trafficking cases. Prepare four case laws to distribute.

### Process

On a sheet of flip chart paper, prepare the following columns:

- Role of Prosecutor
- Suggested Argument
- Relevant Section

Split the participants into four groups.

Give each group one case law.

Ask each group to read the case and based on the case call out then answers to the columns on the flip chart.

### Closure

Lead a discussion on the answers to each case and fill in gaps in suggested action of prosecutors.

### Discussion points

Prosecutor plays a pivotal role in confronting human trafficking. Use UNODC SOP for Prosecution of Crimes of Human Trafficking during this discussion. S/he can play a pro-active role in anti-trafficking cases by:

- Opposing the anticipatory and remand bail of the accused, thereby protecting the victim from intimidation.
- Asking for gaps in investigation to be filled, thereby strengthening the case against the accused.<sup>1</sup>
- Ensuring that the victim statement is comprehensive, thereby getting information on all aspects of the crime.
- Opposing or supporting custody application of the victim in the best interest of the victim, thereby ensuring the safety and appearance of the victim/witness in court, as and when required.
- Using multiple sections of the law to frame arguments on charges against the accused taking anti-trafficking cases beyond victim protection to increased convictions and closure of brothels, thereby dismantling the trafficking chain itself.

<sup>1</sup> For further discussion see, *Standard Operating Procedures on Investigating Crimes of Trafficking for Commercial Sexual Exploitation*, UNODC, 2007 and *Standard Operating Procedures on Investigating Crimes of Trafficking for Forced Labour*, UNODC, 2008

- Presenting evidence in a comprehensive manner with adequate research, citing case laws, profiling the traffickers, highlighting the gravity of the crime of trafficking, mapping the harm to the victim and demonstrating the organized nature of the crime, thereby bringing the case to justice in the manner it deserves.
- Ensuring that the rights of the victim are protected through the trial process, thereby preventing re-victimization.
- Linking evidence adduced with the charges framed and the allegation, thereby ensuring conviction of the exploiter and trafficker.
- Demanding enhanced punishment against the accused, thereby deterring all criminals from the crime of trafficking.

Below are sample case studies that can be passed around and discussed:

### Case Law One

#### **Sanjay Sharma vs. State (MANU/DE.0595/1995)**

In this case the accused/petitioner filed for anticipatory bail, which was vehemently opposed by the Public Prosecutor.

The counsel for the petitioner stated that the accused/petitioner, a lawyer by profession, had been wrongly implicated in this case. If the bail application were rejected, the petitioner would suffer huge losses at his work. The accused/petitioner contended that the Prosecutrix stated under sec 164 CrPC that she had voluntarily consented to sexual intercourse with the accused.

The prosecution's case was that the Prosecutrix had consented to sexual intercourse with the accused under threat, as described in the F.I.R. The Prosecutrix was a tenant of the accused/petitioner. He had given her sweets with intoxicating material. After having consumed these, the Prosecutrix fell unconscious; it was then that the petitioner raped her. While she was raped, she was also photographed. These photographs were used subsequently for blackmailing the Prosecutrix to compel her into having sexual intercourse with the accused/petitioner. These photographs were produced as evidence, which clearly showed that the Prosecutrix had in no way consented to sexual intercourse with the accused/petitioner. The Prosecutrix and her family had been continuously threatened over the telephone. She had been told that her son and husband would be killed if they did not reach a compromise.

Finally the application for the anticipatory bail was rightfully rejected and it was held that the statement of the Prosecutrix under sec 164 CrPC had been given under threat and fear.

## Case Law Two

T was a 17-year-old girl who was trafficked to Delhi from Nepal. She was rescued by an organization working on the issue of trafficking and was sent to Nari Niketen to be placed under safe custody. As the trial was about to begin, the traffickers hatched a plan and tried to access T so that she could be intimidated or induced for not deposing against the traffickers.

They fixed a lady who approached the Court, claimed to be the mother of T and after putting in papers about her identity claimed the custody of the minor T. The Court allowed the claim of the fraudulent mother order to release T on Superdari after furnishing superdarinama of Rs. 10,000.00 and after due verification of the parentage and address of the prosecutrix .

On this the organization who had rescued the minor and was the complainant in the case opposed the custody application, apprised the Court that the custody application was moved by a fake person and they should be handed over the custody of T who would be repatriated to Nepal by its partner organization in Nepal. The Court allowed the plea of the application but required the organization to furnish a Superdarinama of Rs. 50000.00, which was a substantial amount.

Later the investigating officer with respect to custody application of the fake parent submitted a report stating that the given address could not be verified and that it could only be done in cooperation of a Nepal based organization.

The Court without getting done the appropriate verification of the parentage of the fake parent granted the custody of T to the fake parent.

The complainant filed an appeal against the said order of custody on the grounds that it was against the interest of justice. In the appeal further documentary evidence was placed before the Court which proved that the person who were granted the custody of T was a fraud.

It was on this intervention that the custody of T was ultimately granted to the Delhi based organization who along with its partner organization in Nepal handed over the rightful custody to her rightful parents.

## Case Law Three:

The judgment in Pondicherry (Reddiarpalayam) crime No. 70/98 from the Court of the Additional Assistant Sessions Judge speaks about evidence to show that one of the girl victims was 15 years old. The court awarded seven years imprisonment to both the accused (and also fined them) after convicting them u/s. 5 ITPA as well as 363, 372, 373, 368, 109 IPC. The court observed, "The police could have invoked Section 367 IPC instead of 363 IPC against A-1, because 367 incorporates within itself 363 IPC." It is to be noted here that the charge-sheet filed by the police was only under IPC and not under ITPA. However, while framing charges, the trial court invoked Section 5 ITPA too. The judgment shows a high level of sensitivity towards the plight of girl children. The court was categorical that the victim child was 15 years old and since she was subjected to sexual assault for several months, charges should have been framed under Section 376 IPC.

Activity  
TWELVE

75 minutes

## To understand causes and consequences of good and bad prosecution

### Introduction

This session will offer insights to trainers into how they can empower prosecutors to identify causes and consequences of an effective prosecution which leads to convictions and an ineffective one which leads to the discharge or acquittal of the case. It will help participants identify possible interventions to solve the problems where prosecutors may not have got convictions.

### Materials

Three flip charts and enough markers for the group.

### Process

Draw on each flip chart a tree that has large roots and branches with leaves and fruits. On the trunks of the trees, write the following statements:

- Prosecutrix does not support prosecution
- Chargesheet does not contain other applicable sections of the law
- Crime is committed in another state
- Prosecutor does not have access to victim-witness

### Part 1

Ask the group members to stand. Give the following instructions while acting them out yourself.

Use your body as an acting tool. Imagine yourself as a small seed; get down on your knees and curl up. While I count to ten, start 'growing' (stand up) to become a tree with your arms as branches and your fingers as fruits.

Feel a gentle breeze blowing the branches back and forth, then a storm, and then the wind dying down. (Move your arms around gently, then roughly, and then gently again.)

Let the tree feel itself. Let the roots move a little (move your toes) and then the branches (hands) and the fruits (fingers).

Now imagine the tree is being poisoned. The poison enters the tree through the roots, moving up to the fruits (fingers die), branches (hands die) and finally the trunk. The whole tree dies. (End up by falling down on the floor).

Next ask the group to sit down and explain that a healthy tree gets sufficient nutrients from its roots. But if the fruits begin to turn bad, this indicates that something is not right. The nutrients are insufficient or the tree is being poisoned. What we can see first are the visible signs above the ground-the fruits, leaves, branches, and trunk of the tree begins to show the disease and this indicates that there might be a problem at the level of the roots. It is the same for life; problems that we see, such as a victim refusing to be a witness or the police not putting all applicable sections of law, are the visible results of other problems that already existed (for example, lack of protein, caused by lack of information or lack of access to health services).

Explain the problem can have both direct and indirect causes. Direct causes are more obvious and easier to identify. For example the victim's fear of the trafficker can be a direct cause for her refusal to testify. Indifference to case may lead to the police only applying some sections of the law, lack of resources may

prevent full investigation by police especially in intra-state crime, access to witness is denied to the prosecutor because no social worker has been asked to prepare the witness etc.

## Part 2

Divide the participants into three groups and explain that each person will consider one problem that a prosecutor may face in anti-trafficking case as listed above.

Ask each group to think about possible causes of the problem and write them down on the roots of the tree. They should do the same for the consequences and write them on the branches and fruit. Also, ask each group to discuss the links among all the factors and use arrows to indicate the links.

Allow approximately 20 minutes for this task.

Allow another ten minutes to:

- Discuss possible strategies and interventions to solve or resolve the problem
- Identify where a training may help overcome some mental blocks and prejudices

Ask each small group to present their problem tree to the other participants. Get the entire group to say what they think or ask any question they may have after each presentation.

## Closure

Explain that the roots of many problems may be different for police, prosecutors, judges, NGOs, victims and the accused, men and women and may have different consequences. For example, young female victims who do not get adequate protection during the trial process or pre-trial briefing may be re-traumatized in court. Point out that training for prosecutors on victim-witness protection and treatment may complement other strategies and interventions that aim at addressing problems of trafficking.

**Discuss case laws below to show gaps and strengths in prosecution:**

### Case Law One

In V.P. Road (Mumbai) police station crime No. 279/2000, the police filed a charge sheet against two accused persons u/s 366A, 372, 373 IPC and Sections 4, 5, 6, 9 ITPA. The police rescued a minor girl in that process. The court of the Additional Sessions Judge convicted the accused for offences under 366 A, 372 IPC and Section 5(a) and 9 ITPA, and awarded RI for seven years and a fine of Rs. 10,000.

**Point for discussion:** The judgment mentions that the medical reports have confirmed that the victim was 14–15 years old and that she was subjected to assault, abuse, illegal confinement, intimidation and repeated rape for a long time. Yet, no charge was framed under rape or abetment to rape. Therefore, the fact remains that the larger issue of child rape was not attended to. What could and should have been done by the prosecutor?

**Role of Prosecutor:** Prosecutor should have suggested to court for framing of charges u/s. 376 of the IPC along with other appropriate sections.

### Case Law Two

In Kamla Market (Delhi) crime No. 274/2000 u/s 363, 365, 366, 368, 372, 373, 323, 506, 109 IPC and 3, 4, 5, 6 ITPA, the court convicted the traffickers and exploiters, which include one male and two females. The court held that "It has been proved that the accused persons were forcing the young minor girls into prostitution and thereby depriving them of a decent and respectful normal life." They were convicted and awarded RI for a period of seven years and a fine of Rs. 5,000 each. The court had also taken up the provision of eviction under ITPA. The judgment says, "An application was moved by Ld. APP u/s 18(2) of ITPA seeking direction for vacating kotha No. 42, first floor, G.B. Road, New Delhi. Heard. In view of this provision, I direct the occupiers of kotha No. 42, first floor, to vacate the said kotha within seven days of the order."

**Point for discussion:** This is a case where the traffickers and exploiters were not only convicted but also evicted from the place that they were using for exploiting the minor girls. This is an appropriate example to highlight the stringent provisions available in the ITPA. The judgment is a pointer to the need for professional investigation and prosecution, along with sensitivity to women's rights and child rights, in the delivery of justice. Does it happen in the cases tried or being tried by the prosecutor? If not what should have been/ what should be done?

**Role of Prosecutor:** The prosecutor could also plead for enhanced punishment of the accused and compensation for the victim u/s. 357 Cr.PC.

### Case Law Three

The under given case study is with respect to conviction in a trafficking case wherein conviction was granted on the basis of the evidence of the complainant and the investigating agency though the prosecutrix though had not supported the prosecution.

T and M, both minors, were being trafficked from Katmandu, Nepal via Delhi to a Gulf country. On board the Katmandu-Delhi flight, members of a Nepal-based organization, working on combating trafficking in human beings, saw T and M weeping and looking lost. They informed one of their partner organizations operating in Delhi on the issue of trafficking about the two girls. On receipt of the information, one of the members of the Delhi-based organization reached the Airport and took custody of the two minors. The girls upon discussion did not reveal the circumstances under which they had landed in Delhi but did give two separate mobile numbers of persons who were supposed to pick the minors from the Airport. The girls had no passport, no valid travel documents, their baggage was not checked in and they were apprehensive about disclosing the actual facts.

The lady from the Delhi-based organization dialed the two numbers but could not get through. She waited for more than two hours and tried dialing the numbers again. A man named R, who purported to be the brother of T, answered one number and a woman named S, who purported to be the sister-in-law of M, answered the other number. Both R and S said they were in no position to receive the two minors and asked the member of the Delhi based organization to take care of the girls for that night. Upon this, the member took the girls with her who had spent the night in her shelter home. Next day R and S, instead of picking the girls from the office of the organization, asked the girls to be brought at the bus stop of the Ramleela Grounds. T and M were taken to the bus stop at the Ramleela Ground by one of the members of

the organization, where a man and a woman were spotted waiting. On reaching there, it was observed by the member that, the girls failed to recognize R and S, who also did not recognize the girls. It was at this time that the member took the two minors and R and S to the police station. The member suspected that R and S were traffickers or pimps who through their network in Nepal had procured the minors by luring and inducing either the parents or the girls.

An FIR was lodged on behalf of the Delhi based organization against R and S and investigation proceedings started. During pending investigation, S absconded and was declared a proclaimed offender. During investigation it was revealed that, R and S had procured M and T for purposes of prostitution by inducing them with promises of better prospects and had provided them with one way ticket. A charge sheet was filed against R for an offence u/s. 366B/ 34 of the IPC under the charges of kidnapping and abduction.

Trial commenced. At the stage of recording of evidence, the two minors turned hostile and did not support the prosecution at all and deposed entirely in the favour of the accused. This was because they had been intimidated by the accused. The member of Delhi based organization, which was one of the prosecution witnesses, testified at length before the Court and gave a clear picture of the entire racket and unveiled the unsuccessful plan of the accused in his efforts to procure the girls from Nepal and force them into prostitution.

The other prosecution witnesses supported the version deposed by the Delhi based organization. As a result even though the trafficked minors did not depose against the accused, the Court convicted the accused for an offence committed u/s. 366 B IPC for an imprisonment of 3 years and fine of Rs. 1000.

**Point for discussion:** In cases where victims turn hostile, conviction can become difficult or impossible. They could turn hostile due to intimidation by the accused.

**Role of prosecutor:** S/he can ask for adding Section 5 of ITPA along with other sections of law at the time of framing of charges. Then s/he can plead for safe custody of victim, in-camera trial/video conferencing, orientation and counseling by NGOs and NGO help and support at time of examination.

**Activity  
THIRTEEN  
90 minutes**

## Tools to protect victims

### Introduction

Motivating prosecutors to empathize with victims and protect their rights is an essential part of any anti-human trafficking training. This session will explain how it can be done in two ways:

- Sensitize the prosecutor to the vulnerability and trauma that the victim has been through<sup>1</sup>
- Create an understanding of the essential role that a victim can play as witness against the accused.

### Materials

Five small sheets of paper, each labeled with one of the following characters:

- Child victim of commercial sexual exploitation
- Pimp
- Sexual exploiter
- Brothel manager
- Money-lender to brothel

### Process

Ask five volunteers to wear one of the labels described above and role play that character. As they act the part assigned to them, have the volunteers tell the group briefly what their day has been like since they woke up in the morning.

Invite the audience to ask the 'actor' additional questions about his or her life and have them answer in the voice of whatever role they are playing.

Give the actors a few minutes to come out of role and then discuss the experience with the group. First ask the actors how they felt to portray their character. Next ask how they knew about the actor whose role they had to play. Was it through personal experience or through other sources of information (news, books, movies, jokes)? Are they sure that the information and images they have of the character are reliable? The response to these questions may offer an opportunity to introduce how stereotypes and stigma work. Ask the group to identify areas of discrimination or empowerment experienced by these characters.

### Case study

A. Ask them to imagine what a young girl may need as soon as she is rescued<sup>2</sup> from a brothel?

- Privacy
- Food and water
- Clean clothes
- Sleep
- Medical care
- Mental Counseling
- Legal briefing
- Human contact
- Female support
- Security

<sup>1</sup> For a detailed understanding of the issues concerned, advise the trainees to study, *Journey to Justice: A Manual on Psychosocial Intervention*, UNODC, 2008

<sup>2</sup> For further discussions see *Inter State Rescue and Post Rescue Protocol Relating to Persons Trafficked for Commercial Sexual Exploitation*, UNODC, 2007

|   |                |  |
|---|----------------|--|
| <i>Sections of the Act dealing with victims</i> | Protection     | 1. To be protected from abuse by a person having custody of her (Section 9).   |
|   | Rescue         | 2. To be removed/rescued from a brothel (Section 15, Section 16).  |
|   | Protection     | 3. To be provided intermediate custody and ensure that victim is not kept in the custody of a person likely to cause harm over him/her (Section 17, 17A).  |
|   | Rehabilitation | 4. To be kept in a protective home or provided care and protection by court upon application (Section 19).<br>5. Decision on rehabilitation to be taken only after Home Verification (under ITPA) so that the victim is not rehabilitated back into an exploitative environment. |

- B) Ask them to prioritize these needs from the perspective of a victim?
- C) Ask them to list out the steps that can be initiated by a prosecutor to extend help/ support with respect to each point mentioned at point A above.
- D) Distribute Handout Ten on Role of Prosecutor and discuss victim-witness protection.

### Closure

Emphasize the importance of victim protection in the trial process both as a witness and as a victim. Emphasize how stereotype and prejudices towards victims may lead to discrimination, neglect and violation of basic human rights of women and children. Give examples of court craft and sections of law that can be used by prosecutor on behalf of victim. Use Handout Ten.

Activity  
FOURTEEN  
90 minutes

## Monitoring and Evaluation

### Introduction

This session gives participants a chance to exchange personal experiences about the training, mention what they learned and what they now feel they need to find out. This session is useful as a stepping stone for the next training of trainers. Trainers should write down inputs from this session for their own records.

### Materials

Flip chart and markers

### Process

Divide participants into small groups. Ask each group to brainstorm on the following questions:

- What do we evaluate in our trainings?
- How do we evaluate our trainings?
- When do we evaluate our training?
- With whom do we evaluate?
- For whom do we evaluate?
- Where do we evaluate?
- What do we do after evaluation?

When the smaller groups have had enough time to answer the questions, ask them to report back to the entire group. Then lead a full group discussion on:

- How will we use this information?
- What difference does this discussion make to the work that we do?

### Closure

Emphasize that a well conducted evaluation can make a big difference in the following ways;

- It is cost effective and allows decision-makers to continue successful trainings and abandon unsuccessful ones
- It can provide support for future funding requests
- It can contribute to the development of new outcomes
- It can help to explain why training worked or did not and how to improve the training.

Distribute the post-training questionnaire and give participants ten minutes to fill it up. Carry out an assessment of the pre-training and post training questionnaires and discuss findings with the trainees. Help them to analyze data and arrive at findings and plan of action for improvement.

Activity  
FIFTEEN

30 minutes

## Closing ceremony

### What we have covered: feedback

The lead trainer invites the participants to sum up what has been covered in the past two days. Looking back at the initial expectations of the group, and also at the many flip chart sheets which cover the wall of the training room, the trainer adds important points not mentioned.

Participants provide feedback on what they view as the highlights of this training, what was not achieved, and what topics require further training.

### Closing ceremony and distribution of certificates

Allow enough time for a well-planned closing ceremony, which should include a congratulatory speech by the lead organizer and the trainers, as well as time for the participants to express themselves. In addition, ensure that professional certificates of completion are distributed. These certificates are very valuable for the participant's professional career and serve as a reward for their hard work in the previous two days.

Overhead slide/LCD Projector



## Part Two

# Sample Sessions

Sample  
Session  
4 hours

## Sample Sessions

### Audience

This basic introduction to human trafficking is aimed at trainers of prosecutors and those who work with them.

### Objectives

To prepare and equip trainers with information and skills for effective training of prosecutors to counter human trafficking and to build positive attitudes towards victims and survivors.

### Time

4 hours

### Preparation of facilitators/trainers

Trainers should be trained in interactive methodologies, be capable of managing an audience/group of expert prosecutors in a sensitive and appropriate fashion, and have some expertise in trafficking issues which the session deals with.

Before trained trainers present a session, they should agree upon and create a written agenda that outlines what to cover and what activities the session will include. They should also decide who would lead or co-facilitate each of these activities and assign an understudy for each section, in case a trainer/facilitator is unable to attend. The session should be rehearsed before the event, preferably a week ahead of time. People sometimes think they are better prepared to conduct a session than they really are, and this only becomes apparent when they rehearse.

### Activities

1. Questionnaire
2. Introduction
3. Ice-breaker
4. Ground Rules
5. What does human trafficking mean to you?
6. Guest speaker or video
7. Break
8. Trafficking: Basic Facts and questions
9. Role-play
10. Demonstration of best practice on role of prosecutor including discussion on case studies of acquittal and discharge
11. Final question
12. Wrap up

### Materials

Flip charts, markers, paper or index cards, case study, video, TV/screen and player, two handouts, one quiz, fact sheet, chairs for participants

### Before you begin

1. Prepare and make copies of the pre and post workshop questionnaire
2. Write the questions for what does trafficking mean to you on index cards.
3. Make copies of handouts

## Description of Activities

### Pre-workshop questionnaire (10 minutes)

Handout the pre-workshop questionnaires (See Handout One) as the participants walk into the room. Ask each person to fill it out without any help from his or her friends. Participants should be given about ten minutes to complete the questionnaires, after which the trained trainers collect them. If possible, facilitators should scan through them quickly to see what the participants know about the subject, which helps them determine what subjects to focus on. The same questionnaire may be used at the end of the session to help evaluate whether the session was successful.

### Introduction (5 minutes)

It is good to begin with an introduction to the session for trainers. Two examples of introductory activities follow. Choose one.

#### Sample Activity One:

##### Why we are here

For this exercise, trainers stand in a line, say their names, and say why they want to teach others about trafficking. After introducing herself/himself, the last trainer says: "what we are trying to say is that we all, each and every one of us in this room, have to deal with the reality that human trafficking exists in the world and has an impact on children, women and men and directly or indirectly, on our lives. Therefore, in a sense, we are all victims of human trafficking. You do not have to be in direct captivity to be affected." This is a hypothetical imaginary exercise to be able to empathise with the victim.

#### Sample Activity Two:

##### Hello, my name is...and I am a victim of trafficking

This exercise is a great way to get attention and make a bold statement about why trainers are at the workshop and how trafficking affects everyone. Some trainers prefer not to use it, however, because audiences do not always understand that trainers are not actually direct victims of trafficking. Others like to use the exercise and feel it is well worth the risk. Trainers form a line in front of the audience. The first person at one end of the line starts by saying, "Hello my name is (name) and I am a victim of trafficking." This continues down the line until every trainer has spoken. After the last trainer gives his or her name, he or she says, "Sometimes this part of our presentation can be very deceptive. People have walked away thinking we are lying or are direct victims of trafficking. That is not what we are trying to say. What we mean is that we all, each and every one of us in this room, have to deal with the reality of human trafficking and therefore, in that sense, it has a direct or indirect impact on our lives and so we are all victims of trafficking. You do not have to be in captivity to be affected."

This is a hypothetical imaginary exercise to be able to empathise with the victim.

#### Ice-breaker (10 minutes)

There are many ice-breakers than can be used, including games and exercises such as the one below: Place a circle of chairs in which there is one fewer chair than the number of participants.

**Caution:** For safety purposes make sure there are no nails or sharp edges to the chairs.

Ask all but one of the participants to take a seat. Have the remaining person stand in the centre of the circle. Explain the objective of the game is for the person to get a seat. The player standing in the middle of the circle starts a sentence by saying that, " a cold wind blows for anyone who...' and ends it with a fact that is true about herself or himself. For example, if the player in the centre is wearing black shoes, he or she might say, " a cold wind blows for anyone who is wearing black shoes .' Everyone about whom the fact is true-in this case people wearing black shoes must get up and run to find a seat left empty by someone else. Participants may not take the seat next to them unless there is only one other person changing seats. The person in the middle also

runs to find a seat, so that there is one person left standing without a seat. Whoever is left in the middle then repeats the sentence and the game continues.

### Closure

When ten minutes are up, ask the participants' to wind up and move on to the next session.

### Ground Rules (15 minutes)

It is essential for the group to decide upon some ground rules, so that everyone participating in the session is comfortable. Have the group brainstorm on what they consider important rules, and make sure the list includes:

**Respect.** You must respect everyone in the group. This means there are no statements or judgments against people and everyone must be sensitive to other people's point of view. Use 'I' statements over 'you' statements.

**Attentiveness.** Listen to what other people are saying. You will not learn something but also make the other people who are speaking more comfortable. Put your cell phones off and don't talk when others are talking.

**Openness.** To get the most out of the session, people should be encouraged to speak about their own experiences and to speak for others. Take risks-do not be afraid to speak openly as long as you are not aggressive, abusive or intensive.

### What does trafficking mean to you? (20 minutes)

Divide participants into groups of about six to eight people. Each group is given a question to discuss and answer. If the audience is small, there may be fewer groups formed, and the faster groups can be given a second question to brainstorm.

Resource people or members of the training team can spread themselves among the groups as facilitators, to encourage the group and help them think of more answers by giving ideas and 'clues.'

Six questions to ask in a workshop dealing with trafficking could be:

1. Why do some people buy sex?
2. Who is a trafficker?
3. What are the methods that traffickers employ to find victims?
4. What happens to a victim?
5. If a victim consents to her/his exploitation, is s/he still a victim?
6. Is movement necessary for trafficking?

**Guest Speaker or anti-trafficking video, *One life, No Price (UNODC)* or any other anti trafficking film like *The Selling of Innocents (Apne Aap)* which highlights the voice of the victim-survivor.**

If time allows, a guest speaker, a victim-survivor or an expert in the field, should be invited to share his or her experience. It is best if the trainer knows the speaker well and knows that s/he is a good speaker and well prepared. The presentation is most effective when the speaker talks about personal experiences.

An emotionally engaging video about trafficking that depicts the exploitation and a day in the life of a victim is another way to get people motivated.

### Break (20 minutes)

### Human trafficking: Basic Facts and questions (35 minutes)

A quiz can be used as an entry point to discuss the basic facts and questions about human trafficking.

Handout Seven provides a sample quiz, and Handouts Eighteen, Nineteen and Twenty give key information on trafficking. For additional information consult Resource List in Part Four.

**Role Play (25 minutes)**

Throughout the session, participants may raise particularly important issues or points, such as how to help prosecutors better understand their role in anti-trafficking cases. Trainers may create a role play around the questions raised or give the case study (at page 21) to the audience and ask them to role play the character of the victim-survivor (NK); the Chief Judicial Magistrate; the Mother, the NGO representative and the Prosecutor.

**Demonstration of best practice on role of prosecutor (30 minutes)**

In any anti-trafficking educational session for prosecutors, it is strongly recommended to include case studies, about prosecutors who have successfully opposed bail of accused. Below is one case study that can be passed around and discussed.

**Discussion point**

The role of the prosecutor begins with opposing applications for anticipatory bail and pre-remand bail that is filed by the accused in trafficking cases, thereby protecting the victim from intimidation. These applications are always filed under sections 436-439 of the Code of Criminal Procedure.

It is critical to impress upon the Magistrate the fact that:

1. Trafficking in persons is a serious crime and is the second largest organised crime in the world next only to drug trafficking;
2. Most traffickers would have been engaged in trafficking in persons for the purposes of commercial sexual exploitation, exploitative labour or both over a long period of time;
3. Most traffickers do not have known or confirmed addresses and they are therefore not in a position to be found in case they are enlarged on bail;
4. The sureties provided by them are invariably false and the sureties themselves do not have confirmed addresses.

**Final questions (10 minutes)**

At the end of the session, the audience is invited to share their reactions to what they have experienced during the session. They may have responses to the role-plays or questions that they felt unanswered during the session. Although they should be encouraged to ask questions and give comments at any point, this is their chance to ask any questions that they may still have. The trainers also have the opportunity to review issues that may have arisen out of the role plays-for example; some of the choices made by the role-play characters might merit discussion. If a victim/survivor is present, the participants have the opportunity to ask her/him questions that may have come to them during the presentation.

**Wrap-up (10 minutes)**

In a wrap-up session, thank all the participants, and support staff for contribution. Participants should complete the post-training questionnaire (See Handout Fourteen).

After the session ends, the trainers might want to wait a few minutes so that people can approach them with comments and questions. Sometimes someone will have a personal issue to discuss or will need help in finding out where to obtain further information. S/he might be more comfortable approaching a trainer individually rather than during the session.

## Part Three

# Handouts

## HANDOUT

## One

## Pre-training Questionnaire

Welcome to this training. We would like to know a little bit about your background, your training knowledge and skills level, and your expectations of and opinion about this training. There is no right or wrong answer. We are interested in knowing your opinion. Please mark the appropriate box or fill in the blanks. Note that you do not need to give your name or address. Thank you!

Today's Date: \_\_\_\_\_ Training location: \_\_\_\_\_

1. Are you:  Male  Female
2. How old are you? \_\_\_\_\_
3. What level of education have you completed? \_\_\_\_\_
4. What is the primary functional role of your job? ( select one)  
 Manager  Trainer  Peer educator Other (Specify) \_\_\_\_\_
5. How many years have you been working as a trainer? \_\_\_\_\_
6. How likely is it that you will use the knowledge and skills learned in this training to train other trainers?  
 Highly likely  Somewhat likely  Not likely  Unsure now
7. On a scale of 1 to 5 ( 1 being the lowest; 5 being the highest), how do you rank your confidence in being able to conduct a training programme for other trainers or for prosecutors on human trafficking?  
 1  2  3  4  5
8. On a scale of 1 to 5 ( 1 being the lowest; 5 being the highest), how do you rank your knowledge of and ability to describe a comprehensive training of trainers model for prosecutors to confront human trafficking?  
 1  2  3  4  5
9. On a scale of 1 to 5 ( 1 being the lowest; 5 being the highest), how do you rank your knowledge about the difference between gender and sex and how gender may affect human trafficking?  
 1  2  3  4  5
10. On a scale of 1 to 5 ( 1 being the lowest; 5 being the highest), how do you rank your confidence and skills in setting up and conducting role plays for TOTs?  
 1  2  3  4  5
11. On a scale of 1 to 5 (1 being the lowest; 5 being the highest), how comfortable are you to bring a survivor of prostitution as a speaker to a workshop?  
 1  2  3  4  5
12. On a scale of 1 to 5 ( 1 being the lowest; 5 being the highest), how confident are you in conducting at least one team building exercise for trainers?  
 1  2  3  4  5

13. On a scale of 1 to 5 ( 1 being the lowest; 5 being the highest), how well do you know at least two ice-breaking exercises?
- 1                       2                       3                       4                       5
14. On a scale of 1 to 5 (1 being the lowest; 5 being the highest), how well do think you know at least three different ways to teach factual information in a training?
- 1                       2                       3                       4                       5
15. On a scale of 1 to 5 ( 1 being the lowest; 5 being the highest), how well do think you know at least three different motivational techniques in a TOT?
- 1                       2                       3                       4                       5
16. On a scale of 1 to 5 (1 being the lowest; 5 being the highest), how well do think you know at least three different legal skills to address in an anti-trafficking case?
- 1                       2                       3                       4                       5
17. On a scale of 1 to 5 (1 being the lowest; 5 being the highest), how strongly do you feel you would involve a survivor in the design and implementation of a TOT?
- 1                       2                       3                       4                       5
18. On a scale of 1 to 5 ( 1 being the lowest; 5 being the highest), how do you rank your confidence in actually prosecuting any anti-trafficking case?
- 1                       2                       3                       4                       5
19. On a scale of 1 to 5 (1 being the lowest; 5 being the highest), how do you rank the usefulness of this training for your work?
- 1                       2                       3                       4                       5
20. Please specify two to three critical challenges related to training of trainers programmes of prosecutors on human trafficking in your work. Feel free to write in the language of your choice.

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21. Please feel free to write any comments about any topics related to this training (eg, your expectations)?

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THANK YOU FOR COMPLETING THIS FORM!

## Direct Experience

### Participation

(Trainer introduces the activity/ exercise and explains how to do it)

Trainees participate in:  
Brainstorming  
Role-play and story telling  
Small group discussion  
Case studies



### Application

#### Next Steps

(Trainer gives suggestions)

#### Trainees discuss:

How the knowledge/ skills can be useful in their lives  
How to overcome difficulties in using knowledge/ skills  
Plan follow-up to use the knowledge/ skills



### Reflection

#### Thoughts / Feelings

(Trainer guide discussions)

#### Trainees participate in:

Answering questions  
Sharing reactions to activity  
Identifying key results



### Generalization

#### Lessons Learned

(Trainer gives information, draws out similarities and differences, summarizes)

#### Trainees participate in:

Presenting their results and drawing general conclusions

## Sample Training Agenda

It comprises of the following activities:

### Day One

| #  | Activity                                      | Time       |
|----|---|------------|
| 1  | Ice-breaker                                   | 25 minutes |
| 2  | Initiation                                    | 15 minutes |
| 3  | Establishing Objectives                       | 15 minutes |
| 4  | Components of an Effective Training           | 20 minutes |
| 5  | Using Topic Lead-ins                          | 40 minutes |
| 6  | Motivational Tools and Techniques             | 20 minutes |
| 7  | Break   | 30 minutes |
| 8  | Techniques for Exploring Values and Attitudes | 75 minutes |
| 9  | Tea   | 15 minutes |
| 10 | Understanding the Trafficked                  | 90 minutes |
| 11 | Discussing Legal and Procedural Issues        | 60 minutes |
| 12 | Wrap Up                                       | 5 minutes  |

### Day Two

| # | Activity  | Time       |
|---|---|------------|
| 1 | Warm-up and Feedback                                | 5 minutes  |
| 2 | Human trafficking: Basic Facts and Questions        | 50 minutes |
| 3 | Explaining the Role of the Prosecutor               | 60 minutes |
| 4 | Causes and Consequences of Good and Bad Prosecution | 90 minutes |
| 5 | Break   | 30 minutes |
| 6 | Tools to protect victim                             | 90 minutes |
| 7 | Tea   | 15 minutes |
| 8 | Monitoring and Evaluation                           | 75 minutes |
| 9 | Closing ceremony                                    | 30 minutes |

## Sex and Gender

**SEX** refers to the biological differences between males and females. These differences are concerned with physiology and are permanent and universal. Sex identifies a person as male or female: type of genital organs (penis, testicles, vagina, and womb); type of predominant hormones circulating in the body (estrogens, testosterone); ability to produce sperm or ova (eggs; ability to give birth and breastfeed children).

**GENDER** refers to the socially constructed roles, responsibilities, and expectations of males and females in a given culture or society. These roles, responsibilities, and expectations are learnt from family, friends, communities, opinion leaders, religious institutions, schools, the workplace, advertising, and the media. They are also influenced by custom, class, ethnicity, and individual or institutional bias. The definitions of what it means to be female or male are learned, vary among cultures, and change over time.

If anyone asks about dictionary definitions of sex and gender, point out that the dictionary definitions tend to define sex and gender in a similar way, but in training of trainers we use a social science definition of 'gender.'

## Resources

1. The film, *One Life, No Price* developed by UNODC and made by Touchriver Films Pvt Ltd and Prajwala, Hyderabad (7 minutes) has anti-trafficking messages by Amitabh Bachchan, Preity Zinta and John Abraham. It can be requisitioned from <http://www.unodc.org/india>
2. *The Selling of Innocents*, a 50-minute award winning documentary on the trafficking of women and children from Nepal to the brothels of Bombay available in Hindi, Bengali, Nepali and English in both VHS and CD format. For orders please contact [www.apneaap.org](http://www.apneaap.org) or [apneaap2003@rediffmail.com](mailto:apneaap2003@rediffmail.com)
3. Protocol on Inter State Rescue & Post Rescue Activities Relating to Persons Trafficked for Commercial Sexual Exploitation
4. Compendium on Best Practices on Anti Human Trafficking (AHT) by Law Enforcement Officers
5. Posters on Anti Human Trafficking, as tools for sustained awareness generation and empowerment of all stake holders
6. SOP on Investigating Crimes of Trafficking for Commercial Sexual Exploitation
7. Synergy in Action - Protocol on the Structure and Function of Integrated Anti Human Trafficking Unit (IAHTU)
8. Resource Book on Legal Framework on Anti Human Trafficking
9. Journey to Justice - Manual on Psychosocial Intervention
10. Training Manual (Police)
11. SOP on Investigating Crimes of Trafficking for Forced Labour
12. Compendium on Best Practices on Anti Human Trafficking by NGOs
13. Manual on Victim Care and Protocol
14. SOP on Prosecution of Crimes of Trafficking
15. Manual on Prevention of Trafficking
16. Smart Card on Anti Human Trafficking - a pocket size leaflet clarifying the concepts on trafficking, so as to act as a ready reckoner.

## Learning Activity – 1

1. Definition of a woman victim of commercial sexual exploitation:  
 What is your definition of a) woman victim of commercial sexual exploitation;  
 b) child victim of commercial sexual exploitation.  
  
 a) \_\_\_\_\_  
 b) \_\_\_\_\_
2. Why are there women in prostitution in your area?  
  
 a) \_\_\_\_\_  
 b) \_\_\_\_\_
3. Describe the reasons why women are trafficked into prostitution:  
 The reasons that you identify may be based on the ways in which buyers, traffickers, madams and other aspects of the demand contribute to trafficking and prostitution.
4. The needs of women in prostitution are (Grade the needs that you think are most important. Mark the needs that are probably most important in the eyes of the woman or child. These are called 'felt needs.' Are their needs and your priorities the same? Give reasons as to why their priorities and yours may be similar or different).

| Needs most important | Needs that you think are important in the eyes of the | Needs that are probably most woman or child |
|----------------------|---|---|
| Acceptance           | _____   | _____                                       |
| Affection            | _____   | _____                                       |
| Clothing             | _____   | _____                                       |
| Companionship        | _____   | _____                                       |
| Food                 | _____   | _____                                       |
| Sleep                | _____   | _____                                       |
| Medical care         | _____   | _____                                       |
| Shelter              | _____   | _____                                       |
| Security             | _____   | _____                                       |
| Money                | _____   | _____                                       |
| Protection           | _____   | _____                                       |
| Recreation           | _____   | _____                                       |
| Relaxation           | _____   | _____                                       |

5. What does a trafficking victim spend her money on and what percentage of her income does she spend on each item?  
 \_\_\_\_\_

6. From your experience, discuss the positive and negative attributes of the activities each women in prostitution undertake in your local context. Mark in red the positive and in blue the negative attributes. Give reasons why:

|              |                 |                               |                                   |            |
|--------------|-----------------|-------------------------------|-----------------------------------|------------|
| Begging      | Violence        | Beatings                      | Cooking                           | Friendship |
| Fighting     | Affection       | Dancing                       | Child-caring                      | Relaxing   |
| Playing      | Running errands | Scavenging                    | Sexual exploitation of male child | Rape       |
| Prostitution | Stealing        | Using alcohol and other drugs | Exploitative labour               | Soliciting |

7. Please fill for each hour listed below the activity of a victim of commercial sexual exploitation during a typical 24-hour day:

|                |      |     |      |       |     |     |     |     |     |      |       |
|----------------|------|-----|------|-------|-----|-----|-----|-----|-----|------|-------|
| 6-7 am         | 7-8  | 8-9 | 9-10 | 10-11 |     |     |     |     |     |      |       |
| 11-12 noon     | 12-1 | 1-2 | 2-3  | 3-4   | 4-5 | 5-6 | 6-7 | 7-8 | 8-9 | 9-10 | 10-11 |
| 11-12 midnight | 12-1 | 1-2 | 2-3  | 3-4   | 4-5 | 5-6 |     |     |     |      |       |

8. Every month her average income is: \_\_\_\_\_

9. In your area, every month how much she spends on:

|           |      |         |             |           |            |
|-----------|------|---------|-------------|-----------|------------|
| food      | rent | clothes | school fees | medicines | police     |
| extortion | pimp | madam   | drugs       | alcohol   | toiletries |

10. What is the percentage of money that a victim of commercial sexual exploitation adult / child gets after all the above get paid?

\_\_\_\_\_

11. How many trafficking victims in your locality:

- Live on the street
- Are locked in brothels for 24 hours
- Get regular medical checkup
- Have been arrested in a police raid
- Rent a room in shifts
- Are violent
- Have been rounded up for soliciting

12. Profile six characteristics of those likely to be trafficked and reasons for that characteristic:

\_\_\_\_\_  
\_\_\_\_\_

13. List at least three reasons why victims of trafficking are not aware of laws against trafficking:

\_\_\_\_\_  
\_\_\_\_\_

## Anti-Trafficking Quiz

### Questions:

Is there anything wrong with this statement given below? Answer- Yes, No or I don't know. If you answer yes, explain why?

1. Trafficking is a petty crime. It is sometimes only a public order crime.
2. Trafficking and prostitution are the same thing.
3. Prostitution is the oldest profession in the world. It cannot be eradicated.
4. If a victim consents to her/ his exploitation s/he is not trafficked.
5. Indian law does not define or tackle trafficking.
6. Prosecutors have a very small role in anti-trafficking cases. It is up to the police during the investigation process to nail traffickers.

### Answers:

1. Trafficking is an organized crime and should be dealt with by using legal powers to investigate and prosecute offenders for trafficking and any other criminal activities that are committed. It involves a range of people such as a seller, a procurer, a broker, an agent, a middleman, a transporter, a buyer, a moneylender, a money launderer, an owner of illegal premises and an exploiter, gangs and syndicates that operate at various levels: with the specific purpose of labour or sexual exploitation for gain. (*The definition of the United Nations Convention Against Transnational Organized Crime, 2000, states that an "organized crime group" is "a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit*).
2. Trafficking is a process and prostitution is one of its outcomes. The crime of trafficking has three elements to it: **Act** (Recruitment, harbouring, transfer, receipt and transportation), **Means** (force, coercion, trickery, abduction, fraud, deception, use of power, abuse of vulnerability, payment), **Purpose** (Prostitution, sexual exploitation, forced labour, slavery, servitude, organ trade).
3. Prostitution is the world's oldest oppression of women not the oldest "profession". In any case hunting and farming are the oldest professions as wo/man had to eat first. Historically prostitution has resulted only in close proximity to military and court cultures. Examples: The brothels in Agra, Kamatipura, Mumbai and Sonagacchi came up to supply women to British soldiers and clerks. Feudalism has been removed and now we have democracy, slavery has been almost eradicated, so can prostitution.
4. Both the Indian law and the UN protocol make consent irrelevant to determining a person's trafficked status. The modus operandi adopted by traffickers includes cheating, fraud, deception, seduction, coercion, force etc. Consent has no relevance in these circumstances.
5. The special law in India dealing with trafficking is the Immoral Traffic (Prevention) Act, 1956, which punishes acts by third parties facilitating prostitution like brothel keeping, living off earnings, procuring, etc. ITPA deals with trafficking for commercial sexual exploitation and provides punishment even for attempt to traffic a person. Therefore, even before a person is physically trafficked the law comes into operation. Section 5 of ITPA lists out the various activities that go to define human trafficking.

The Goa Children's Act, 2003 gives a legal definition of trafficking. **Under the Act**, "Child trafficking means the procurement, recruitment, transportation, transfer, harbouring or receipt of persons, legally or illegally, within or across borders, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving payments or benefits to achieve the consent of a person having control over another person, for monetary gain or otherwise".

The substantive law in India is the Indian Penal Code, 1860 which addresses issues of buying and sale of minors, importation of girls, etc. In addition, the provisions of IPC on rape, assault, abduction, forced labour, etc. can also be used to address the issues covered in the crime of trafficking.

6. Prosecutor plays a pivotal role in confronting human trafficking. S/he can play a pro-active role in anti-trafficking cases by
  - Opposing the anticipatory and remand bail of the accused, thereby protecting the victim from intimidation.
  - Asking for gaps in investigation to be filled, thereby strengthening the case against the accused.
  - Ensuring that the victim is not victimized, criminalized or harassed further.
  - Ensuring that the victim's statement is comprehensive, thereby getting information on all aspects of the crime.
  - Ensuring victim protection<sup>1</sup> as per as the law/rulings in vogue, by bringing it to the notice of the court and obtaining appropriate directions to the concerned authorities.
  - Opposing or supporting custody application of the victim in the 'best interest of the victim', thereby ensuring the safety and appearance of the victim/witness in court, as and when required.
  - Using multiple sections of the law to frame arguments on charges against the accused taking anti-trafficking cases beyond victim protection to increased convictions and closure of brothels, thereby dismantling the trafficking chain itself.
  - Presenting evidence in a comprehensive manner with adequate research, citing case laws, profiling the traffickers, highlighting the gravity of the crime of trafficking, mapping the harm to the victim and demonstrating the organized nature of the crime, thereby bring the case to justice in the manner it deserves.
  - Ensuring that the rights of the victim are protected through the trial process, thereby preventing re-victimization.
  - Ensuring witness protection as per the laws/ rulings in vogue, by bringing it to the notice of the court and obtaining appropriate directions from the concerned authorities.
  - Linking evidence adduced with the charges framed and the allegation, thereby ensuring conviction of the exploiter and trafficker.
  - Demanding enhanced punishment against the accused, thereby deterring all criminals from the crime of trafficking.
  - Initiating post conviction steps like:
    - a) Closing down places of exploitation u/s. 18 of ITPA
    - b) Cancelling/ suspending hotel license u/s. 7 of ITPA
    - c) Praying for enhanced punishment wherever applicable
    - d) Moving the authorities for surveillance on convicted persons wherever applicable
    - e) Taking steps for appeal if there is a case against acquittal/ discharge.

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<sup>1</sup> For further discussions see *Manual on Victim Care and Protection*, UNODC, 2008

**HANDOUT**  
**Eight**

## Definition of Trafficking

Based on the definition of trafficking in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children adopted in 2000, supplementing the UN Convention Against Transnational Organized Crime, the following elements explain the definition in practical terms.

| Acts           | Means                                    | Purpose                             |
|----------------|--|-------------------------------------|
| Recruitment    | Threat                                   | <b>Exploitation which includes:</b> |
| Transportation | Use of force                             |                                     |
| Transfer       | Coercion                                 |                                     |
| Harboring      | Abduction                                |                                     |
| Receipt        | Fraud                                    |                                     |
|                | Servitude                                |                                     |
|                | Deception                                |                                     |
|                | Abuse of power                           |                                     |
|                | Abuse of position of vulnerability       |                                     |
|                | Giving or receiving payments or benefits |                                     |

With or without the consent of the victim

When any **one** of the elements from **each of the three** columns above can be applied **together** to the situation of an individual, the individual is considered to be ‘trafficked’.

**The UN protocol removes consent as a determinant to trafficking.** In this way the Protocol does not distinguish between innocent and guilty, or deserving and undeserving victims of trafficking, thereby obliging states to provide care for all those identified as victims of trafficking. The definition also removes a major burden on the victim, as proving lack of consent is a formidable hurdle in legal settings. The definition makes choice irrelevant in defining trafficking because it recognizes that the “choice” to succumb to exploitation is very often a Hobson’s choice i.e. not a real choice but a forced circumstance.

**Exploitation is the centrepiece of this definition.** The definition further explicitly states what constitutes exploitation under the legal mandate of the Protocol. It does not leave the definition of exploitation to differing perceptions.

It is also particularly important to note that the **definition protects** not only those **victims** who were forced, or where coercion, abduction, deception or abuse of power were used, but also those **who were pushed into exploitation by less explicit means of “the abuse of power or of a position of vulnerability” of the victim.** By abuse of a position of vulnerability is meant abuse of any situation in which the person involved has no real and acceptable alternative to submitting to the abuse. The vulnerability may be of any kind, whether physical, psychological, emotional, family-related, social or economic. In short, the situation can be any state of hardship in which a human being is impelled to accept being exploited, such as illegal or uncertain immigration or residency status, past sexual abuse or prior exposure to violence or poverty.

**Movement is not a *necessary* element in the trafficking process.** There may be an overlap of source and destination points as in the case of children born in brothels who are pulled into prostitution when they grow older. They are trafficked within the same source, transit and destination point.

## The Indian Definition of Trafficking

Trafficking under the Indian law includes acts by any persons in causing or facilitating commercial sexual exploitation or exploitative labour of any other person. Article 23 of the Constitution of India prohibits all forms of human trafficking.

The special law in India dealing with trafficking is The Immoral Trafficking Prevention Act, 1956, which **punishes acts by third parties facilitating prostitution** like brothel keeping, living off earnings and procuring. ITPA provides punishment even for attempt to traffic a person. Therefore, even before a person is physically trafficked the law comes into operation.

The substantive law in India is the Indian Penal Code, buying and sale of minors, importation of girls, etc. In addition, existing rape, assault, and abduction laws can also be used to address the abuse of women and girls in brothels.

The **Goa Children's Act** gives a comprehensive definition of trafficking even though it is child specific. It says 'Child trafficking means the procurement, recruitment, transportation, transfer, harbouring or receipt of persons, legally or illegally, within or across borders, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving payments or benefits to achieve the consent of a person having control over another person, for monetary gain or otherwise.'

(See other handouts for a full list of Indian laws that address trafficking).

**HANDOUT**  
**Ten**

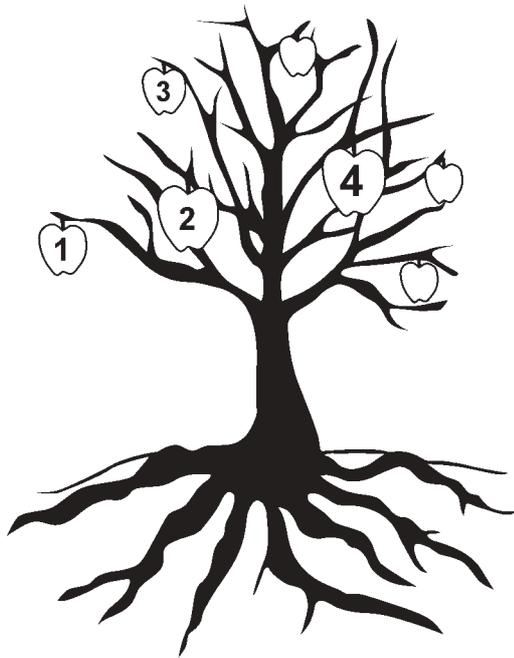
## Check List for Prosecutors

| Role of Prosecutor   | Suggested Arguments  | U/S Cr. PC   |
|--|--|--|
| Opposing anticipatory and bail of the accused                                      | Magnitude of the crime and the role played by the accused-applicant in the crime   | U/S 436-439  |
| Asking for remand of the accused   | Profile of trafficker including criminal antecedents (whether on bail in earlier crimes) ; chances of intimidation of victim-accused; chances of accused indulging in other crimes; chances of accused going underground.  | U/S 436-439  |
| Statement of victim u/s 164 Cr. PC   | Advice victim of rights, the manner in which s/he is expected to depose before the magistrate, right to know contents of deposition and the legal implications of the statement in justice delivery.   | Prosecutor can request in writing to the magistrate/ judge   |
| Custody application By parents or relatives<br><br>by others                       | Oppose or support the application depending on the facts and circumstances that emerge from the home verification including the parenthood of the applicant and considering the best interest of the victim.   | JJ Act or ITPA   |
| Comments on Charge sheet submitted to prosecutor by police before charge is framed | Can ask for new sections to be applied; more accused to be added; gaps in investigation to be filled; can seek to amend/ alter sections which may not be applicable (for example, if the victim has been charge sheeted U/S. 8 ITPA, the prosecutor should bring it to the notice of the court, so that court can a) direct police to investigate further b) ask for special team to investigate c) alter charges and sections according to the facts of the case and drop charges against the victim, if any. | a)SC directive insists on charge sheet if prima facie case is established<br><br>b) U/S 211-223 Cr. PC |

| Role of Prosecutor                 | Suggested Arguments   | U/S Cr. PC  |
|------------------------------------|---|---|
| Punishment of offenders/sentencing | Ask for enhanced punishment; state any history of previous conviction; manner in which offence was committed; ask for re-examination of witness if necessary; make separate charge for every offence listed; ask for maximum punishment wherever prescribed (for example: section 7, ITPA); ask for mandatory fine wherever prescribed; ask for enhanced punishment for repeated offenders; ask for post-conviction steps U/s. 7 (1) A, ITPA (suspension or cancellation of hotel license) u/s. 18, ITPA (eviction of offender); etc. | U/s. 173, 211, 213-224 as well as ITPA provisions.  |
| Evidence                           | Link evidence with FIR, witness statement and allegations. Make a matrix for easy presentation before court.  |   |
| Victim-witness protection          | Ensure witness are not intimidated; insist on <i>in camera</i> or video conferencing wherever possible; ask for all support (security, etc.) for the witnesses; request for directions to appropriate agency for rehabilitation of victims by government or non-governmental agencies.  | Sakshi v/s Union of India, Sheba Abidi v/s Sate (NCT) of Delhi and Anr., Prerna vs State of Maharashtra, Gaurav Jain v/s Union of India, Vishal Jeet v/s State etc. and provision of special laws including ITPA and labour laws. |
| Defence witnesses                  | Cross examine in great detail to prevent sabotage of case   |   |
| Arguments                          | Prefer to submit written argument, besides oral argument  |   |

## Problem Tree

**Trunk of the tree:** 17-YEAR-OLD GIRL VICTIM OF TRAFFICKING DOES NOT SUPPORT PROSECUTOR



### Roots:

1. Fear of court system or of trafficker
2. Lack of information
3. Lack of security
4. Belief that trafficker is more powerful
5. No knowledge of the law
6. Not secure about future
7. Psycho-social trauma
8. Dependency on drugs and alcohol
9. Demand by commercial sexual exploiter
10. Power of organized crime networks
11. No transport
12. Lack of safe shelter

### Branch One: Refusal to testify

Apples for branch 1: No testimony from prime witness

### Branch Two: Refusal to come to court

Apples for branch 2: trafficker not convicted

### Branch Three: May lie in court

Apples for branch 3: End up helping trafficker/  
exploiter

### Branch Four: May mix up facts and fumble in court

Apples for branch 4: Case falls apart

### Possible measures:

1. Acknowledge the exploitation of the victim, validate the harm done to her, make her understand that she is a victim and never an accomplice
2. Build her self-esteem and empower her by briefing her on court procedures and her case
3. Ensure she gets safe shelter and adequate counseling
4. Connect her to a social worker/ counselor
5. Ensure her rights during trial to privacy and briefing
6. Explain what future options may be available to her and discuss rehabilitation programmes, if available
7. Take steps to get order of the court to concerned agencies
8. Make her feel safe from trafficker, provide security to her by police/ NGO
9. Take steps to carry out mock trial to empower victim/ witness in court procedures
10. Ensure appropriate translators are provided wherever required
11. Bring to the notice of the court all the challenges (including trauma of the victim, fears, apprehensions, etc. of the victim) and seek directions to appropriate authorities for immediate relief

## Myths and Facts about trafficked and prostituted women and girls

### MYTH

Prostitutes\* enjoy what they do.

### FACT

Most women are induced or forced into sex trade, under conditions of near or absolute slavery. They have been lured/cheated/abducted/coerced or forced to come this stage. Once they get caught they become optionless unless rehabilitated.

**Research Data:** Ambu was urged to go to Mumbai by someone who promised her a job for Rs. 20,000 a month. The person, who brought her to Mumbai, got her drunk with alcohol and sold her. When she woke up and asked about the job she was told she would get it soon. She had no idea that she had been sold into prostitution. When she realized this, she resisted. To break her resistance she was beaten, very badly until she was black and blue - in fact she still has stomach and back pains from the terrible beating. She was not given a single rupee and served up to 20 men a day. (Ambu: Bhiwandi brothel, interview by B. Abasubel, *That Takes Ovaries* in December 2005).

"These women" can never be rehabilitated.

With appropriate measures the victims can be rescued, repatriated and reintegrated into society. Efforts should be self sustaining and based on the 'best interest of the victim'.

**Research Data:** In the district of Murshidabad in West Bengal state, from which are drawn 23% of Kolkata's victims of commercial sexual exploitation, the Government of India, under the scheme of Support to Training and Employment Programme (STEP), sanctioned an integrated training and income generation project in the silk yarn production sector. The project targets young women from a group of villages which have high levels of female migration and of victims sold into the prostitution trade. This has helped in curbing the trafficking of young women into the flesh trade from this area while at the same time improving their quality of life. (Source: Action Research on Trafficking in Women and Children in India (2005) by NHRC)

Prostitution is "the world's oldest profession" and a necessary evil.

Prostitution is the world's oldest oppression of women and girls.

**Research Data:** The necessity of keeping up a steady supply of 'attractive women' to keep the British soldiers happy and disease-free prompted Indian authorities to set up licensed brothels. They imported young and healthy, Tibetan and Nepali women as registered "prostitutes" to the cantonment bazaars. This led to the birth of the Kamatipura red-light area in Mumbai. Many of the brothels in Mumbai still have license numbers given by the British saying *Welcome House X*. The brothels in Agra and Sonagacchi, Kolkata also came up to provide sex to British soldiers and clerks. (Source: Prostitution in a Patriarchal Society: A Critical Review of the SIT Act)

**MYTH**

An adult woman should be free to make her own choice even if the choice is to be a prostitute.

**FACT**

It would be more accurate to say that a woman victim of commercial sexual exploitation complies with the extremely limited options available to her. Her compliance is required by the fact of having to adapt to conditions of inequality that are set by power disparities based on gender, race, ethnicity and poverty. Moreover, given the substantial risk of physical, sexual and psychological injuries women face in prostitution, it is the *harm* to and exploitation of the person, that is the governing international standard. Moreover, choice should be based on informed consent. The person should be made aware of all the options and consequences so as to make a 'choice'.

Poor women can earn a lot of money through prostitution.

In fact, the majority of women's time in prostitution is spent in debt bondage. A whole chain of traffickers, from recruiters, to transporters, to pimps and brothel managers, ensure that the woman gets a very small cut of her earnings. At the end of the day, women are left with disease-ridden bodies, children and no savings.

**Research Data:** Brothel owners interviewed for an NHRC study said that 27.4% women in prostitution in their old age become *inmates* of old-age homes or take shelter in NGOs, 18.7% are totally helpless and take to begging or do nothing and 8.5% are maidservants in brothels. Negligible percentages become brothel madams or traffickers.

### Most women are forced in to prostitution as children

A writ petition was filed in 1988 with the Supreme Court of India regarding protections for the rights of children in prostitution. When the petition was pending, the Supreme Court appointed an expert committee, known as the Mahajan Committee, to conduct a field study and report to the Supreme Court on the status of children in prostitution. The Committee reported that at any given point in time, at least 35% of the persons in prostitution are below the age of 18 years. In addition, increasingly younger children are being forced into commercial sexual exploitation. The Mahajan Committee found that as many as 60% of persons in prostitution are brought into prostitution as children. (Gaurav Jain v/s Union of India - 1997 (8) SCC 114)

The word 'prostitute' in this handout is used to denote common terminology applied while speaking about victims of commercial sexual exploitation. The document has kept the word 'prostitute' in some places in the handout to highlight common phrases used, but does not accept the term 'prostitute'.

## Myth and Fact of legalization of trafficking

| MYTH  | FACT   |
|---|--|
| Legalization brings the sex industry under control.   | Experience in various countries which have legalized prostitution has shown that by legalizing prostitution the problem actually expands. For instance, Victoria, Australia has experienced a massive expansion of the sex industry after legalization. In addition to prostitution, other forms of sexual exploitation, such as tabletop dancing, bondage and sadomasochist centres, peep shows, phone sex, and pornography have increased and have generated enormous profits for the sex industry and the State <b>but not</b> for the woman trapped in prostitution.   |
| Legalization will dignify the women in prostitution.  | Legalization does not dignify the women, but only legitimizes the sex industry.  |
| Women in prostitution will be better protected if prostitution was legalized.   | Studies of victims of commercial sexual exploitation show that prostitution establishments – legal or illegal – did little to protect them. A study that interviewed victims of trafficking in five countries showed that 80% of them had suffered physical violence from pimps and buyers; immaterial of whether the sex industry was legal or illegal. Usually the buyer's interests take precedence over the woman's in prostitution. Also, 'safety policies' in brothels do not protect women from harm. The sexual exploitation and violence in prostitution is viewed as sex and often tolerated as part of the so-called job. (Source: Prostitution Research & Education Centre, Melissa Farley)                              |
| Women victims of commercial sexual exploitation would be protected against infectious diseases in a legalized system. | A legalized system of prostitution often mandates health checks and certification for the women in prostitution, <b>but not</b> the male buyers. Public health proposals mandate health checks for women to protect the male buyers and not the women in prostitution.   |
| Legalization helps to end the exploitation of women who have been trafficked.   | Reducing the demand, and thus the size of the sex industry and the amount of trafficking victims, is an important step in stopping the spread of HIV/AIDS. Condom use policies are only an emergency measure to try to protect trafficking victims from contracting disease. Such policies are ineffective as buyers are frequently averse to using condoms, and brothel owners compel women to give into buyers' demands. For example, only 77% of trafficking victims in India took regular preventative measures against disease, while 67.9% of buyers stated that they used condoms. A majority of the buyers interviewed preferred submissive girls who were willing to give into their demands, such as sex without a condom. |
| Legalization promotes sex trafficking.  | In The Netherlands, where prostitution is legal, a 1999 study showed that 80% of the women in the country's brothels were trafficked from other countries. And in Germany, 10 years after steps toward legalization of prostitution started in the 1980s, it was found that 75% of the women in sex industry were foreigners. After the fall of the Berlin Wall, 80% of the estimated 10,000 women trafficked into Germany were from the former Soviet bloc countries.   |

Source: Janice G. Raymond: Ten Reasons for *Not* Legalizing Prostitution and a Legal Response to the Demand for Prostitution. Published simultaneously in *Journal of Trauma Practice*, 2, 2003: pp. 315-332; and in *Prostitution, Trafficking and Traumatic Stress*. Melissa Farley (Ed.). Binghamton: Haworth Press, 2003.)

**HANDOUT**  
**Fourteen**

## Post-training Questionnaire

This form contains items used as part of an evaluation of trainers' skills.

Today's Date: \_\_\_\_\_ Training location: \_\_\_\_\_

Please rate the strength of the trainer or presenter on the items below using the following scale:

|  | 1=Weak | 2=Good | 3=Excellent |
|--|--------|--------|-------------|
| Name of trainer  |        |        |             |
| Training techniques                                      |        |        |             |
| Explaining the purpose of the activity                   |        |        |             |
| Connection with audience                                 |        |        |             |
| Appropriate body language                                |        |        |             |
| Listening skills   |        |        |             |
| Intonation and volume of voice                           |        |        |             |
| Use of visual aids, slides, charts                       |        |        |             |
| Energy and enthusiasm level                              |        |        |             |
| Practical vs theoretical skills                          |        |        |             |
| Agenda preparation for presentation                      |        |        |             |
| Team work  |        |        |             |
| Building co-facilitators                                 |        |        |             |
| Practical assistance                                     |        |        |             |
| Sharing the training space                               |        |        |             |
| Respecting each other                                    |        |        |             |
| Smoothness of team work                                  |        |        |             |
| Keeping to agreed agenda                                 |        |        |             |
| Communicating agenda changes if needed                   |        |        |             |
| Managing participants                                    |        |        |             |
| Creating a safe learning environment                     |        |        |             |
| Dealing with trouble-makers, talkers, bored participants |        |        |             |
| Motivating the participants                              |        |        |             |
| Giving feedback and acknowledging participants           |        |        |             |

Comments:

## Learning Activity-2

1. List three new trends in the nature of trafficking in India:

- a) \_\_\_\_\_
- b) \_\_\_\_\_
- c) \_\_\_\_\_

2. What is the relevance of countering trafficking from your perspective?

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3. Who constitutes the majority of the trafficked in your area?

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4. Why are there trafficked women and girls in your area?

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5. Grade the linkages that you think are most important between trafficking and prostitution. Give reasons why:

| Linkages   | Reasons that you think are most important | Why |
|--|---|-----|
| Victims of commercial sexual exploitation are the majority of the trafficked |   |     |
| Drugs, arms and human trafficking operated by same gangs                     |   |     |
| Sexual exploitation is also a consequence of labour trafficking              |   |     |
| Women and girls are more vulnerable to trafficking                           |   |     |

6. Grade the linkages that you think are most important between trafficking and organized crime. Give reasons why:

| Linkages   | Reasons that you think are most important | Why |
|--|---|-----|
| Money-laundering   |   |     |
| Use of trafficked women as drug and arms couriers  |   |     |
| Crime syndicates dealing with people smuggling and illegal migration also traffic humans |   |     |
| Use of trafficked persons for petty crimes   |   |     |
| Use of trafficked persons as decoys  |   |     |

7. Grade the consequences of trafficking in order that you think is the most important:

- 1. \_\_\_\_\_ 2. \_\_\_\_\_
- 3. \_\_\_\_\_ 4. \_\_\_\_\_
- 5. \_\_\_\_\_ 6. \_\_\_\_\_

8. Trafficking as an issue is related to:

- Crime                      Because:
- Economy
- Health
- Development
- Human Rights

9. What is the most immediate cause for trafficking in women and children?

\_\_\_\_\_

\_\_\_\_\_

10. Who constitutes demand for trafficking?

\_\_\_\_\_

\_\_\_\_\_

11. List three reasons why demand should be addressed:

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12. How is demand maintained?

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13. Trafficking is a well organized crime and traffickers indulge in 'base' tactics to lure women. Mention and list the different modes of luring women into trafficking:

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14. Describe how traffickers break the trust of women they exploit:

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15. From your experience list the characteristics of commercial sexual exploiters:

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---

16. List facts about commercial sexual exploiters:

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---

17. Role play a case study of trafficking for sexual exploitation/prostitution with two other members in the group and identify the traffickers and commercial sexual exploiters. Write the enacted case study:

|             |                              |
|-------------|------------------------------|
| Traffickers | Commercial sexual exploiters |
| <hr/>       | <hr/>                        |
| <hr/>       | <hr/>                        |

18. Is trafficking a public order crime or an organized crime? List reasons for your choice:

---



---

19. List two IPC sections dealing with prostitution:

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---

20. List any two trends pertaining to national data on trafficking:

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21. List six sections of ITPA which shift the blame from the victim to the perpetrator:

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22. List five anomalies in the context of law enforcement and trafficking in India:

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23. List the elements of law and at least three types of evidence possible in each of the sections of ITPA, 1956 mentioned:

| Section | Element of Law | Evidence Possible |
|---------|----------------|-------------------|
| 3       |                |                   |
| 4       |                |                   |
| 5       |                |                   |
| 6       |                |                   |
| 7       |                |                   |
| 8       |                |                   |
| 9       |                |                   |
| 18      |                |                   |

24. List five problems which police face in enforcing the ITPA

List corresponding actions that can help overcome the problems you mentioned.

|    |  |
|----|--|
| 1. |  |
| 2. |  |
| 3. |  |
| 4. |  |
| 5. |  |

25. List three good practices of rescue:

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26. List three good practices to be followed in post rescue:

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27. List three good practices to be followed to register an effective FIR:

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28. List three good practices to be followed during investigations:

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29. Mention five reasons for involving NGO's in law enforcement:

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## Trafficking in human beings - An organized crime

Trafficking most often involves a range of people such as a seller, a procurer, a broker, an agent, a middleman, a transporter, a buyer, a moneylender, a money launderer, an owner of illegal premises and an exploiter. All of them know that they are breaking the law to make a profit in cash or kind from this act. This fits in with the definition of the United Nations Convention Against Transnational Organized Crime, 2000, which states that an “organized crime group” is “a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit” (Article 2(a)).

The involvement of organized crime groups in India is indicated by case studies, shared by law enforcement officials and covered by news reports. Specifically for prostitution and child labour, gangs and syndicates in India operate at various levels: the village or rural level centres of power at the national level, and the regional or international “flesh trade market”. The different levels are all inter-linked and reflect all the elements of organized crime. Within this criminal activity the commodified victim is repeatedly violated. Thus conceptualization of prostitution as an organized crime is of vital importance. All parties who are committed or have the responsibility of curbing trafficking have to have an understanding of:

- i) Place, time & methods of recruitment of the victims.
- ii) The profile of procurers in terms of behaviour patterns; patterns of social conditioning.
- iii) Intermittent abettors (police, passport authorities, taxi operators, etc.).
- iv) Levels of trafficking.

The international links of the traffickers have been well documented. For example, according to the NHRC study, over 10% of the interviewed traffickers had visited one country outside India, 8.1% had visited two countries and 1.3% had visited three or four countries. An overwhelming majority of the traffickers (84.4%) stated that the purpose of the visit was to sell/buy girls. The rest had traveled abroad in connection with associated activities, like arranging dance/song programmes and exploring possibilities for trafficking.

### Vertical and horizontal linkages between crime syndicates and trafficking networks

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| <p>Profits from trafficking are third only to the underground narcotics and arms trade.</p>   | <p>Organized crime syndicates run trafficking via some recruitment agencies.</p>   |
| <p>Strong connections exist between trafficking networks and well-connected individuals who prevent prosecution of traffickers.</p>                       | <p>Indian organized crime is involved in the international trade of girls and women from Nepal and Bangladesh to major demand centres in the country and abroad.</p> |
| <p>Revenue generated by the traffickers and exploiters is very high and this is used for propelling/ facilitating/ indulging in other crimes as well.</p> | <p>Cash exchanged for trafficking and prostitution fuels money laundering and the black economy.</p>   |

## Who are the trafficked?

The majority of the trafficked belong to the economically and socially marginalized groups of India, followed by vulnerable women trafficked from Bangladesh and Nepal.

### Teenage girls and boys.

The age profile of the trafficked victims presents an important dimension. There is a very high demand for children. Increasing numbers of children, especially girls, being rescued in the few raids conducted by the police show that there is a rapid growth in the number of children exploited for prostitution and other forms of exploitation. Children are most vulnerable to trafficking.

### Women and children from disadvantaged circumstances.

The NHRC study attempted to understand the socio-economic condition of the family before the victims were induced into commercial sexual exploitation. The study<sup>1</sup> found that only a fourth of the respondents had a monthly family income of Rs. 2,000 and above; 47.5% had an income below this level, and 27.7% were not able to give details. A vast majority of the respondents came from poor families.

### Women and children from marginalized groups (scheduled castes and tribes, especially girl children from certain communities like Bedia, Kanjar, Gujjar, Devadasis and Nats).

The socio-religious background of trafficked victims studied by NHRC found that almost a third of the victims, 32.3%, were from the Scheduled Castes, 5.8% were from the Scheduled Tribes, 21.9% from the Other Backward Classes and 17.4% from other castes. The rest were unable to state their caste. Thus, a large majority of the respondents (60%) belonged to socially deprived sections of society.

### Women and children from drought prone areas or areas affected by natural disasters or human made disasters (conflict, wars, disability).

68.6%, of trafficking victims came from rural areas, 21.6% from urban centres and 9.8% from urban slums, according to the NHRC research. Exploitation of women and girls in disaster situations is a well-known, documented and reported phenomenon. Disasters increase vulnerability of women and girls, which is shamelessly exploited by the traffickers.

### Children who are victims of incest, paedophilia.

Women and girls who have lost their virginity outside the realm of marriage are seen as “immoral”. These victims of incest and child sexual abuse, under social and customary pressures, take to prostitution either on their own or are often induced into prostitution for lack of options or are forced into it by various perpetrators. It has been found that a staggering 69.8% of victims of trafficking had their first sexual experience as children, i.e., when they were below 18 years of age<sup>2</sup> and that their first sexual experience had been forced on them by someone known to them.

### Victims of child marriage or women who are married at a very young age.

71.8 % of the respondents had been married when they were children (i.e., when they were under 18 years of age). This suggests that child marriage is among the key factors that make women and girls vulnerable to trafficking.

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1. *Confronting the Demand for Sex-trafficking: A Handbook for Law-enforcement*, R. Gupta and R. Sinha. Aapne Aap Women Worldwide.  
2. *Trafficking in Women and Children in India*, NHRC, Nair and Sen.

**Women and girls from isolated districts where the illiteracy rate is high.**

70.7% of trafficked victims, according to NHRC were either illiterate or barely literate. Only 13.6% of the victims had received education up to the primary stage and around 15% beyond the primary stage. A mere 0.4% of the respondents were graduates or above. In the same study 60.8% of them also revealed that their first sexual experience was forced on them, and 63.8% accused a host of persons including those in school staff, teachers, and persons in positions of authority or who enjoyed their trust like friends, priests, fathers-in-law, brothers-in-law, counselors, police officials or domestic help of perpetrating the abuse.

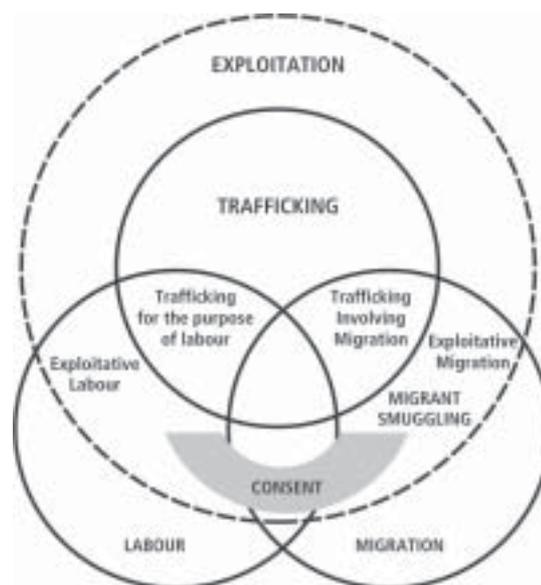
## Difference between trafficking, migration and smuggling

**Movement is not a *necessary* element in the trafficking process.** There may be an overlap of source and destination points as in the case of children born in brothels who are pulled into prostitution when they grow older. They are trafficked within the same source, transit and destination point.

- Trafficking in persons is **for purposes of exploitation** and may be with or without the consent of the victim.
- Migration may occur **with the willing consent** of a migrant through legal or illegal channels **but is not for the purposes of exploitation and always implies movement.**
- Smuggling is more directly concerned with the **manner in which a person enters a country** illegally with the involvement of third parties and directly addresses people who have given their consent to be smuggled.

Source: Confronting the Demand for Sex-trafficking: A Handbook for Law-enforcement. R. Gupta and R. Sinha. Aapne Aap Women Worldwide.

### Interplay between exploitation, trafficking, migration, smuggling, labour and consent



Source: *Trafficking in Women and Children in India*, 2005, NHRC, Orient Longman, New Delhi

## Who are the criminals?

### Traffickers and other exploiters are the criminals

All those who benefit directly as well as indirectly from trafficking are the criminals. They range from commercial sexual exploiters, to the sex entrepreneurs (traffickers, procurers, pimps, brothel owners, managers and money lenders) who make a profit by trading in women and girls and the users and abusers of bonded labour, cheap and child labour (businesses that use such labour, those who finance such businesses and those who are abettors). Many of these also fall within the definition of 'traffickers'. It is the nexus between the buyers of trafficked labour and services, the trafficker and the manager, supervisors and contractors that creates the demand, perpetuates trafficking and leads to the gross violation of the rights of women, children and men.

The identification of traffickers and buyers of prostituted sex and trafficked labour bringing them to book, confiscating the illegal assets created out of trafficking, making the traffickers compensate for the damages and penalizing them, all act as a deterrent to traffickers and buyers and restores a sense of justice to the survivor.

Commercial sexual exploiters and traffickers of labour should be identified and brought to the book by confiscating the illegal assets created out of trafficking, making the traffickers compensate for the damages and by penalizing them. All these act as a deterrent to traffickers and buyers and restores a sense of justice to the survivor.

Unless the buyers feel threatened under the law and fear losing their social standing, they will not stop exploiting women, children and men.

| Traffickers     | Transporters           | Conspirators   | Abettors  | Financiers / exploiters                      | Abusers/Exploiters  |
|-----------------|------------------------|--|---|--|---|
| Recruiters      | Those who transport    | All those who contribute to the various steps involved in trafficking & exploitation | All those who abet the various processes through their presence, their involvement or by acts of omission/ commission               | All those who finance the various activities | Commerical sexual exploiters, known as 'customers, clients, johns, pimps' |
| Their agents    | Arrange transport      |  | Those who contribute to the perpetration of the sexual/ labour exploitation of the trafficked victims in the places of exploitation |  | Contractors   |
| Their bosses    | Arrange halting places |  |   |  | Managers  |
| The masterminds |                        |  |   |  | Madams  |

### Trafficking hierarchy

The trafficking hierarchy consists of several tiers. The field research shows that at least the following levels exist:

1. Master trafficker/kingpin
2. Primary traffickers/procurers
3. Secondary traffickers
4. 'Spotters' or the grass-roots chain of intelligence gatherers

Traffickers do not operate on their own. They establish a network and develop linkages with other exploiters, like buyers of prostitution, brothel keepers, moneylenders, transporters, border officials, pimps, hoteliers, and corrupt officials. There are several other stakeholders who support the main trafficking structure mentioned above. These include (a) financiers who finance the transactions at various levels; (b) the goons/goondas who provide security at various levels; (c) the hoteliers who provide accommodation during transit; (d) the transporters who provide or arrange transport; (e) paramedical persons who attend to the illnesses of the trafficked victims during transit; (f) officials who, in lieu of sexual services or bribes, provide several services, including immigration clearance and security; and (g) the final exploiters and abusers who may also be part of the network. They dictate terms regarding supply and demand and modulate the trafficking process.

### Modus operandi of traffickers

Traffickers look for the most vulnerable women and children who have no assets and hardly any alternatives. The accessibility of the trafficker to the prospective victim is an important factor in trafficking. The method adopted is usually influenced by the proximity or otherwise of the trafficker to the victim

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|--|--|
| Offering them jobs as domestic servants      | Promising jobs in the film world                                   |
| Coercion                                     | Offering money   |
| Luring them with 'pleasure trips'            | Making false promises of marriage                                  |
| Befriending them by giving goodies from home | Offering shelter to girls who have run away or are street children |
| Offering to take them on pilgrimages         | Making other kinds of false promises                               |

| <b>Four phases of entrapment of young women into prostitution</b>   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• <b>Ensnaring</b></li> <li>- Impressing the young girl</li> <li>- Winning her trust and confidence</li> <li>- Making her think he is the only one who understands her</li> <li>- Ensuring she falls in love with him by giving a present signifying stability in relationships</li> <li>- Claiming the status of her 'boyfriend'</li> </ul> | <ul style="list-style-type: none"> <li>• <b>Creating Dependence</b></li> <li>- Becoming more possessive</li> <li>- Convincing her to destroy important objects or reject those she is close to</li> <li>- Changing her name</li> <li>- Destroying her connections to her previous life</li> <li>- Isolating her</li> </ul>  |
| <ul style="list-style-type: none"> <li>• <b>Taking Control</b></li> <li>- Deciding where she goes, who she sees what she wears, eat, thinks</li> <li>- Using threats, and if necessary, violence</li> <li>- Enforcing petty rules</li> <li>- Being inconsistent and unreliable</li> <li>- Demanding that she prove her love</li> </ul>  | <ul style="list-style-type: none"> <li>• <b>Total Dominance</b></li> <li>- Creating a willing victim</li> <li>- Ensuring she complies to his wishes</li> <li>- Convincing her to have sex with his friend</li> <li>- Convincing her to be locked in the house</li> <li>- Convincing her that he needs the money and the easiest way is through selling sex</li> </ul> |

Source: Confronting the Demand for Sex-trafficking: A Handbook for Law-enforcement. R. Gupta and R. Sinha. Aapne Aap Women Worldwide.

## Who are the exploiters?

| Myth about commercial sexual exploiters / abusers  | Facts about commercial sexual exploiters / abusers   |
|--|--|
| <p>Most commercial sexual exploiters are unmarried.</p>  | <p>Many of the commercial sexual exploiters are married as substantiated by the NHRC study in which 45.5% of the interviewed buyers were married men.</p>  |
| <p>If they are married, the buyers are separated from their wives.</p>   | <p>Most of the exploiters are not only married but also staying with their spouses. This negates the fact that men 'go to prostitutes out of need'. This is again well documented in the NHRC study in which 72.9% of the interviewed married buyers had spouses staying with them.</p>  |
| <p>Most have 'sexually dysfunctional' wives and hence they need some 'outlet'.</p>                                   | <p>This is a myth propounded by the patriarchal society, which calls all women who do not submit to men's desires as 'sexually dysfunctional'. In the NHRC study again it was seen that 54.3% of the interviewed married men had wives who were in the age group of 26–35 years old.</p>   |
| <p>Most exploiters are illiterate.</p>   | <p>This myth is also exploded by the NHRC study which has shown that of the interviewed 582 clients, 22.7% had studied up the graduate level or more and 79.6% were literate.</p>  |
| <p>Most exploiters are migrant labourers.</p>  | <p>This myth has been circulated over the years to shield the 'respectable men' visiting brothels. In the NHRC study though a majority of the buyers. 41.9% were from the working class, 8.8% were students, 26.1% were employed in government service and 18.4% were in business.</p>   |
| <p>"Respectable Men" never visit a brothel.</p>  | <p>A majority of the exploiters in the NHRC study had started visiting brothels during their adolescence.</p>  |
| <p>Men visit a brothel only when they are frustrated in their mid years. Men look for 'mature love' in brothels.</p> | <p>There is fair amount of evidence from the world over which is also substantiated by the NHRC study that a large number of buyers demand 'young, nubile virgins'. In the study a large majority (39.2%) of buyers admitted they looked for young girls in brothels, the highest preference being for virgin girls. 53.3% of the respondents stated that they look forward to having sex with girls who are submissive and willing to surrender to all their demands.</p> |

## Criminal liability

**Under the law both the clientele or customer and the trafficker are liable**

### Trafficker Liability

Under Section 5 of ITPA, trafficking committed, contemplated or even attempted is punishable, regardless of consent of the trafficked person. The modus operandi could include procuring, attempting to procure, inducing, taking, attempting to take, causing a person to be taken, causing or inducing a person to prostitution etc.

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 seven years of rigorous imprisonment.

Depending on the facts and circumstances of the case, the traffickers are also liable under Section 4, 6, 7, 9 of ITPA. Moreover, as abettors and/ or conspirators they are also liable under IPC.

### Customer Liability: whether 'customer' is liable?

The answer is yes. Firstly, he should be booked under Section 5(1) (d) and under Section 7(1) of ITPA. He is a person who 'causes' or 'induces' another person to carry on prostitution and is, therefore, liable under Section 5(1)(d). (*Cherain Vs. Kerala, 1973, Cr.L.J. 839*). Moreover, he is a person 'with whom prostitution is carried on' and is therefore, liable under Section 7(1). Further Section 7 (1A) ITPA makes it clear that if the offence of 'prostitution' is committed in respect of a child or minor then the person committing the offence (i.e. including the customer/clientele) is liable for graver punishment and fine with a mandatory minimum imprisonment of 7 years.

Besides these provisions of ITPA, he is an abettor to all violations on the victim, which attracts Section 114 IPC. If the victim is a child, Section 376 IPC (rape) should be added to the charges against the 'customer'. If the victim is an adult, Section 376 IPC will come into operation if it can be established that she had not given informed or willing consent. Moreover perverse sexual acts on the victim invite liability under Section 377 IPC.

*Source: Trafficking Women and Children for Sexual Exploitation: Handbook for Law Enforcement Agencies in India, Nair, P.M. 2007 UNODC.*

## Countries that have criminalized buyer and trafficker

Good Practices, *Targeting the Demand for Prostitution and Trafficking*, Coalition Against Trafficking in Women (CATW), compiled by Barbara C. Kryszko and Janice G. Raymond

| Location  | Actions Taken Against Male Buyers   | Comments  |
|---|---|---|
| <b>NATIONAL LEGISLATION AGAINST MALE BUYERS</b>         |   |   |
| Philippines   | National legislation to eliminate trafficking in persons that criminalizes the act "to maintain or hire a person to engage in prostitution or pornography." <sup>1</sup>  | Passed in 2003.   |
| Sweden  | National legislation defining prostitution as a form of male violence against women, and which criminalizes the purchase and attempt to purchase of "sexual services." Prostituted women do not face any criminal sanctions <sup>2</sup> .                            | Since this law went into effect January 1, 1999, there has been a dramatic drop in street prostitution. Similar legislation is being considered in Finland <sup>3</sup> and Iceland.  |
| Great Britain   | Proposal by the Solicitor General to draw up national legislation criminalizing men who buy sex from women who are victims of international sex trafficking <sup>4</sup> .  | The Solicitor General has found that to address trafficking, buyers should be criminalized since the demand is what makes the sex industry profitable for the traffickers.  |
| France  | National legislation passed in 2002 criminalizing the buyers of minors who are under 18 years of age.   | The communication adviser of the Prime Minister was arrested and found guilty after trial under this law. He has filed an appeal.<br><br>The law is significant in protecting children between the ages of 16 and 18. Prior to this law, buyers raised the age of consent as a defense for buying children between 16 and 18. |
| France  | National legislation since 2003 criminalizing solicitation. Note that this law could be implemented against the buyers.   | Only a few men have been arrested under this law.   |
| United States   | National legislation directing the Secretary of Health and Human Services to publicize best practices for State and local law enforcement to prosecute buyers and establishing a grant program for law enforcement to investigate and prosecute buyers <sup>5</sup> . | This is the first national legislation to combat domestic trafficking in persons and reduce the demand for commercial sex.  |
| <b>LOCAL LEGISLATION AND PROSECUTION OF MALE BUYERS</b> |   |   |
| Glasgow, Scotland                                       | Proposed legislation to make kerb-crawling a criminal offense. Kerb-crawlers could also be banned from driving <sup>6</sup> .   | Aim is to reduce the demand and make men accountable for their actions.   |
| Perugia, Italy  | Men who sexually use trafficked women and underage girls are being prosecuted for colluding in the crime of "reducing anyone to a state of slavery." <sup>7</sup>   | The invoking of this older law is also educational to teach the community that exploitation, enslavement, trafficking and victimization of women and girls is a serious crime and unacceptable.   |

| Location  | Actions Taken Against Male Buyers  | Comments  |
|---|--|---|
| France  | In many cities, such as Nantes, Bordeaux, Strasbourg, men have been arrested performing a sexual act in their car under a law prohibiting sexual exhibition in public spaces. law could be implemented.  | Prosecution under this law has raised the issue of whether a car is a public or a private place. Since any act in a car can be seen from a public space, the  |
| <b>POLICE AND COMMUNITY EFFORTS TO PENALIZE MALE BUYERS</b> |  |   |
| Harare, Zimbabwe  | “Operation No To Prostitution,” which targets men who drive around and loiter in certain areas known for prostitution <sup>8</sup> . Undercover female officers are employed in the operation to catch the buyers.   | Police noted a sharp decrease in motorists soliciting prostituted women following implementation of the program. <sup>9</sup> Names of those arrested are published in local newspapers.  |
| Richmond, Virginia United States                            | Proposed amendment to city’s anti-cruising ordinance to charge motorists up to a \$100 traffic infraction for passing by the same point in the same direction more than twice in a three-hour time span between 9 pm and 3 am <sup>10</sup> .  | An anti-cruising ordinance has already been in effect since 1994. The amendment would add the three-hour time span.   |
| Detroit, Michigan & Oakland, California United States       | Seizing and impounding the vehicles of men who buy women in prostitution. When the man is arrested for solicitation or other prostitution offenses in Detroit, for example, he is fined \$900 to get the car back. If someone else owns the vehicle, the owner, who may be the buyer’s spouse or family member, must accompany the prostitution buyer to retrieve the vehicle <sup>11</sup> .  | Detroit officials report that about 53 percent of the vehicles seized were in cases where buyers were from the suburbs. Police hope this will serve as a deterrent to men who attempt to buy women for prostitution.  |
| Perugia, Italy  | Cement barriers have been erected along the roads of Perugia to make it difficult for potential buyers of prostituted women to stop and solicit for prostitution <sup>12</sup> .   | This is part of a larger program that Perugia offers foreign women in prostitution in which they can obtain social services, emergency help, and temporary accommodation.   |
| Madrid, Spain   | <p>In 2004, pursuant to a plan of action of the city of Madrid against sexual exploitation, the presence of the municipal police increased in areas with significant prostitution.<sup>13</sup> The police dissuade buyers by asking them for their ID card, even though under the law the police have no power to arrest buyers.</p> <p>This plan of action also includes a large prevention campaign with posters posted in Madrid to discourage the demand and educate the public about the problem of demand for prostitution. The poster campaign includes images of men and statements such as “Prostitution exists because you pay for it. Don’t contribute to the exploitation of human beings.”</p> | <p>The police have the right to ask for the buyers’ ID card, and anticipate that taking away the buyers’ anonymity as buyers will serve as a deterrent to men who buy women for prostitution.</p> <p>Simultaneously, social programs and information centers have been created to help women get out of prostitution with legal assistance and social services.</p> |
| Teesside, England   | Two men who were guilty of soliciting women for prostitution were banned from driving for 2 to 4 weeks <sup>14</sup> .   | The driving bans were given to the men as a warning from the magistrates that soliciting would not be tolerated.  |
| Bristol, England  | Upon application by the Crown Prosecution, the Court made a man, who was guilty of soliciting, the subject of an Anti-Social Behavior Order to stop him from kerb crawling or performing any public obscene acts <sup>15</sup> .   | The Court ruled that soliciting women for prostitution was anti-social.   |
| Strathclyde, Scotland                                       | Proposal by local police of mailing warning letters to buyers found repeatedly driving in areas known for prostitution <sup>16</sup> .   | Police aim to discourage buyers. Also, they aim to encourage prostituted women to use support services to exit prostitution.  |

| Location   | Actions Taken Against Male Buyers  | Comments   |
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| Leith, Scotland  | Community activists have formed “citizens’ patrols” to drive away “kerb-crawlers” from Leith <sup>17</sup> . Volunteers in cars will alert patrol members to incoming kerb-crawlers. Members will patrol the streets and confront the kerb-crawlers by waving placards with messages such as “You can’t get no satisfaction in Leith,” and “Get Back Where you Once Belonged.” | Patrol members hope the actions will shame and deter the men from coming into the area at all hours of the days and night.   |
| Helsinki, Finland  | Police want to tap the phones of suspected pimps to uncover prostitution rings <sup>18</sup> . Police believe that if buyers know that pimps’ phones are being tapped that they will think twice before arranging a prostitution encounter.  | Police believe that anonymity is one of the major attractions of commercial sexual exploitation. Risk of being recorded might deter buyers.  |
| <b>SHAMING MEN - PUBLICATION OF MALE BUYERS’ NAMES, PHOTOS AND VIDEOS IN NEWSPAPERS AND ON THE INTERNET AND TELEVISION</b>     |  |  |
| Winnipeg, Canada   | In “Operation Snapshot,” police videotape men as they pick up women in prostitution and broadcast the video on the Internet <sup>19</sup> .  | Police aim to discourage buyers on certain residential streets by posting these surveillance videos. To succeed these techniques of ‘outing’ have to be consistently employed, rather than used on occasion.   |
| United States<br>Denver, Colorado,<br>Detroit, Michigan,<br>Dallas, Texas,<br>Philadelphia, Pennsylvania,<br>Richmond Virginia | <p>Publication of names and photos of convicted buyers on a “Johns TV” show and the Internet<sup>20</sup>. In some cities, the buyers shown have been charged but not convicted.</p> <p>The aim is to “out” and make public those who buy women for prostitution and to serve as a deterrent for these men and others.</p>   | <p>Denver officials report that such publication has helped cut solicitation by buyers by about 40 percent. Both the Denver TV program and website include information for prostituted women relating to services.</p> <p>In Dallas, police put not only pictures of the men arrested for soliciting but also their names, birth dates and home-towns.<sup>21</sup> In the first 24 hours that the site was operative, there were 4,100 hits.</p> <p>In Philadelphia, photos of the men’s “mug shots” are posted on a government access cable television channel (64) when they are booked and charged, and before they appear in court.</p> |
| United States<br>St. Paul, Minnesota   | Publication by the city of names of photos of arrested buyers and, unfortunately, also of prostituted women. <sup>22</sup>   | The website is updated to include information that the individual was convicted.   |
| United States<br>Oakland, California   | A shaming campaign that includes large billboards with blurred photos of convicted buyers in Oakland were put up in the city in June 2005 <sup>23</sup> . The campaign also uses surveillance cameras from local businesses to obtain evidence for convictions of soliciting women in prostitution.  | <p>City officials indicated that in the future, photos might not be blurred to obscure the buyers’ identities.</p> <p>This program also includes billboards with a help line for women in prostitution.</p>  |
| United States<br>Frederick, Maryland   | City released 82 pages of prostitution business records, including the names of 500 men who bought women in prostitution <sup>24</sup> . The names of public officials and other prominent citizens were included. Records had been seized in a brothel raid by the police.  | The release of names was in response to newspapers who sought access to the documents amid allegations that the brothel’s customers included public officials.   |

| Location   | Actions Taken Against Male Buyers   | Comments   |
|--|---|--|
| <b>LEGISLATION AND PROSECUTION OF SEX TOURISTS</b>   |   |  |
| Canada,<br>Finland,<br>Sweden,<br>United States  | <p>National legislation to prosecute a country's own citizens for sexual abuse of children while outside the country<sup>25</sup>.</p> <p>The United States is targeting American sex tourists abroad in Cambodia, Costa Rica, Thailand, Mexico and Brazil by funding a media campaign to deter sex tourists and reminding them that they could be prosecuted and convicted in the US<sup>26</sup>.</p>   | In the summer of 2004, Canadian prosecutors brought the first prosecution under the law since it went into effect seven years ago.   |
| United Kingdom   | A project developed by British Home Office that provides a freephone 'Crimestoppers' for British tourists in Gambia to report child abuse abroad <sup>27</sup> .  | Travel companies agreed to distribute awareness-raising information about child prostitution to inform tourists what to look out for.  |
| United States<br>Hawaii  | Legislation (House Bill 2020) passed in the Hawaii House of Representatives to make the promotion of travel for the purpose of prostitution a felony crime and grounds for revoking a travel agent's license <sup>28</sup> .  | Declares Hawaii's unequivocal opposition to any form of sex tourism. Protects women and girls exploited by sex tourists and exploited by the agencies that arrange for their tours.  |
| <b>PROHIBITING SEXUAL EXPLOITATION BY MEMBERS OF INTERNATIONAL AGENCIES AND THE MILITARY</b>                     |   |  |
| United Nations<br>Department of<br>Peacekeeping<br>Operations<br>(DPKO)  | The UN DPKO policy on human trafficking recognizes that the use of prostituted women in mission areas is exploitative. The DPKO thus prohibits the purchase of sexual services by UN peacekeeping personnel, and also prohibits the patronage of bars, nightclubs, brothels or hotels where sexual exploitation and prostitution are present <sup>29</sup> . This groundbreaking policy does not distinguish its prohibition of the purchase of sexual services between locally prostituted women and those who are trafficked internationally. | Even if prostitution is not a crime in the jurisdiction in which the peacekeepers operate, this UN policy still prohibits the purchase of sexual services since it identifies such as an act of sexual exploitation.                               |
| United Nations<br>Staff  | There is also a code of conduct for all UN staff members entitled "Special measures for protection from sexual exploitation and sexual abuse." Staff members are prohibited from exchanging "money, employment, goods or services for sex, including sexual favours <sup>30</sup> ."  | UN staff members are also required to report any staff or co-worker suspected of sexual exploitation or sexual abuse.  |
| Organisation for<br>Security and<br>Co-operation in<br>Europe (OSCE)<br>—Mission to<br>Bosnia and<br>Herzegovina | A code of conduct for all mission members entitled "Prohibiting the Promotion or Facilitation of Prostitution and Trafficking in Persons." The Code precludes mission members from visiting an establishment which facilitates prostitution or which has nude or partially nude "dancers" <sup>31</sup> .   | Mission members are also prohibited from affiliating with anyone who is suspected of sex trafficking.  |
| United States<br>and Norway  | <p>Both the United States<sup>32</sup> and Norway<sup>33</sup> have banned their military from visiting prostituted women.</p> <p>Norway<sup>34</sup> prohibits civil servants, during official travel, from buying women in prostitution.</p>  | <p>To theoretically ensure its troops do not exploit women while serving in the countries' armed forces.</p> <p>To awaken the global responsibility of countries' military and civil servants and to provoke awareness of sexual exploitation.</p> |
| NATO   | 26 countries agree that their troops will not facilitate sex trafficking by going to prostituted women known to be controlled by traffickers <sup>35</sup> .  | Depends on a distinction between trafficking and prostitution. Do the NATO forces ask the women if they have been trafficked?  |

| Location   | Actions Taken Against Male Buyers  | Comments   |
|--|--|--|
| <b>CHALLENGING AND CHANGING THE SEXUAL ATTITUDES AND PRACTICES OF MEN AND BOYS EDUCATING MEN</b> |  |  |
| Philippines  | The Coalition Against Trafficking in Women-Asia Pacific has initiated an educational project targeting young boys and men in communities known for prostitution. The project challenges men in recognizing their role as buyers of women in prostitution and educates men and boys in the harm of prostitution and trafficking <sup>36</sup> .   | The project conducts educational workshops for men and boys in 12 regions of the Philippines and reach out to hundreds of men and boys.  |
| Indonesia  | Poster campaign – aimed at men who visit Indonesia’s Batam Island, notorious for sex jaunts by men from Singapore and Malaysia. <sup>37</sup> Posters state: “How Would you Feel if Someone did this to Your Daughter?” 40% of those in prostitution are girls under 18 years of age.  | Aimed at bringing about men’s change in behavior.  |
| Sweden   | <p>National campaign against prostitution and trafficking targets the demand for prostitution<sup>38</sup>. Campaign is launched at Solvalla racetrack in Stockholm. Buyers of women in prostitution are commonly hustled by pimps who provide the men with rides from the track to the sex clubs. The racetrack dedicated its first race of the evening to advertising the campaign, with then-Minister for Gender Equality, Margareta Winberg, speaking to 5,000 racing fans about the demand for prostitution.</p> <p>Colorful posters were displayed in transportation centers throughout Sweden. One poster depicted well-dressed Swedish sex tourists wearing wedding bands who travel to Baltic countries with the caption: “Time to flush the johns out of the Baltics.”</p> | <p>Designed to increase public awareness and to spotlight the men who buy women for sex.</p> <p>The campaign attracted much public attention within and outside Sweden.</p>  |
| United States<br>Washington, DC  | Conference organized by Girls Educational and Mentoring Services (GEMS) bringing together 22 teenage survivors of prostitution to speak to Congressional representatives and the press about the realities of prostitution <sup>39</sup> . Teens described violence at the hands of pimps and buyers and denounce the glamorization of “pimp culture.”   | This was the first national summit for commercially and sexually exploited youth in the US.  |
| France   | Campaign urging men to sign a statement recognizing prostitution as violence and to pledge not to engage in rape and prostitution <sup>40</sup> .  | The statement, which has been signed by a number of prominent men, stresses that men recognize a form of masculinity based on mutual respect, not domination.  |
| Canada & United States- various cities   | “Johns School” Programs - In most programs, such as in Toronto, Canada <sup>41</sup> , or Brooklyn, New York, USA <sup>42</sup> , first time offenders (men who buy women in prostitution) can avoid a criminal record if they pay a fine and attend a one-day “Johns School” to learn why they should not buy sex from prostituted women, including information about sexually transmitted diseases and impact on the local community. In some programs, survivors of prostitution “teach” the offending men about the harm of prostitution to women, to themselves, to neighborhoods and to society.   | <p>Preliminary studies in cities with “johns schools” indicate that offenders are rarely re-arrested in these areas.</p> <p>Some women’s organizations working against violence against women take the position that “johns schools” are diverting men out of the criminal justice system and allowing men to escape responsibility for the sexual abuse of women in prostitution.</p> <p>Some women’s groups advocate that men who buy women in prostitution should attend “johns schools” as part of a rehabilitation program after a criminal conviction.</p> |

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## Trafficking in Indian Constitution and Laws

The Constitution of India expressly prohibits traffic in human beings.

- Article 14 provides for equality in general.
- Article 15 prohibits discrimination on the grounds of religion, race, caste, sex or place of birth.
- Article 15 (3) provides for special protective discrimination in favour of women and child relieving them from the moribund of formal equality. It states that, “nothing in this article shall prevent the State from making any special provision for women and children”.
- Article 16 (1) covers equality of opportunity in matters of public employment.
- **Article 23 prohibits traffic in human beings (in any form and for any exploitation) and forced labour.**
- Article 24 prohibits employment of children in any hazardous employment or in any factory or mine unsuited to their age.
- Article 38 enjoins the State to secure and protect as effectively as it may a social order in which justice – social, economic and political – shall inform all the institutions of national life.
- Article 39 provides that the State should direct its policy towards securing, among other things, a right to adequate means of livelihood for men and women equally and equal pay for equal work their age or strength.
- Article 39 (f) provides that children should be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood should be protected against exploitation.
- Article 42 protects against inhumane working conditions.
- Article 45 makes provision for free and compulsory education for children, which is now well settled as a fundamental right of children.
- Article 46 directs that the state to promote the educational and economic interests of the women and weaker sections of the people and that it shall protect them from social injustice and all forms of exploitation.

For further discussion refer *Resource Book on Legal Framework on Anti Human Trafficking*, UNODC, 2008.

### Trafficking offences under the Indian Penal Code

The Indian Penal Code, 1860 prohibits trafficking, purchase and sale of minors. In addition, existing rape, assault, and abduction laws can be used to address the systematic abuse of women and girls in brothels.

Relevant provisions of significance under the Indian Penal Code are:

Sections 359-368 which deal with kidnapping, abduction, and wrongful confinement. Section 359, Section 361, Section 362, Section 363, Section 365, Section 366, and Section 366A, which makes procurement of a minor girl (below the age of 18 years) from one part of India to another punishable.

Section 366B, which makes importation of a girl below the age of twenty-one years punishable. Section 367, which mandates imprisonment of up to ten years for the procurement or import of minors for the purposes of illicit intercourse, kidnapping and abduction leading to grievous hurt, slavery or subjection to “unnatural lust”.

Section 370, Section 371, Section 372, Section 373, Section 374 makes selling, letting to hire, or otherwise disposes of any person under the age of eighteen (18) years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be employed or used for any such purpose criminal.

Section 375, Section 376(1), Section 376B criminalizes rape. Rape laws are applicable to both brothel staff and customers.

If at the time of a raid pornographic CD's are also seized Sections 292 and 293 can be used.

In addition, **Criminal Procedure Code, 1973** with Sections 51(2), 53(2), 98, 160, 327(2) and 357 and Sections 114 A and 151 of **The Indian Evidence Act, 1872** are relevant in this context.

*Source:* Trafficking Women and Children for Sexual Exploitation: Handbook for Law Enforcement Agencies in India, Nair, P.M. 2007, UNODC.

### An illustrative list of Sections under IPC to be used in the case of a trafficked girl

|  |   |
|--|---|
| Displacement from her community, which amounts to kidnapping/abduction/confinement | Sections 361, 362, 365, 366 IPC may apply |
| Procured illegally   | S. 366A IPC                               |
| Sold by somebody   | S. 372 IPC                                |
| Bought by somebody   | S. 373 IPC                                |
| Imported from a foreign country or hails from J&K                                  | S. 366B IPC                               |
| Wrongfully restrained  | S. 339 IPC                                |
| Wrongfully confined  | S. 340 IPC                                |
| Physically tortured/injured  | S. 327, 329 IPC                           |
| Subject 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                                |
| Subject to perverse sexual exploitation (unnatural offences)                       | S. 377 IPC                                |
| Defamed  | S. 499 IPC                                |
| Subject to unlawful compulsory labour  | S. 374 IPC                                |
| Victim of criminal conspiracy  | S. 120B IPC                               |

### Other Special laws, which deal with trafficking related crimes, are:

1. The Prohibition of Child Marriage Act, 2006
2. Bonded Labour System (Abolition) Act, 1976
3. Child Labour (Prohibition and Regulation) Act, 1986
4. Children (Pledging of Labour) Act, 1933
5. Maharashtra Control of Organized Crime Act, 1999
6. Goa Children's Act, 2003
7. Information Technology Act, 2000 (Sec. 67 - if the trafficked victim is exploited to develop pornographic material and that porn is circulated electronically).
8. Juvenile Justice Act (Care and Protection of Children) Act, 2000

**The offence of trafficking has the following ingredients:**

|  |  |
|--|--|
| Exploitation of the trafficked person  | The displacement can be from one country, state, village, community or home to another or from one situation to another. e.g.: When a daughter of a woman in prostitution is also pulled into prostitution by the brothel keeper, she is considered trafficked as she has been displaced from the safety of her mother's community to the brothel community, though geographically it may happen in the same room. |
| Displacement (physical or situational) | The exploitation may be manifest as in a brothel or latent as in massage parlours, dance bars or beer bars.  |
| Commercialization of the exploitation  | The exploiter generates revenue in cash or kind from the exploitation even if the victim gets a share of the revenue. The trafficked victim can never be treated as an accomplice, even if she gets a share of the income.   |

**Procedural laws:**

TO ENSURE PROPER CONVICTION OF TRAFFICKER AND EXPLOITERS AN UNDERTSANDING OF PROCEDURAL LAWS (Criminal Procedure Code ie. Cr.PC, The Indian Evidence Act, etc.) is of paramount importance. Preventive sections of the Cr.PC are also very necessary.

## Extra Case Laws

### 1. Sakshi vs Union of India= AIR 2004 SC 3566

#### Highlight

Expanded the circumstances where in-camera trials should be used  
Established procedures that would help child victims to testify at ease in court

#### Synopsis

Sakshi vs. Union of India has drawn the attention of the Supreme Court to the fact that the laws relating to rape are not adequate to cover various sexual atrocities against women, or child sexual abuse. Sakshi, a voluntary organization for the welfare of women and children, proposed a draft amendment to the provisions in the Indian Penal Code and the same came up for examination by the Law Commission at the instance of the apex court.

Previously, the Delhi High Court found that an eight-year-old child penetrated in three orifices by her father is neither a rape nor an unnatural offence. Instead it is a mere "hurt", an outrage of modesty. This motivated an appeal to the Supreme Court of India. Sakshi filed this petition urging the court to seriously consider an interpretation of rape which could finally alter a status quo view of life, by altering the general perception of it. In its petition filed in 1997, Sakshi had contended that the scope of sections 375/376 IPC (rape) be enlarged to include other forms of sexual assault intended to humiliate, violate and degrade a woman or child, sexually which adversely affect the sexual integrity and autonomy of women and children, thereby violating Article 21 of the Constitution.

Recognizing the sensitivity of cases of child sexual abuse and rape, the Supreme Court directed that the child victims be kept away from the accused during trial by means of a screen or similar arrangement separating them. Questions directly relating to the incident put in cross-examination on behalf of the accused should be given in writing to the trial judge, who may put them to the victim or witnesses in a clear language, and sufficient breaks should be allowed while giving testimony.

Till this judgment was passed, it was only mandatory to hold in camera proceedings in cases relating to rape. This judgment held that proceedings should be in camera even in cases which do not have penile penetration.

### 2. Sheba Abidi vs. State(NCT) of Delhi & Anr. =113(2004) DLT 125

#### Highlight

Established that child victims can testify outside the court environment  
Child victims are entitled to get a support person during trial

#### Synopsis

Soon after the judgment was passed in the case of Sakshi, the Delhi High Court passed a judgment wherein it laid down further parameters with respect to the conduct of a case in child sexual abuse.

This is a case relating to a four year old boy who was sexually abused by his teacher. A complaint was filed, registered, and the trial began. The child was scared of the perpetrator, and was very uncomfortable to come face to face with him. The mother of the child made an application before the trial court stating these

difficulties. In her application she had attached the opinion/report of a reputed psychiatrist who had a chance to interact with the child, and had endorsed the child's apprehension. However, the trial court did not accede to the mother's request that the evidence should be recorded elsewhere.

Aggrieved by this order, the mother filed a petition before the Delhi High Court. After hearing the case at length, the High Court passed a judgment, wherein it held that in cases of child sexual abuse, the Courts should strive towards ensuring that the child was not traumatised further. It further held that the child could give evidence in an environment outside the Court if he/she was uncomfortable going to the Court. It further held that in all these cases, the child would be entitled to get a support person with him/her during the trial, and this support person could also be the parent of the child.

### 3. Prerana vs. State of Maharashtra= 2003 (2) Mah LJ 105

Care and protection of child must be dealt with keeping in mind possibility of their reformation and rehabilitation as per Section 2 (1) and 2 (d) (vi) of the Juvenile Justice (Care and Protection of Children) Act, 2000 – The High Court issued directions to prevent recurrence of the crime.

#### Highlights

- Children rescued from brothels should be treated as “children in need of care and protection” under the Juvenile Justice (Care and Protection of Children) Act, 2000;
- A lawyer representing the accused should not represent the victims;
- Drew parallels between the Immoral (Traffic) Prevention Act and the Juvenile Justice (Care and Protection of Children) Act, 2000;

This is a judgment from the High Court of Bombay. This petition came to be filed following the release of minor girls to the custody of certain persons, pretending to be legal guardians of the rescued victims but represented in Court by the same lawyers representing the accused in the same case. Following a raid and rescue operation from a red light area, several young girls and children were rescued, and the perpetrators were arrested. During the pendency of these proceedings, the girls who were found to be under 18 years of age were kept in an observation home. A lawyer filed an application stating that these children should be released on the ground that they had not committed any offence and therefore could not be detained. This lawyer was also the lawyer for the accused.

On his application, the children were released. Prerana, a NGO working with rescued victims/survivors of prostitution, filed a petition in the High Court as they apprehended that these children would be handed over to the accused and also that there was a clear case of conflict of interest as far as the lawyer was concerned. In this background, the High Court passed an order in which it gave the following directions:

- No Magistrate can exercise jurisdiction over any person under 18 years of age irrespective of the fact whether that person is a juvenile in conflict with the law or a child in need of care and protection, as defined by Sections 2(1) and 2(d) of the Juvenile Justice (Care and Protection of Children) Act, 2000. At the first possible instance, the Magistrates must take steps to ascertain the age of a person who seems to be under 18 years of age. When such a person is found to be under 18 years of age, the Magistrate must transfer the case to the Juvenile Justice Board if such person is a juvenile in conflict with the law, or to the Child Welfare Committee if such a person is a child in need of care and protection.
- A Magistrate before whom either persons rescued under the Immoral Traffic (Prevention) Act, 1956 or

having been found soliciting in a public place are produced, should, under Section 17(2) of the said Act, have their ages ascertained the very first time they are produced before him. When such a person is found to be under 18 years of age, the Magistrate must transfer the case to the Juvenile Justice Board if such person is a Juvenile in conflict with law, or to the Child Welfare Committee if such person is a child in need of care and protection.

- Any juvenile rescued from a brothel under the Immoral Traffic (Prevention) Act, 1956 or found soliciting in a public place should only be released after an inquiry has been completed by the Probation Officer.
- The said juvenile should be released only to the care and custody of a parent/guardian after such parent/guardian has been found fit by the Child Welfare Committee to have the care and custody of the rescued juvenile.
- If the parent/guardian is found unfit to have the care and custody of the rescued juvenile, the procedure laid down under the Juvenile Justice (Care and Protection of Children) Act, 2000 should be followed for the rehabilitation of the rescued child.
- No advocate can appear before the Child Welfare Committee on behalf of a juvenile produced before the Child Welfare Committee after being rescued under the Immoral Traffic (Prevention) Act, 1956 or found soliciting in a public place. Only the parents/guardian of such juvenile should be permitted to make representations before the Child Welfare Committee through themselves or through an advocate appointed for such purpose.
- An advocate appearing for a pimp or brothel keeper is barred from appearing in the same case for the victims rescued under the Immoral Traffic (Prevention) Act, 1956.

**Immoral (Traffic) Prevention Act and related punishments are tabled below:**

| COMMERCIAL SEXUAL EXPLOITATION |  |  |
|--------------------------------|--|--|
| Sections                       | Provisions   | Punishment   |
| 3                              | Section 3 of the ITPA provides for punishment for keeping a brothel or allowing premises to be used as a brothel.  | Rigorous imprisonment for 1 to 3 years along with a fine, which may extend to Rs. 2000.<br><br>For subsequent offence imprisonment for 2 to 5 years along with a fine, which may extend to Rs. 2000. |
| 3 (2)                          | provides for punishment of any person who is a tenant and allows any person to use, such premises or any part thereof as a brothel, or is the owner and lets the premises to be used as a brothel.<br><br><i>In Kamalabai Jethamal Vs. The State of Maharashtra</i> , it was held that though the search and investigation was not conducted according to the provisions of Cr P.C and not in good spirit, but still the fact that money was found with the appellants and it was used for | Rigorous imprisonment for 2 years along with a fine, which may extend to Rs. 2000.<br><br>For subsequent offence imprisonment up to 5 years along with a fine, which may extend to Rs. 2000.         |

| Sections | Provisions  | Punishment  |
|----------|---|---|
|          | <p>prostitution, therefore the accused should be convicted under Section 3(2) and 4(1) of SITA.</p> <p>Though the above mentioned section 3 (2) of the Act provides for prosecution of landlords or lessors who rents out or lets out any premises for prostitution, the landlords and lessors rarely get prosecuted for the simple reason that for an offence to be established under section 3 (2) of the Act it is important to establish that it was within the knowledge of the landlords or the lessors that the premises was used as a brothel and sexual exploitation of persons was carried on in the premises for gain or profit. The element of knowledge at times becomes difficult to prove and therefore the landlords and lessors are rarely prosecuted or convicted.</p> <p>Delhi High Court in <i>Mumtaj @ Behri Vs. The State (Govt. of NCT of Delhi)</i> had held that it is obvious that for proving an offence under Section 3 of the Act some specific instances of prosecution must be proved and then it must further be proved that the accused was managing / keeping the place with the intention and knowledge that same is being used for the purposes of sexual exploitation or abuse for the gain of another person or for the mutual gain of two or more prostitutes.</p> |   |
| 4        | This section penalizes any person over the age of 18 years if knowingly lives on the earnings of a prostitute.  | Imprisonment up to 2 years along with a fine, which may extend to Rs. 1000 or both. |
| 4 (2)    | <p>This section makes the punishment more stringent if a person lives on the earnings of a minor</p> <p>Cases where the earnings relate to prostitution of a child or a minor, then there is an enhanced punishment of imprisonment, which may extend to 7 to 10 years.</p> <p>This section provides that any person over the age of 18 years habitually lives with a prostitute or aids, abets or compels a person for prostitution or acts as a tout or pimp on behalf of a prostitute shall be presumed to be living on the earnings of prostitution.</p> <p>In <i>Smt. Ram Devi Vs. State and Others</i>, it was held that as the ITPA itself does not punish or make liable for action a woman who carries on prostitution for her own gain as long as she does not violate the prohibition of soliciting or seducing in a public place, section 4 of ITPA is clearly applicable only to a person living on the earnings of prostitution of another person. It is a</p>  | Imprisonment up to 7 – 10 years.  |

| Sections | Provisions   | Punishment   |
|----------|--|--|
|          | Section meant to punish the people living on her earnings only.  |  |
| 5        | This section provides for punishment in case any person, who procures, induces or takes a person from one place to another for purpose.<br>In <i>Cherian Vs. Kerala</i> , it was held that any person including a client shall be liable under section 5 (1) (d) of the ITPA who induces or causes any person to carry on prostitution u/s 7(1).   | Rigorous imprisonment for 3 – 7 years along with a fine amount of Rs. 2000 or both.<br><br>If offence committed against the will of the person induced or procured then punishment for 7 to 14 years.<br><br>If the offence is committed against the child then rigorous imprisonment of 7 years to life.<br><br>If the offence is committed against a minor then rigorous imprisonment of 7 to 14 years.    |
| 6        | Section 6 of ITPA provides that any person who detains any other person in any brothel, or any premises for sexual intercourse is shall be an offender an liable to be punished under the Act.   | Imprisonment for 7 years which may extend to life or may extend to ten years and shall also be liable for fine.  |
| 6 (2)    | This provides that where any person is found with a child in a brothel, it shall be presumed that he has detained that child for sexual intercourse.   | Imprisonment for 7 years to life or may extend to seven years and shall also be liable for fine.   |
| 6(2)(A)  | Where a child or a minor is found in a brothel and has been detected of being sexually abused then it shall be presumed that the child or minor has been detained for the purposes of prostitution.<br><br>In <i>Harnam Singh Vs. Emperor</i> , it was held that for prosecuting a person under section 6 (2) of ITPA, something in the nature of control or influence and some kind of persuasion is sufficient proof.                                  | First conviction, imprisonment for 3 months and fine of Rs. 200.<br><br>Second conviction, imprisonment for 6 months and fine of Rs. 200. If the public place includes any hotel then the license of such hotel shall be suspended for a period of 3 months to one year. In case the offence under this is committed with respect to a child then the license of such hotel shall be liable to be cancelled. |
| 6 (3)    | It shall be a case of detention if any women or girl is detained for sexual intercourse with any other person other than her husband if she is detained either through inducement, withholding her jewellery / personal belongings or through threat of legal proceedings. In such cases no suit / proceedings shall lie in any Court against the woman at the instance of the detainee for recovery of jewellery, apparel, money or any other property. |  |
| 9        | Any person who makes any other person seduce or abets in the seduction for the purpose of prostitution shall be liable for punishment if he has the custody of the other person or exercises control, charge or authority.   | Imprisonment for 7 years to life or may extend to seven years and shall also be liable for fine.   |

| Sections | Provisions   | Punishment  |
|----------|--|---|
|          | <b>Against Public Morality</b>   |   |
| 7        | Section 7 prohibits prostitution in public place and within a distance of two hundred meters of any public place. An offence under this section is punishable.   | Imprisonment for 3 months   |
| 7(1)(A)  | Section 7(A) of the Act provides that where an offence committed under sub-section (1) is in respect of a child or minor, the person committing the offence shall be punishable with more stringent punishment.<br><br><i>In re Ratnamala AIR 1962 Mad 31</i> laid down that, sections 7 and 8 are the exception to the general object of SITA which is to prevent trafficking for prostitution, but section 7 undoubtedly inhibits the woman (prostitute) herself from the practice of her profession in contravention of its terms, and to that extent renders prostitution a penal offence.<br><br><i>In Bai Shanta Vs. State of Gujrat</i> , it was held by the Madras High Court that it is not necessary that the customer must have been found having sexual intercourse with the woman and it is enough if the circumstances suggest an inference about her having offered her body for immoral purposes on receipt of any money so as to be liable under section 7(1) of the Act. However to establish liability under section 7(1), offence must be shown to have been committed in premises within the prohibited area. Though for holding that a woman carries on prostitution, plural and indiscriminate sexuality on her part has got to be established, that doesn't necessary require that the evidence of more than one customer of the prostitute must be adduced and it is enough if the facts proved entitle the court to raise an inference to hold that she carries on prostitution as contemplated under section 7(1) of the Act. | Imprisonment for 7 years to life or can extend to 10 years and shall also be liable for fine. |
| 7(2)     | Any keeper of a public place, tenant, occupier, landlord or his agent of a public place shall be liable for punishment if he knowingly permits prostitutes for the purpose of prostitution   |   |

1. Prerana vs. State of Maharashtra = 2003 (2) Mah LJ 105
2. Sheba Abidi vs. State(NCT) of Delhi & Anr. = 113(2004) DLT 125
3. Cherian vs State of Kerala = 1973 CrLJ 839 (Ker.)
4. Kamalabai Jethamal = 1962 Supp. (2) SCR 632
5. Harnam Singh vs Emperor = AIR 1939 Lah 295
6. Smt. Ram Devi=2003 CrLJ 533
7. Sakshi vs Union of India = AIR 2004 SC 3566
8. Bai Shanta vs. State of Gujarat = AIR 1967 Guj 211

## Part Four

# Resources

## Website Resources

- [mha.nic.in/scena.htm](http://mha.nic.in/scena.htm)
- [nhrc.nic.in/](http://nhrc.nic.in/)
- [apneaap.org](http://apneaap.org)
- [catwa.com](http://catwa.com)
- [catwinternational.org](http://catwinternational.org)
- [catw-ap.org](http://catw-ap.org)
- [captivedaughters.org](http://captivedaughters.org)
- [december18.net/web/general/page.php?pageID=45&menuID=36&lang=EN](http://december18.net/web/general/page.php?pageID=45&menuID=36&lang=EN)
- [ecpat.net/eng/index.asp](http://ecpat.net/eng/index.asp)
- [iom.int](http://iom.int)
- [ohchr.org/english/issues/trafficking/index.htm](http://ohchr.org/english/issues/trafficking/index.htm)
- [prostitutionresearch.com](http://prostitutionresearch.com)
- [sagesf.org/index.htm](http://sagesf.org/index.htm)
- [state.gov/g/tip](http://state.gov/g/tip)
- [umn.edu/humanrts/index.html](http://umn.edu/humanrts/index.html)
- [unicef.org](http://unicef.org)
- [unifem.org/](http://unifem.org/)
- [unifem-eseasia.org/index.html](http://unifem-eseasia.org/index.html)
- [unodc.org/unodc/en/trafficking\\_human\\_beings.html](http://unodc.org/unodc/en/trafficking_human_beings.html)
- [uri.edu/artsci/wms/hughes/](http://uri.edu/artsci/wms/hughes/)
- [wcd.nic.in](http://wcd.nic.in)
- [bprd.nic.in](http://bprd.nic.in)
- [unodc.org/india](http://unodc.org/india)

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- Convention on Protection of Rights of Migrant Workers, 1990
- Convention on the Elimination of all forms of Discrimination Against Women, 1979
- Convention on the Prostitution and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1998
- Convention on the Rights of Child, 1989
- Criminal Law Amendment Ordinances, 1944
- Criminal Procedure Code
- Factories Act, 1954
- Foreign Marriage Act, 1956
- Guardianship and Wards Act, 1890
- Hindu Adoption and Maintenance Act, 1956
- Immoral Trafficking Prevention Act, 1956 (and as amended in 1986)
- Indecent Representation of Women (Prohibition) Act, 1986
- Indian Evidence Act, 1872 especially Sections 114A, 151, 152
- Indian Penal Code, 1860
- Information Technology Act, 2000
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- Maharashtra Control of Organized Crime Act
- National Charter for Children, 2003
- The Commission for Protection of Child Rights Act, 2006
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- Tourism Bill of Rights and the Tourist Code, 1985
- Transplantation of Human Organs Act, 1994
- Universal Declaration of Human Rights, (UDHR) 1948.

## Acronyms

|        |  |
|--------|--|
| AHT    | Anti Human Trafficking                                       |
| AIR    | All India Reporter   |
| CJM    | Chief Judicial Magistrate                                    |
| Cr. PC | Criminal Procedure Code, 1973                                |
| DLT    | Delhi Law Times  |
| DM     | Divisional Magistrate  |
| FIR    | First Information Report                                     |
| IO     | Investigating Officer  |
| IPC    | Indian Penal Code, 1860                                      |
| ITPA   | Immoral Traffic (Prevention) Act, 1956                       |
| JJ Act | Juvenile Justice (Care and Protection of Children) Act, 2000 |
| NGO    | Non Governmental Organization                                |
| PS     | Police Station   |
| SC     | Supreme Court  |
| SCC    | Supreme Court Cases  |
| SDM    | Sub Divisional Magistrate                                    |
| U/S    | Under Section  |
| VS     | Versus   |





# AFTER RESCUE WHAT?

RESCUE



- Segregate the victim from the offenders.
- Let the counselor provide trauma care to her.
- Record statements (161,164 Cr.PC) as and when she is ready and willing to speak.
- Tell her she is a victim, that her rights have been violated.
- Promptly send her for medical care and examination.
- If she looks a minor produce before a Child Welfare Committee.
- Send her to protective home (Govt. or NGO). Do not detain her in a police station.
- Decision on rehabilitation should be left to the competent authority, Magistrate or Child Welfare Committee.

