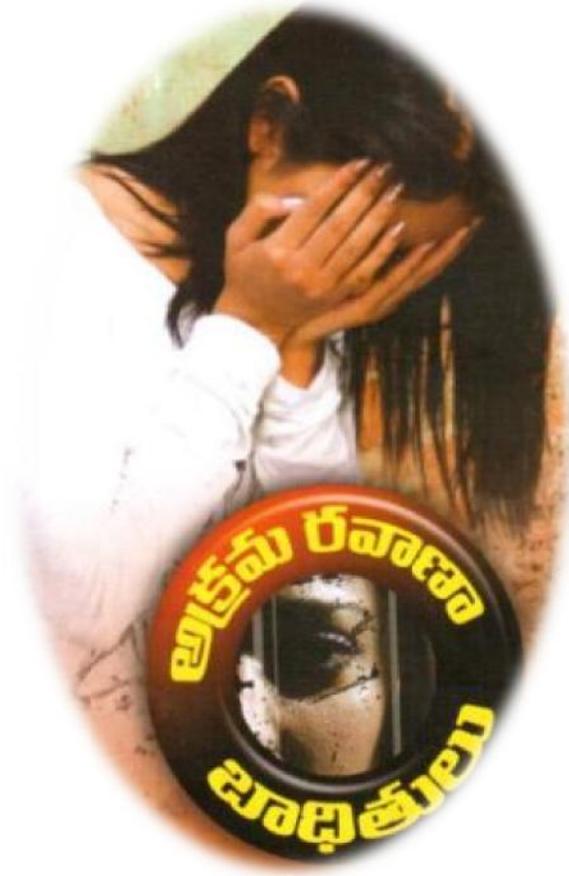


**STATUS OF CHILD TRAFFICKING SITUATION IN ANDHRA PRADESH
A DESK REVIEW**

2013



**DESK REVIEW – Conducted &
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**SUBMITTED
TO**



About HELP

HELP is a Developmental Organization formed by a group of service professionals from different professions committed to protection of women & children from violence, Sexual exploitation, abuse and trafficking. The mission of **HELP** is to combat sexual exploitation in all its forms, especially prostitution and trafficking in women and children, in particular girls. **HELP** prevents trafficking by educating boys and girls in schools and communities in different parts of the state and by training teachers, professionals, police, governmental authorities and the public about the harm of sexual exploitation and ways to resist and combat it.

HELP has promoted networks called NATSAP with 25 NGOs & VIMUKTHI with the victims of trafficking in AP. It serves as an umbrella that coordinates and takes direction from its network partners in its work against sexual exploitation/abuse and in support of Child Rights and women's human rights.

HELP researches and documents the situation of women & children who have been trafficked and are in prostitution; educates the public about the extent of harm sustained by women and girls in prostitution; and galvanizes change through legislation and working with governments and international agencies to create/change/amend policy and legislation that support the right of every Children, woman and girls to be free of sexual exploitation; and helps create and support alternatives for children, women and girls who have been sexually exploited.

Introduction of the review:

The document ***Child Trafficking in Andhra Pradesh: A status report*** is commissioned by the UNICEF, Andhra Pradesh in the background of growing incidents of trafficking in children in the State of Andhra Pradesh. Though the State of Andhra Pradesh is considered to be one of the few States in the country taking certain effective steps (discussed in detail elsewhere in the report), trafficking in children is continued unabatedly. The purpose of this report is to review the incidence of trafficking in, the legal frame work that seeks to address the problem, various measures initiated by the Governments at Centre as well as the State, interventions launched by various civil society organisations and NGOs that have been working in this area. The objective of this report is to understand the nature of the problem, ongoing interventions and analyze the gaps in the Implementation of policies and critical gaps in programs that are administered for victims of sexually exploited children (Children being Trafficked) and to make recommendations to the Governments.

Objectives

- To understand in depth the Status of the activities on prevention and rehabilitation in the State of Andhra Pradesh
- To understand gaps in the existing legal provisions and suggest measures and make appropriate suggestion for the same
- To make a stake holder analysis in combating human trafficking
- To suggest Recommendation for road map to address the issue of Human trafficking in the State of Andhra Pradesh

Methodology

- Desk Review of the existing literature
- Interactions with the secondary stakeholders i.e., responsible persons in key positions in various departments/line agencies of the State Government of Andhra Pradesh
- Interactions with various NGOs actively working in the State in this area
- Consultations with the UNICEF

Chapter 1

1. Child trafficking in India

India is a source, destination, and transit country for men, women, and children subjected to forced labor and sex trafficking. The forced labor of millions of its citizens constitutes India's largest trafficking problem; men, women, and children in debt bondage are forced to work in industries such as brick kilns, rice mills, agriculture, and embroidery factories. A common characteristic of bonded labor is the use of physical and sexual violence as coercive tools. Ninety percent of trafficking in India is internal, and those from India's most disadvantaged social strata, including the lowest castes, are most vulnerable. Children are also subjected to forced labor as factory workers, domestic servants, beggars, agricultural workers, and to a lesser extent, in some areas of rural Uttar Pradesh as carpet weavers. There were new reports about the continued forced labor of children in hybrid cottonseed plots in Gujarat, and reports that forced labor may be present in the Sumangali scheme in Tamil Nadu, in which employers pay young women a lump sum to be used for a dowry at the end of a three-year term. An increasing number of job placement agencies lure adults and children for forced labor or sex trafficking under false promises of employment. Indian boys from Bihar were increasingly subjected to forced labor in embroidery factories in Nepal.

There is change in Scenario with regard to trafficking – traditional to commercial sex exploitation and trafficking.

In earlier days trafficking is only for sexual exploitation, However as observed new dimensions are emerging the issues of trafficking is associated with other issues like begging, child marriages as ex: recent Begging rocket in Hyderabad.

However There is no universally accepted definition for the word trafficking. The preamble of the *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* makes a reference to trafficking in the following manner¹:

The United Nations' General Assembly vide resolution (No. 49/166) adopted in the year 1994 defined it as "The illicit and clandestine movements of persons across national borders, largely from developing countries with economies in transition, with the end goal of forcing women and girls into sexually or economically oppressive and exploitative situations for profit of recruiters, traffickers and syndicates, as well as other illegal activities related to trafficking, such as forced domestic labour, false marriages, clandestine employment and false adoption"². The Global Alliance against Traffic in Women (GAATW) an international funding agency fighting against trafficking in women says *trafficking in persons includes three elements viz., the movement of a person (inside a country or across borders), with deception or coercion, into a situation of forced labour, servitude or slavery-like practices* and defines child trafficking as *the movement of a person (18 years and younger), into a situation of exploitative work such as forced labour or slavery-like practices*³.

¹ <http://www.haqcrc.org/publications/child-trafficking-india>

² Ibid

³ http://www.gaatw.org/index.php?option=com_content&view=article&id=454%3Aunderstanding-trafficking&catid=158%3Afaq&Itemid=57

Human Trafficking has been identified as the third largest source of income for organized crimes, following trafficking of weapons, drugs, generating billions of dollars every year. Trafficking in children is considered a contemporary form of slavery and is a gross violation of children's basic human rights. Although the issue of trafficking has received considerable attention in recent years, in some cases to the detriment of a more comprehensive assessment of systemic child protection approaches, reliable quantitative and qualitative data and accurate information about the dynamics of child trafficking in South Asia remains scarce. This is partly due to the lack of mechanisms for systematic, harmonized and disaggregated data collection, analysis and dissemination.

Women and girls are trafficked within the country for the purposes of forced prostitution. Religious pilgrimage centers and cities popular for tourism continue to be vulnerable to child sex tourism. Women and girls from Nepal and Bangladesh, and an increasing number of females from Uzbekistan, Ukraine, and Russia, are also subjected to sex trafficking in India. There were increasing reports of females from northeastern states and Odisha subjected to servile marriages in states with low female-to-male child sex ratios, including Haryana and Punjab, and also reports of girls subjected to transactional sexual exploitation in the Middle East under the guise of temporary marriages. Maoist armed groups known as the Naxalites forcibly recruited children into their ranks. Establishments of sex trafficking are moving from more traditional locations – such as brothels – to locations that are harder to find, and are also shifting from urban areas to rural areas, where there is less detection.

As a matter of fact the Calculations of trafficked people are generally made with reference to Commercial Sexual Exploitation. In India, the stigma attached to prostitution and the clandestine nature of operations makes it doubly difficult to arrive at authentic numbers. To give a sense of the total magnitude of the problem, estimates of adult and child sex workers in India are quoted.⁴ It is estimated that every year 30000 women and children are trafficked in India.

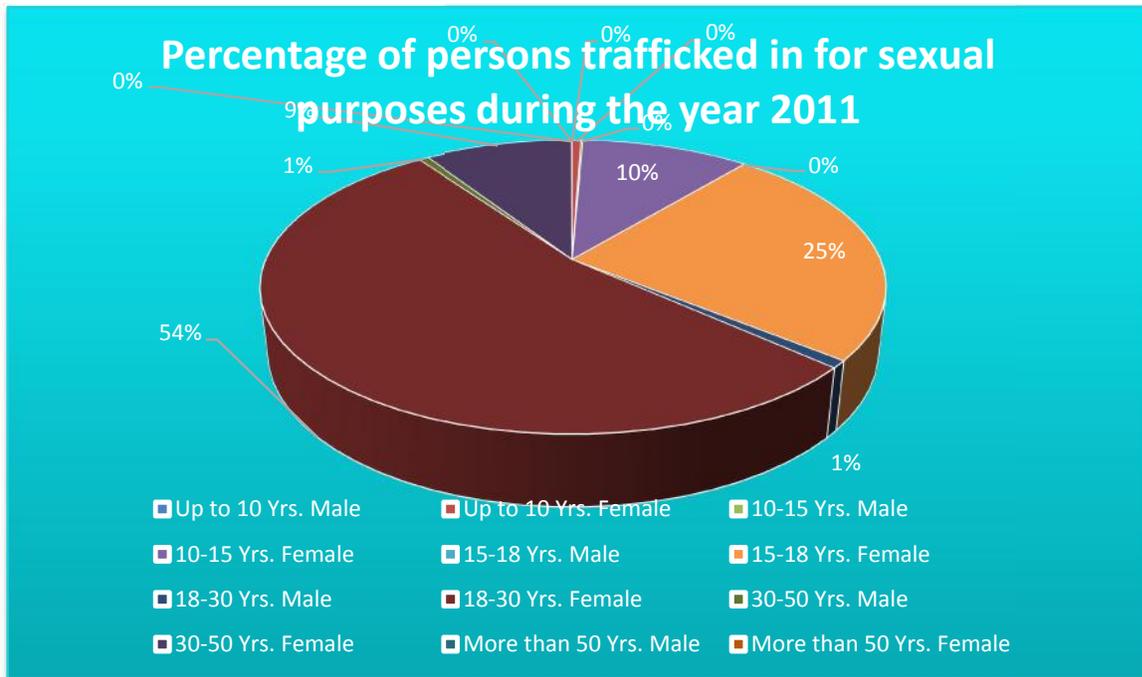
“Whereas prostitution and the accompanying evil of the trafficking in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community, ...”

All minors in Commercial sex work are generally classified as cases of trafficking. The figures quoted show a high degree of discrepancy, and the possibility of ascertaining the authenticity of the quoted figures is almost nil. The original sources, or how these figures have been arrived at, are rarely stated. Around 30 to 90 per cent of women and girls are under 18 at the time of entry in to prostitution¹. From the above chart it can be made out that 9% of the trafficked women are in the age group of 30 to 50 years, 54% of the women aged between 18 to 30 years are reported to be the victims of abduction and kidnapping for the sexual exploitation young girls aged 15 to 18 years constituted 25% and even small children under 10 years constituted 10%, thus 98% of the trafficked persons are females only.

Young girls and women who fall prey to the traffickers are not limited to a particular section, class or community. Children and women from different communities and economic classes

⁴ NHRC, 2003. op. cit. 1. Chapter 2, p. 21

are also trafficked into the flesh trade. Vulnerable conditions for women that push them into the traps of traffickers are many. Natural disasters, disturbed families, religious customs etc. all are contributing factors for the growth of this illicit industry. Broadly they can be classified into two factors: Supply factors and demand factors.



Though the government continues to make progress in its law enforcement efforts to combat human trafficking in 2011, but concerns remain over the uneven enforcement of trafficking laws and alleged official complicity. India also prohibits most forms of sex trafficking. Prescribed penalties for sex trafficking under the Immoral Traffic Prevention Act (ITPA) and the IPC, ranging from three years' to life imprisonment, are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. The ITPA also criminalizes other offenses, including prostitution, and has some sections that are sometimes used to criminalize sex trafficking victims.

However, government did not report comprehensive law enforcement data, and the challenges of gathering accurate, comprehensive, and timely data to assess law enforcement efforts. The Ministry of Home Affairs established scorecards for its AHTUs in June 2011 to improve the availability of real-time data. A variety of sources noted that there were many investigations, including inter-state investigations. In Mumbai, in 2011, there were 242 sex trafficking cases prosecuted in the special ITPA court; 125 sex trafficking offenders were convicted with sentences of up to three years' imprisonment. Two NGOs reported that six trafficking offenders were convicted for forced and bonded labor. Four offenders were sentenced to one year in prison – these sentences are being appealed – and two offenders were charged with fines. Most government prosecutions were supported in partnership with NGOs. A senior government official noted that while trafficking rescues and registration of cases have increased, convictions remain low. However, conviction rates were low across the penal system. Some NGOs continued to criticize the categorization of trafficking crimes as bailable offenses, which in some cases resulted in the accused

absconding after receiving bail. Enforcement of trafficking laws, particularly labor trafficking laws such as the BLSA, remained a challenge.

Along with the law enforcement agencies there are departmental activities. The Ministry of Women and Child Development (MWCD) which is implementing many programs for prevention and rehabilitation of the victims and one such program is Ujjwala, which seeks to protect and rehabilitate female sex trafficking victims and allocated the equivalent of \$118 million for 2011-12 to fund 153 projects in 17 states under the Ujjawala program and the 58 new Swadhar projects – which help female victims of violence, including sex trafficking.

The Central Bureau of Investigation⁵ established a dedicated federal anti-trafficking unit in

“Sex trafficking, also known as, Flesh trade, is a clandestine industry. Hardly 7% of the problem is visible. Most often victims are sold as children but they only become visible to the outside world years later, when they are adults and pose no risk to the traffickers. The social attitude and perception regarding sexual violence across the world and the associated stigma and ostracization pushes the *problem of trafficking further into oblivion*¹.”

January 2012 whose police officers have nationwide investigative authority. The government continued to implement its three-year nationwide anti-trafficking effort by disbursing funds to state governments to establish at least 107 new Anti-Human Trafficking Units in police departments during the reporting period, for a total of at least 194 AHTUs. Some NGOs believed that some units were more focused on sex trafficking than labor trafficking, including bonded

labor. Some units appeared to focus on child trafficking rather than on the trafficking of both children and adults. Some units continued to be understaffed, which hampered efforts. The government funded more than 500 police officers to participate in a six-month anti-trafficking course at the Indira Gandhi National Open University. The government reported that it covered transportation and lodging expenses for over 5,000 government officials who participated in NGO-organized anti-trafficking trainings.

However, NGOs continued to report that official complicity in trafficking remained a problem. Corrupt law enforcement officers reportedly continued to facilitate the movement of sex trafficking victims, protect suspected traffickers and brothel keepers from enforcement of the law, and receive bribes from sex trafficking establishments and sexual services from victims. Some police allegedly continued to tip-off sex and labor traffickers to impede rescue efforts. Some owners of brothels, rice mills, brick kilns, and stone quarries are reportedly politically connected. The Indian government reported no prosecutions or convictions of government officials for trafficking-related offenses during the reporting period; NGOs said this was due to a lack of sufficient evidence. In September 2011, the police arrested a member of the border security force for trafficking. He was released on bail as of December 2011, but there is no further information on that case. There was no information on the status of an arrest of a former member of parliament or an investigation on an Indian Administrative Services officer – as noted in the 2011 TIP Report – for his involvement in human trafficking.

⁵ Tip report 2012

A starting point for the analysis of available data is the National Crime Record Bureau (NCRB), of the Indian Ministry of Home Affairs, which collects data on trafficking through State Crime Report Bureaus and Union Territories, subsidiaries of the NCRB that obtain data from District Crime Report Bureaus. Data available through NCRB is collected through First Information Reports (FIR), lodged in police stations.

National data from the NCRB provides an analysis of trends in various Indian Penal Code (IPC) crimes, including: importation of girls; kidnapping and abduction of women and girls; and offences under the Immoral Trafficking. This presents an indication of the level of reporting of trafficking within India.

In India the Prevention Act (ITPA, Immoral Trafficking prevention Act), which are consolidated from information provided by State and Union Territories. From what data is available in India, it appears that the “worst forms” of trafficking relate to the illegal movement of women and children for the purposes of exploitation in sectors such as commercial sex work, and child labor of all forms.

India has earned the dubious distinction of being a source, transit point and destination to the trafficked children. There is internal trafficking of children within the country, young girls are trafficked to other countries (mostly to middle east) and large number of young girls from Nepal are trafficked in to India to work as sex workers and from Bangladesh many young girls are trafficked in to Pakistan via India.. Arriving at an accurate number of children/women trafficked in is not possible as most of the cases go unreported. Because, the ‘trade is secretive, the women are silenced, the traffickers are dangerous and not many agencies are counting’, in addition to the social stigma which prevents the victims or their relatives from making a complaint.

- ❖ Trafficking in children is on rise, and nearly 60% of the victims of trafficking are below 18 years of age (NCRB, 2005).
- ❖ According to NHRC Report on Trafficking in Women and Children, in India the population of women and children in sex work in India is stated to be between 70,000 and 1 million of these, 30% are 20 years of age. Nearly 15% began sex work when they were below 15 and 25% entered between 15 and 18 years (Mukherjee & Das 1996).

A rough estimate prepared by an NGO called End children’s prostitution in Asian Tourism reveals that there are around 2 million prostitutes in India. 20% among them are minors.

Chapter 2

International and National level Key Interventions in Addressing the Problem of Child trafficking:

United Nations statement on trafficking

The increasing international focus on trafficking since the 1990s culminated in 2000 with the adoption of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. Also known as the Palermo Protocol, this is the first major international intervention to address trafficking based on an expanded understanding of the term. Article 3 defines “trafficking in persons” for the purposes of the protocol, as follows:

- (a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) “Child” shall mean any person under eighteen years of age. In this definition, influenced by a crime-control and anti-prostitution position, prostitution is mentioned only in the broad sense of exploitation and coercion. Neither term is clearly defined; further, consent or choice is irrelevant if any form of coercion or exploitation is used (Warren 2007). One of the key areas of contention during the drafting of the Protocol was the definition of trafficking itself. Scholars and sex worker rights advocates point out that by including clauses b, c, and d, which all relate to consent, the definition conflates sex work and sex trafficking, and nullifies the position of voluntary prostitution (Ditmore and Wijers, 2003; Doezema, 2005).

Speaking from a sex workers’ rights perspective, Doezema (2005:80) writes, “In distinguishing between ‘trafficking’ and ‘voluntary prostitution’ through the qualifier of ‘consent’, the Trafficking Protocol offers nothing to sex workers whose human rights are abused, but who fall outside of the narrowly constructed category of ‘trafficking victim’.”

According to the Protocol, “trafficking” consists of three separate elements: (i) ***an action***, consisting of recruitment, transportation, transfer, harboring or receipt of persons; (ii) ***by means of*** threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or position of vulnerability, giving or receiving payments or benefits to achieve consent of a person having control over another; and (iii) ***for the purpose of*** exploitation (including, at a minimum, the exploitation of the prostitution of others, or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude, or the removal of organs).

All three elements must be present for the Convention to become operational within a given situation. The only exception is for children for whom the requirements relating to means are waived. Yet the Protocol leaves undefined such key terms in the definition as ‘abuse of power’ and ‘position of vulnerability’; the terms ‘slavery’, ‘forced labor’, ‘practices similar to slavery’, or

'servitude'. In addition, and following considerable debate during the finalization of the definition, the Protocol does not pronounce specifically on the issue of prostitution to which trafficking has traditionally been linked, and instead it has sought to encompass all non-consensual, economic exploitative slavery like conditions and relations of work and life at any stage in the migration process (Pearson, 2004). The Palermo Protocol identifies *exploitation* as the key actionable element; however it leaves nation states to deal with the definition of sexual exploitation and the legality of prostitution (Doezema, 1998; Raymond, 2002; Saunders, 2005). A further limitation is that while the Protocol's definition has been used as a reference point for a range of exploitation related to movement within the country, the issues that trigger and are triggered by such movement for instance economic need, have not been adequately addressed by it. The Protocol does not give a clear position on whether someone with economic need who engages in prostitution is a 'victim' of trafficking.

The Palermo Protocol definition can clearly apply to a typical illustration of sex trafficking such as that of a women being taken by a recruiter on a promise of employment or marriage, and being sold into prostitution. However, several widely prevalent situations would struggle to be identified and responded to as sex trafficking, per the Palermo protocol definition. One such is that of women migrating to work as laborers in such informal work sectors as construction, agricultural labor or in brick kilns who are kept in slavery-like or exploitative work conditions, which may include sexual exploitation. Another is that of women whose movement for work, including for sexual commerce, is limited to one single district in a state within the country, but who nevertheless experience sexual exploitation and harassment within this limited sphere of movement. Adding a 'work' dimension to the discourse of trafficking, the GAATW defined trafficking of women, not as enslavement of women, but, "as the trade and exploitation of labor under conditions of coercion and force" (Kempadoo, 2005: viii).

These examples illustrate one of the central unresolved debates during the framing of the UN definition, and which resulted in what Ditmore and Wijers (2003: 87) referred to as the "compromise" definition, namely whether trafficking should be defined by the *nature of the work* or the *use of deceit and coercion*. They commented,

"The compromise reached in the final definition [allows] each nation [to] legislate its own view of prostitution. The Protocol thus recognizes the existence of both coerced and noncoerced participation in sex work and takes no position on the legal treatment of adult, non-coerced sex work...However, it does mean that, although the Protocol leaves governments free to treat sex work as legitimate work, it (also) does not prevent them from further criminalizing sex work and sex workers in the name of combating trafficking. In addition, the Protocol does little to protect the rights of trafficked persons, leaving it to the discretion of the signatory countries whether to arrest, prosecute and deport them or provide them with protection and assistance."

The inclusion of force or deception as an essential element of trafficking signified an important shift from the abolitionist perspective as the focus moved from sexuality and morality to actual working conditions and crimes against persons. The position of the sex workers' rights group was that trafficking should not be defined by the nature of the work but by the use of deceptive or coercive means and/or purposes, that is, the conditions of recruitment and work. This group also argued that while people can consent to migrate or to work in prostitution, they cannot consent to forced labor, slavery or servitude.

The ***SAARC Convention on Prevention and Combating Trafficking of Women and Children for Prostitution (5th January 2002)*** contains provisions with regard to rehabilitation and care in Article 9. State parties are required to work out the modalities for the repatriation of victims to their countries of origin. Also, pending such repatriation, state parties are required to make suitable arrangements for their care and maintenance including the provision of legal advice and health care facilities. Parties are to establish protective homes and shelters for the rehabilitation of victims of trafficking.

Further, state parties may authorize recognized NGO's to establish such protective homes or shelters for providing care and support for trafficking victims.

The *Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children* contains provisions with regard to the repatriation of the victims of trafficking. These include facilitation and acceptance by the State of which the trafficked person was a national or where he had a right of permanent residence, with due regard to the safety of the person, the return of the trafficked person without undue or unreasonable delay; verification, upon a request and without undue delay when a victim of trafficking is a national or had a right of permanent residence at the time of entry into the state of the receiving party in the state to whom the request is made etc. (See Article 8)

In South Asia, the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution was adopted by the South Asian Association for Regional Cooperation (SAARC) countries, in January, 2002. The significance of this instrument lies in its status as the first-ever regional treaty to deal specifically with trafficking. The Convention defines trafficking as, "the moving, selling or buying of women or children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subject to trafficking". The person subject to trafficking refers to "women and children victimized or forced into prostitution by the traffickers by deception, threat, coercion, kidnapping, sale, fraudulent marriage, child marriage or any other unlawful means." This definition conflates prostitution and trafficking. Critiquing the definition, the Asia Pacific Forum of Human Rights Institutions found that "consent" has been interpreted as an invitation to attacks on migrant prostitution (TAPFNHRI, 2002). However, the Forum felt that concern that this provision could be used to attack consensual migration for work in the sex industry was overstated – in legal if not in policy terms, because consent to migrate is different from consent to deception, threat, coercion, kidnapping, etc.

UN-GIFT's Alarming Estimates:

No of Countries

161 countries are reported to be affected by human trafficking by being a source, transit or destination count.

The Victims

The majority of trafficking victims are between 18 and 24 years of age an estimated 1.2 million children are trafficked each year.

95% of victims experienced physical or sexual violence during trafficking (based on data from selected European countries)

43% of victims are used for forced commercial sexual exploitation, of which 98 per cent are women and girls

32% of victims are used for forced economic exploitation, of which 56 per cent are women and girls.

Chapter 3

National Legal Framework to Protect Child Rights in India :

The Government of India continued to make progress in its efforts to prevent human trafficking. The MHA's Anti-Trafficking Nodal Cell continued bimonthly inter-ministerial meetings on trafficking, which also included participation of anti-trafficking officers from state governments. The Ministry of Home Affairs raised public awareness on trafficking through radio talk shows and press conferences; the Ministry of Overseas Indian Affairs continued to work with state governments to conduct safe emigration awareness campaigns; and the Bureau of Police Research and Development organized a workshop on the linkages between missing children and human trafficking and encouraged all police officers to track cases of missing persons.

The Ministry of Labour and Employment continued its preventative convergence-based project against bonded labour in Tamil Nadu, Andhra Pradesh, and Odisha, but not in Haryana. The government reduced the demand for commercial sex acts in the reporting period by convicting clients of prostitution. The government continued its multi-year project to issue unique identification numbers to citizens; more than 100 million identify cards were issued in the reporting period. Training for Indian soldiers and police officers deployed in peacekeeping missions reportedly included awareness about trafficking. However following are the key legal frame works to protect child rights in India.

Several national statutes may apply to cases concerning the commercial sexual exploitation of children:

1. The Indian Penal Code, 1860
2. The Immoral Trafficking (Prevention) Act, 1956
3. The Indecent Representation of Women (Prohibition) Act, 1986
4. The Juvenile Justice (Care and Protection of Children) Act, 2000
5. Child Marriage (Restraint) Act, 1929
6. Information Technology Act, 2000

There are also a few state laws related to the commercial sexual exploitation of children:

1. The Andhra Pradesh (Andhra Area) Devadasis (Prevention of Dedication) Act, 1947
2. The Karnataka Davadasis (Prohibition of Dedication) Act, 1982
3. The Goa Children's Act, 2003

The Indian Penal Code, 1860 (Penal Code) is the primary code for all criminal offences and punishments granted by the Courts. The Penal Code, though archaic, is an exhaustive statute and is the main law relating to crimes in India; it defines offences and prescribes punishments. Complementing the Penal Code is the Code of Criminal Procedure, 1973, The Optional 1. Protocol (OP) to the Convention on the Rights of the Child (CRC) on the Sale of Children, Child Prostitution and Child Pornography was ratified by India on September 16, 2005. This is the initial report by India on the status of implementation of this OP under Article 12, paragraph 1, for consideration by the United Nations Convention on the Rights of the Child (UNCRC) Committee.

Ministry of Women and Child Development: The Ministry implements and monitors all policies and programmes/schemes pertaining to children through institutional mechanisms, which include the National Institute of Public Cooperation and Child Development (NIPCCD),

Central Adoption Resource Authority (CARA), Food and Nutrition Board (FNB), Central Social Welfare Board (CSWB), National Commission for Women (NCW) and Rashtriya Mahila Kosh (RMK). In addition, the MWCD has set up National Commission for Protection of Child Rights (NCPCR) to look into issues specific to child rights violation, which was earlier addressed by National Human Rights Commission (NHRC).

National Commission for Protection of Child Rights: The establishment of NCPCR in 2007, one of the few Commissions of its kind in Asia, is a major step towards the protection of rights of children in India. The Commission ensures that all laws, policies, programmes, and administrative mechanisms are in consonance with the child rights perspective enshrined in the Constitution of India and CRC.

National Human Rights Commission: The Commission, functioning since 1993, has played a proactive role in ratification of two OPs to the CRC in 2005 and the United Nations Convention on the Rights of Persons with Disabilities in 2007.

NHRC undertook a pioneering study in 2003-04, in collaboration with UNIFEM, the MWCD and the Institute of Social Sciences (ISS), to understand the issue of trafficking of women and children.

State Human Rights Commissions (SHRCs), set up in 18 States in accordance with the Protection of Human Rights (Amendment) Act, 2006, are engaged in the protection and promotion of children's rights.

National Commission for Women: The NCW, constituted on January 31, 1992, as a statutory body at the National level, in pursuance of the National Commission for Women Act, 1990, safeguards the interests of women. The Commission, along with 26 State Commissions,¹ has handled several complaints of child marriage, female foeticide, etc and has acted *suo motu* in some cases to provide speedy justice. The Commission has sponsored legal awareness programmes, constituted expert committees on economic empowerment of women and taken up publicity campaigns against female foeticide, child marriage, rape, etc.

India's Immoral Traffic Prevention Act, 1956 is the only legislation specifically addressing trafficking. However, it does mix up issues of trafficking and prostitution (Which is why as far as possible, the term commercial sexual exploitation is used in this document) and is currently pending amendment. It penalizes trafficking of women and children for commercial sexual exploitation. Keeping a brothel is a punishable offence (Section 3), as is living on the earnings of the prostitution of others (Section 4). The latter would inadvertently also cover family members or dependents of the woman, which was not the intention of the legislation. There have been cases at times where the trafficked woman has herself been charged under this provision.

Some of the major elements of trafficking are covered by the enactment. These include procuring (Section 5), inducing or taking a person for prostitution, detaining a person in premises where prostitution is carried on (section 6A) and soliciting (section 8). Soliciting has also been used against women themselves and is sought to be addressed by the proposed amendment which seeks to drop the provision. If a person is found with a child in a brothel, there is a presumption that the child has been detained in that place for sexual exploitation (section 6 (2A)). It is a presumption which can be rebutted by the defence on production of appropriate evidence.

On rescue and rehabilitation, the Act also provides for rescue on the directions of a Magistrate (section 16). In order to ensure that the women rescued are not harassed, it requires that two women police officers be present during the search procedures and also that the interrogation be done by a woman police officer (section 15 (6A)). There is a provision for placing the woman or child in intermediate custody in a safe place and to refrain from placing her with those who might have a harmful influence on her (section 17). If trafficking has been by the members of the family, or there is suspicion that they may be involved, the trafficked persons may not be released to their families.

As mentioned earlier, the Act is under amendment, and it is hoped that the concerns often raised in its implementation will be adequately addressed.

The chart below gives an overview of the Immoral Traffic Prevention Act, 1956.

Legislation	Section	Provisions relating to trafficking
Immoral Traffic Prevention Act, 1956	3	Brothel keeping
	4	Living on the earnings of prostitution of others.
	5	Procuring, inducing or taking person for prostitution.
	6(1)	Detaining person in premises where prostitution is carried on.
	6(2)	Presumption of offence if a person is found with a child in a brothel.
	7	Prostitution in the vicinity of public places.
	8	Seducing or soliciting.
	9	Seduction of a person in custody.
	15	Two women police officers to be present during search, and interrogation is to be done by a woman police officer.
	16	Rescue on Magistrate's directions.
	17	Intermediate custody in a safe place, not with those with a harmful influence over her.

UNODC, 2011, Human Trafficking, Bangladesh, India, Nepal and Sri Lanka; A publication of United Nations Office on Drugs and Crime

National laws on child protection issues .		
	Constitution of India	- Art. 23 (1) of the Indian Constitution explicitly prohibits, “traffic in human beings and forced labour and makes it “an offence punishable in accordance with law”.
1956	The Immoral Traffic (Prevention) Act, 1956 (amended in 1986)	- This law limits itself to addressing trafficking for prostitution when done in a brothel or in public place - Ambiguous definition of prostitution - Children under 16 - No special provisions for children - 2006 proposals to amend to further define trafficking, and remove ambiguities
1860	Indian Penal Code	- It is the main criminal law of the country. - Prohibits procuring, inducing or forcing children into prostitution - Does not define prostitution or illicit sexual intercourse. -Offers hardly any protection for boys.
1933	Pledging of Child (Labour) Act	-Penalizes ‘pledging’ of a child.
1976	Bonded Labour System (Abolition) Act	- Prohibits forcing a person into bonded labour for debt repayment.
1994	The Transplantation of Human Organ Act	- Makes removal of human organs without authority and commercial dealing in human organs criminally liable.
1986	Child Labour (Prohibition and Regulation) Act	- Prohibits employment of children below 14 years in certain hazardous processes and regulates it in certain other non-hazardous processes.
2006	The Prohibition of Child Marriages Act	- Age of marriage for girls is 18 years and that for a boys is 21 years. - Declares a child marriage null and void when the child is sold or trafficked for purpose of marriage or through marriage.
1982	Prohibition of Dedications Act	- Banned practices of Devadasi or Jogini
2000	Juvenile Justice (Care and Protection of Children) Act, 2000, amended in 2006 by Amendment Act 33 of 2006	- Special legislation for children - Defines a ‘child’ as a person up to 18 years of age. -It deals with two categories of children – those in need of care and protection and those in conflict with law. - It considers a child living with a prostitute as a neglected child and empowers the state to take charge of that child.
2000	The Information Technology Act	- Publishing or transmitting, or causing to be published, pornographic material in electronic form shall be punishable
1946	The Foreigners Act	- Regulates the entry, stay and departure from India of foreigners, is also relevant to the trafficking issue.
1973	The Criminal Procedure Code	- Lays down the procedure under which a criminal case is registered
1956	Young Persons Harmful Publications Act	- Prevents the dissemination of certain publications that are harmful to young persons.

Chapter 4

In the chapter an attempt has been made to understand the reasons for the high prevalence of trafficking in the State of Andhra Pradesh in spite of the fact that the State has been leading in planning and implementing program for women especially the Self Help Group movement and also the NREGS.

The Government of Andhra Pradesh has taken up the theme of women's empowerment as one of the strategies to tackle the socio – economic poverty. Self Help movement through savings has been taken up as a mass movement by women – a path chosen by them to shape their destiny for better. Development Agenda of the State in the last few years placing the people, especially women in the fore –front has enabled formation of a large number of Self Help Groups (SHGs) throughout the State and majority of women are saving one rupee a day. There are about 4.65 lakhs women SHGs in Andhra Pradesh covering nearly 61.70 lakhs poor women. Andhra Pradesh alone has about half of SHGs organized in the Country. The SHGs are not only resorting to thrift but also are taking small loans out of the corpus available with the group. The group corpus consists of savings, government assistance and also bank loan. Members use the loan out of group corpus for their personal needs initially. However, in the long run such loans are utilised for income generation activities. Since inception an amount of Rs.1556.90 crores is mobilized as corpus by these groups.

Government felt the necessity of building institutions for SHG at the village and mandal level and the federations are formed. The federations at Mandal level are registered under the mutually aided co-operative societies Act 1995. Such federations take up functions like pensions to old people, insurance services to members, procurement of raw materials and marketing of finished products, accessing community infrastructure facilities, providing market information and other services to the members.

However in the survey conducted by the AIDWA revealed that if one SHG group failed to repay their dues, banks were not giving loans to other SHGs in the village. Banks were not allowing SHG members to withdraw their savings with banks and charging interest for the full loan amount. They were making SHG members subscribe to unwanted insurance schemes for sanctioning loans. The SHG members were forced to pay for book-keepers, coordinators, 'bank mitras' to get loans sanctioned, the banks were also forcing women to repay their loans in shorter EMIs. Moreover only 43 lakh SHG members were enrolled under the co-contributory pension scheme 'Abhayastham' as against 73 lakh women who had applied for. Poor women, whose credit needs were not fully met by public sector banks, were knocking at the doors of MFIs which charge very high interest. The Micro Finance Institutions (Development and Regulation) Bill, taken up by Parliament would hamper the SHG movement as its provisions were loaded in favour of MFIs and not at all in favour of SHG members.

All these indicate that the SHG movement has failed in the State of Andhra Pradesh and women who were anticipated to be empowered are becoming more poorer leading to they taking other means of livelihoods or being exploited by people from all walks of life

In Andhra Pradesh, NREGS was implemented by three phases: Thirteen districts started to have access to NREGS in 2006 in Phase 1; Phase 2 of EGS involved six more districts in 2007; The remaining three districts were covered in 2008 when Phase 3 started. Basic

entitlements under the NREGS include work on Demand up to 100 days per household, Payment of minimum wages, Payment of wages with 15 days of completion of work Compensation, if work not provided within 15 days and also providing basic worksite facilities like the Drinking Water, Shade, First Aid and Creche

Not surprisingly for a program of this magnitude, the NREGS has been controversial. At one hand where studies have revealed the there is high awareness of the program, high participation rates, especially by females and also that the program has contributed to decentralization, transparency of local political processes, and served as an important safety net (Khera and Nayak 2009; Drèze and Khera 2009; Jandu 2008). At the same time the program has received criticism of high cost, low efficiency, and serious corruption (eg., Niehaus and Sukhtankar 2009). The facts that EGS job opportunities may be too limited to meet the demand at the start of the scheme and the fact that the daily wage of EGS is higher than the market wage for casual labor may cause leakage of the scheme fund to unintended group. Furthermore, the corruption in the implementation of the scheme makes it more difficult for EGS to actually reach its target group, up to the point where the intended benefits may not materialize at all.

It can be seen that NREGS affects some major welfare indicators on its direct beneficiaries. The notion is that that NREGS targets the poor, however, there is always influence of village leaders in allocation of work and in the female-headed households the awareness of the program and the ability to supply labor is a major hurdle. Also the migrant families are unable to register for job card under the NREG Scheme. If the migrants are not-present during the registration process due to migration for want of wages they are neither included nor there is a persuasion from the community to include these families.

Another crucial aspect is the time-lag between application and issue of job card. As per the directives of the NREGA, job card has to be issued at the earliest preferably within couple of weeks. Due to procedural delays many a time people have to wait for a longer time. Also the Job card registration is done with no proper age proof. At a very young age the children are projected as eligible for NREGs job cards and due to the greed of the parents and guardian the young girls registered for NREGA are exploited by the middlemen.

The exploitation in proper implementation of NREGA ranges from land lords to village elders to the authorities managing the NREGS and the real needy and most vulnerable are always left from such schemes.

Along with all the other programs the Department of Woman and Child Welfare is very proactive in implementing the National schemes like the Ujjwala and Sabala under the Kishore Sakthi Yojana (KSY) which is for the prevention of the girls from trafficking and other forms of exploitation

Ujjwala was initiated with the objective to prevent trafficking of women and children for commercial sexual exploitation through social mobilization and involvement of local communities, awareness generation programmes, generate public discourse through workshops/seminars and such events and any other innovative activity. To facilitate rescue of victims from the place of exploitation and place them in safe custody. To provide rehabilitation services both immediate and long-term to the victims by providing basic amenities/needs such as shelter, food, clothing, medical treatment including counselling,

legal aid and guidance and vocational training. To facilitate reintegration of the victims into the family and society at large and to facilitate repatriation of cross-border victims to their country of origin.

The TARGET GROUP/BENEFICIARIES are the Women and children who are vulnerable to trafficking for commercial sexual exploitation and the women and children who are victims of trafficking for commercial sexual exploitation.

The custodians of the project is the Social Welfare/Women and Child Welfare Department of State Government, Women's Development Corporations, Women's Development Centres, Urban Local Bodies, reputed Public/Private Trust or Voluntary Organizations with adequate experience in the field of trafficking, social defence, dealing with women and children in need of care and protection, children in conflict with law, etc

Kishori Shakti Yojana (KSY) seeks to empower adolescent girls, so as to enable them to take charge of their lives. It is viewed as a holistic initiative for the development of adolescent girls. The programme through its interventions aims at bringing about a difference in the lives of the adolescent girls. It seeks to provide them with an opportunity to realize their full potential.

This scheme is a redesign of the already existing Adolescent Girls (AG) Scheme being implemented as a component under the centrally sponsored Integrated Child Development Services (ICDS) Scheme. The new scheme dramatically extends the coverage of the earlier scheme with significant content enrichment, strengthens the training component, particularly in skill development, aspects aimed at empowerment and enhanced self-perception. It also fosters convergence with other sectoral programmes, addressing the interrelated needs of adolescent girls and women and was initiated with the objective to improve the nutritional, health and development status of adolescent girls, promote awareness of health, hygiene, nutrition and family care, link them to opportunities for learning life skills, going back to school, help them gain a better understanding of their social environment and take initiatives to become productive members of the society. It is covered in total 6118 blocks in the country

In spite of the schemes and progressive program to empower women, Andhra Pradesh has been the leading state in the issues of child trafficking in the country

Child Trafficking in Andhra Pradesh

Andhra Pradesh is a source, transit station and also destination for trafficking in young girls. The State is considered to be one of the high supply zones along with Tamil Nadu, West Bengal and Maharashtra. A study done by Social Action Forum for Manavadhikar on the Commercial Sex Workers in Delhi, who were trafficked from different States found that 29.5% of them are from Andhra Pradesh.

Factors for raise of Trafficking for Sexual exploitation in Andhra Pradesh:

Push	Pull
<ul style="list-style-type: none"> ✚ POVERTY is the major reason, it makes majority of children vulnerable, but it is not the only reason for trafficking. Looking at per capita expenditure on social sector by major states Andhra Pradesh, Rajasthan, Maharashtra, West Bengal, Uttar Pradesh have gone up but maximum women and girl children are trafficked from these states for brothel based prostitution². ✚ CHILD MARRIAGE still exists in our country and so does dowry. Any man who does not claim a “dowry” at the time of marriage is considered as the perfect groom and the daughter is carelessly “disposed in marriage”. The girls are thus trafficked in the name of marriage. The groom may be no less than a pimp looking for a new victim. Many girls as a result are trafficked in the name of marriage to Uttar Pradesh, Bihar and other states. ✚ MAN MADE DISASTERS (INSURGENTS AND RIOTS), NATURAL CALAMITIES (FLOODS, CYCLONES ETC.), AND OTHER POLITICAL DISASTERS aggravate the vulnerability of women and children. In a time of unrest with the men are away fighting or trying to survive it is the women and the children who suffer the economic hardships as well as the lack of security, due to the loss of family support system and safe shelter. The traffickers take advantage of this vulnerability and exploit children. ✚ SOCIAL STIGMA associated with single, divorced, unwed, widowed, sexually abused women and young girls also is a major contributing factor. The unwillingness of the society to accept them as an integral part leads to frustration, isolation and with no support system to provide them security, they fall a prey to the traffickers. ✚ RATE OF FEMALE INFANTICIDE AND FETICIDE increases day by day and is dis-balancing the male to female ratio in most parts of the country. So some states like Punjab and Haryana, take on girls from neighbouring states in the name of marriage for commercial sexual exploitation. ✚ UNEMPLOYMENT is still a major problem in the country. When men (supposedly the bread winners) are unable to find jobs, the children undergo immense pressure to fend for the family needs. The traffickers often take advantage of these economic hardships faced by the women and children and victimise them. ✚ DOMESTIC VIOLENCE: Indian women have little economic emancipation especially in the family sphere. On the other hand some of them may be regularly subjected to domestic violence and abuse, from family and friends. So the woman is forced to opt out of such situations. Many women who opt out or escape often find themselves vulnerable. The children from such situations are vulnerable to run away situations and experiments when they get into the hands of traffickers. ✚ FALSE PROMISES AND THE LURE OF JOB / MARRIAGE / LOVE: Many children are lured out of their homes by false promises of love, marriage or work. They may accompany their friend or lover or acquaintance and then find themselves 	<ul style="list-style-type: none"> ✚ With globalisation and increasing competition, there is a growing demand by employers and enterprises for CHEAP LABOUR of women and children. ✚ Development policies and patterns of development promoting TOURISM, INDUSTRIALISATION AND RURAL TO URBAN MIGRATION particularly of males has enhanced the demand for commercial sex and ensured a viable proposition for the traffickers by providing them the market and the infrastructure to sell minors and women for Commercial Sexual Exploitation. ✚ The ECONOMICS OF THE TRAFFICKING BUSINESS, which requires low investments and ensures high returns.

trapped in a vulnerable situation.

- ✚ **TRADITIONAL PROSTITUTION:** dommara Basavi, Kalavantula, and other such communities, follow a traditional form of prostitution. The commercial sexual exploitation is not considered as exploitative in the first place.
- ✚ **Religious Prostitution** like Jogini, matamma, though banned in the country still exists in a clandestine manner. Minor girls are forced into prostitution in the name of faith especially in the States of Maharashtra and Karnataka.
- ✚ **Lack of Employment Opportunities and Training** for girl children in the rural districts compels them to migrate in search of a better tomorrow and make them vulnerable to trafficking.

FACETS OF THE MISERY AND THE EXPLOITATION OF CHILDREN IN BROTHEL PROSTITUTION OR OTHER WORK

- ✚ **LIVING ENVIRONMENT** is deplorable – the physical facilities provided in the so called work areas are below any acceptable standards.
- ✚ The **CONDITIONS OF “WORK” AND TREATMENT** meted out to the women often involves slavery like practices and prison like environments. The hours that they have to spend taking customers are long with no time for rest or recreation. They are often forced to take customers even if they are physically unfit to take one.
- ✚ **WAGES PAID ARE LOW**, not at par with the male counterparts (if any) or they are not paid at all. The traffickers, the brothel madams or the employers may withhold the earnings of the women and thus they are rendered without any access to their own remuneration.
- ✚ They have **NO ACCESS / LITTLE ACCESS TO HEALTH OR MEDICAL FACILITIES**. Those who are trafficked and forced into commercial sex constantly face the risk of pregnancy, abortions, maternal mortality and the threat of Sexually transmitted diseases, HIV and AIDS.
- ✚ Above all of this is the **MENTAL TRAUMA** that these women undergo. They lose their self-esteem and their will to live life. Even when they are being put through processes of reintegration, they have to constantly deal with humiliation, isolation and social ostracization.
- ✚ A growing entertainment and commercial sex industry employing a large number of boys and girls and women, as the male clients prefer younger women and virgin girls and also boys in fear of HIV and AIDS and other STD infections⁶.
- ✚ In a competitive world of business, employers and enterprises, with no strict ethical policies to guide them, they employ child labour in order to pay less. Children can be controlled well and do not bargain for higher wages. Exploitative and undignified work is imposed on them.
- ✚ Certain patterns of economic development in a country or in a region attracts male migrant workers and change the demographic profile of the population, trigger rural – urban migration, cross border migration, tourism etc. generate the demand for commercial sex.

⁶ South Asia Regional Mid Term Review of Yokohama Declarations, Sri Lanka

Andhra Pradesh Interstate Trafficking:

According to the Government of Andhra Pradesh and findings of various studies there are 17 Districts⁷ in the State spread in all the three regions, which are to be considered as hotspots, where trafficking of girls and women takes place significantly.

They are the origin, transit, and destination for thousands of trafficked persons. Internal trafficking of women and children for the purposes of commercial sexual exploitation is widespread among all the 23 districts of A.P. however in 16 districts of

1.Nizamabad, 2. Karimnagar,
3.Warangal, 4.Khammam,
5.Vizianagaram, 6.Vishakapatnam, 7.East Godavari,
8.West Godavari,
9.Hyderabad, 10 Krishna, 11.Guntur,
12.Kurnool, 13.Prakasham, 14.Anantapur,
15.Cuddpah, 16.Ranga Reddy and
17.Chittor the incidence of human trafficking is high. Women and girls/children from A.P. are trafficked to other states and also within the state for the purpose commercial sexual exploitation.

Vijayawada, Guntur, Tenali, Ongole, Rajahmundry, Eluru has major railway Junction and is centrally located in AP. It is well connected by road and rail to different cities in the country. Lakhs of people pass through or leave for other places from these places. Hence, it has become a promising place for traffickers for their operations. It is from this city that they transport girls to various destination areas. The railway station and the bus terminal being over-crowded throughout the day, it is difficult to suspect the movements of traffickers.

Further Vijayawada, Guntur, Vizag, Warangal, Tirupathi and Hyderabad are the major transit centre in the state, because these cities are centrally located in the state and have rail and road linked to destination areas like Pune, Mumbai, Delhi, Kolkata, Chennai, Bangalore and Goa etc in India. Krishna, East & West Godavari, Guntur , Prakasam and Nellore Districts in coastal AP, Warangal, Mahboobnagar,Nalgonda, Khammam and Medak, in Telangana, Ananthapur, Kadapa in Rayalaseema are supply and demand areas in the state. Most of the traffickers of the state operate from these districts in groups, and they have linkages with brothels and pimps of the major destination areas of the country.



POVERTY, FOETICIDE / INFANTICIDE, CHILD MARRIAGE, NATURAL DISASTERS (FLOODS, CYCLONES ETC.), DOMESTIC VIOLENCE, UNEMPLOYMENT, AND LURE OF JOB / MARRIAGE WITH FALSE PROMISES, DOMESTIC SERVITUDE, TRADITIONAL / RELIGIOUS PROSTITUTION (DEVDAZI), AND LACK OF EMPLOYMENT OPPORTUNITIES CAN BE DESCRIBED AS SUPPLY FACTORS, THE DEMAND FACTORS ARE MIGRATION, HOPE FOR JOBS / MARRIAGE, DEMAND FOR CHEAP LABOUR, ENHANCED VULNERABILITY DUE TO LACK OF AWARENESS, CREATION OF NEED AND MARKET BY TRAFFICKERS, SEX TOURISM, INTERNET PORNOGRAPHY AND ORGANIZED CRIME GENERATING HIGH PROFITS WITH LOW RISK FOR TRAFFICKERS.

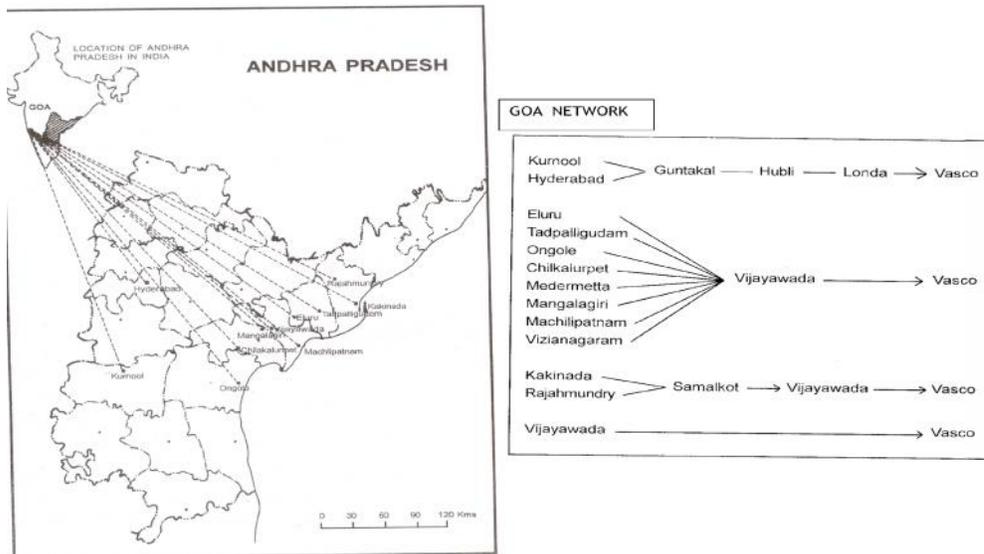
⁷ These 17 districts are: 1.Nizamabad, 2. Karimnagar, 3.Warangal, 4.Khammam, 5.Vizianagaram, 6.Vishakapatnam, 7.East Godavari, 8.West Godavari, 9.Hyderabad, 10 Krishna, 11.Guntur, 12.Kurnool, 13.Prakasham, 14.Anantapur, 15Cuddpah, 16.Ranga Reddy and 17.Chittor.

Andhra Pradesh Intrastate Trafficking:

Among all the other states in the country, A.P. has the dubious distinction of being the highest contributor in contributing the maximum no..of women /girls to the big and small brothels located in various cities in India, To Goa 80%, Delhi 45% Mumbai 28% and Kolkata 3%. (*“Book: shattered innocence by PRAJAWLA*). Apart from the places aforesaid, the girls are also sent to cities Karnataka, Uttar Pradesh and Bihar.

A survey conducted by National Commission for Women in 1997 estimates that Andhra Pradesh represents 40% of the victims trafficked for sexual exploitation, which re-confirms the greater need to work in the state of A.P. One of the most disturbing trends in human trafficking is the increase of children forced into prostitution. This is because children fetch a higher price than adult women in brothels. Over 61 percent of rescued victims of trafficking said that they were forced into prostitution when they were children, under the age of 18. Further Trafficking has increased in Andhra Pradesh because of globalization, free market economy, poverty, lack of education and livelihood options, exacerbated by other socio-economic variables such as gender discrimination, ethnicity, caste and cultural sanctions. The scare of HIV/AIDS has propelled the demand for children in prostitution.

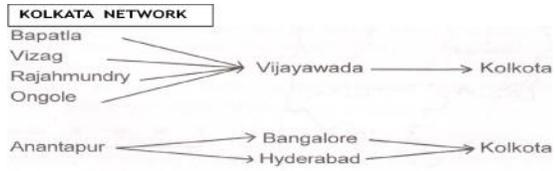
Trafficking of Girl child to Goa:



The above mentioned route map reveals that Girls will be trafficked from all the regions of Andhra Pradesh. However the direct links with road and rail transportation has made much easier for the traffickers to reach the destiny –GOA.

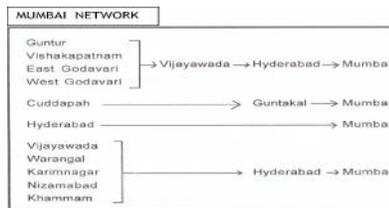
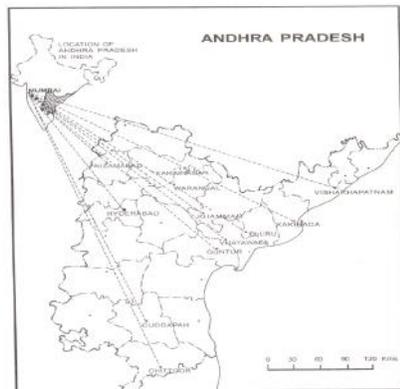
Most of the trafficked victims it was the luring for work/job that was the most used stratagem by the traffickers, reinforcing the economic compulsions of the women and the consequent readiness to an extent to move to other places for work. In some of those cases of women and children who had been kidnapped and taken away forcibly, or those who were promised marriage, or those minor girls who had been sold by their families, the rest of the women, who in fact constituted the large majority, had been promised work. Some of them were promised specific work opportunities in places like biscuit factory, hotel, textile shop, tailoring establishment, and as construction labour in cities such as Vijayawada, Hyderabad, Guntur, Chennai, Kolkata, Mumbai and Bangalore.

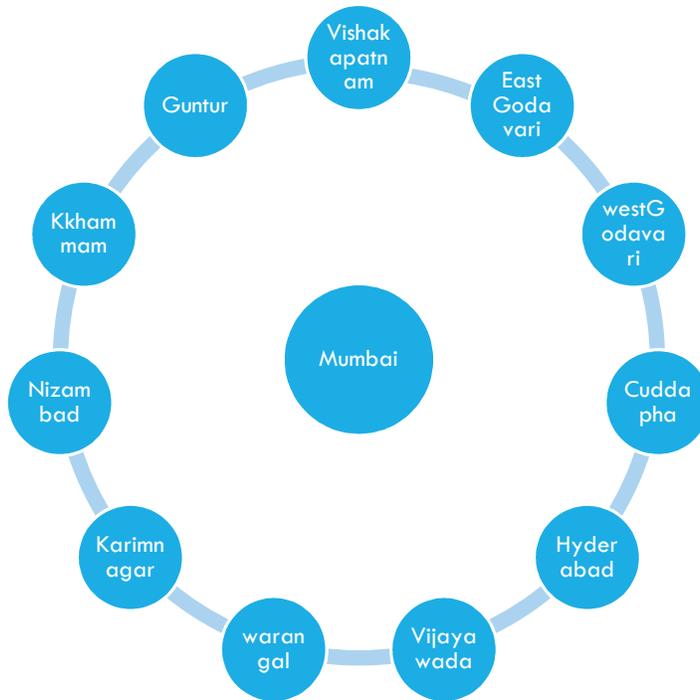
Trafficking to Kolkata:



Trafficking Source areas to Mumbai:

Most of the traffickers across from all the regions of Andhra Pradesh and most of the cases have been trafficked to Maharashtra state especially Mumbai and Pune. In the past decade, the volume of trafficking has increased to make it one of the fastest growing and perhaps the most lucrative international criminal activities. United Nations estimates suggest that globally trafficking in women and children is an operation worth \$5-7 billion annually. (Saha, 2002), Indeed this is a modern form of slavery, and although prostitution has come to be recognized as the most common purpose, children are also trafficked for labour, domestic work, organ transplants, begging, drug peddling, marriages, adoption, camel jockeys, circus and other forms of entertainment. According to the Report of South Asian Workshop on Trafficking in Women and Children, '...it is now widely admitted that global trafficking of women and children today is more profitable than arms or drug smuggling'. (UBINIG, 1996). It is estimated that 25 per cent of the victims of commercial sexual exploitation in India are below 18 years.





Supply and Demand- Andhra Pradesh

DELHI	Daund	DELHI
Anantpur	Bangalore	
	Hyderabad	
Cuddapah	Guntakal	DELHI
	Warangal	
	Tirupati	
Chittoor	Vijayawada	DELHI
	Warangal	
Kurnool	Warangal	DELHI
East Godavari	Vizag	DELHI
West Godavari		
Hyderabad		DELHI

Various studies Over 22 percent of rescued victims said that they were forced into prostitution before they were 16 years old⁸. According to CEDPA & PRIDE report, everyday 200 girls and women in India enter prostitution, 80% of them unwillingly. Women and children from deprived backgrounds are coerced into prostitution by false promises of economic prosperity, marriage, and employment. The flesh trade often leaves these girls addicted to substances, HIV+ and suffering with severe psychological scars. "Trafficking can be disguised as migration, commercial sex or marriage. But what begins as a voluntary decision often ends up as trafficking as victims find themselves in unfamiliar destinations, subjected to unexpected work," says E Rajarethinam



of GCT.

The consequent absence of reliable quantitative data adds to the difficulty. To a large extent trafficking continues to be synonymous with commercial sexual exploitation or prostitution both at the national and international level. As a result, most studies, data and action in the field of anti-trafficking work in India are focused on trafficking for sexual exploitation. The buying

⁸ National Human Rights Commission and UNIFEM. A Report on Trafficking in Women,

and Children in India. 2004. pp. 88. <http://nhrc.nic.in/Documents/ReportonTrafficking.pdf>, 8 Shakti Vahini report. (*)

and selling of children for labour, organ trade, marriage, adoption, sports and entertainment and other illegal activities like begging, drug peddling and smuggling thus remains under documented or not documented at all. While the government is unable to provide adequate data on 'trafficking' per se, crime records for certain crimes against children recorded under the Indian Penal Code and the Immoral Traffic (Prevention) Act may be accounted as the official data available on 'child trafficking'. (For crime records reflecting on 'child trafficking' see Appendix 1). By and large, for more insight and information, one has to rely on news reports and stories published or highlighted in the media or those brought out by NGO initiatives

However it is highly difficult to assess the magnitude of child trafficking due to following Reasons.

- There is no comprehensive statistical data available on child trafficking in all its forms and purposes.
- Most cases go unreported.
- There is no one law to address the issue.
- Compilation of data by government sources is under certain IPC crimes and some special laws.
- Even with legal provisions available to address some forms of child trafficking, data is not always compiled as such.
- Crime statistics may not always be available in terms of cases reported under each and every section of the IPC.
- Whatever little statistical data is available is related to women and children in prostitution. Most of it is based on micro studies and to a large extent are projections and estimates.

The Traffickers: The trade is highly attractive for people at both ends of the trafficking chain: the seller and the buyer. The magnitude of financial benefits for those involved in trafficking must not be underestimated. These traffickers sell the children for huge profits. Families stricken by poverty get immediate financial relief and if the girl gets trafficked into prostitution, instant economic upliftment through monthly returns from the income of the child. The only non-beneficiary in this entire process is the trafficked child. As the trafficked victims are children below the age of 18 years, the question of willingness or consent just does not arise, particularly when a child is trafficked for illegal activities, including prostitution.

Most of the traffickers⁹, who were identified after painstaking efforts, chose to remain anonymous. There were almost an equal number of males and females. The networking with master traffickers, who are mostly males, these linkages and networking were established from the fact that the majority of the traffickers were intimately related to the world of commercial sexual exploitation as brokers, pimps or brothel owners. Most of the traffickers were young, with 25 per cent in the 18-30 age group and 37.5 per cent in their thirties. Though the traffickers adopted different modus operandi, 51.9 per cent lured the victims by offering a job and 16.3 per cent lured them by false promises of marriage. The high demand for girl children in commercial sexual exploitation was confirmed by the traffickers.

Almost 50 per cent of the traffickers focus on rural areas for recruitment. Targets are decided based on the vulnerability factors, which include a combination of lack of livelihood options and opportunities, ignorance, mostly arising out of illiteracy, social and gender

⁹ ACTION RESEARCH ON TRAFFICKING IN WOMEN in India Imp points in the study conducted by NHRC 2002-03

discrimination, etc. The unbelievable assets that the traffickers generate were brought to light in several cases.

A well established trafficker with many links may easily have an extremely profitable and safe business of trading in women and children, with an income running into several lakhs a year. As far as the trafficked persons are concerned, their earnings are a pittance compared to those of their exploiters.

THE TRAFFICKERS

- Organized Crime Syndicates
- Local criminal nexus
- Pimps
- Traffickers posing as social workers
- Women already in the flesh trade
- Brothel owners
- Employment agents
- Tourists and travel agencies
- Labour contractors
- Clients of prostitutes
- Pedophiles
- Corrupt officials
- Some of Government and non-governmental institutions
- Doctors and medical personnel, adoption agencies
- Community
- Friends
- Teachers
- Local politicians
- Villagers and village headmen
- Unemployed adults who act as pimps
- Temple priests
- Family & Relatives
- Parents

The vulnerability factors that caused the trafficking of these victims and survivors whereas the pull factors appear to be the dominant cause of trafficking, the push factors not only contribute but at times, exacerbate the situation. It is the economically backward and socially discriminated, especially those below the poverty line and those belonging to the ST, SC, OBC, and other deprived sections of society, who are the most vulnerable. Among them, children constitute the largest contingent. The demand comes from are mostly urban, and supply areas are mostly rural or semi-urban. Further, girl children and handicapped children are extremely vulnerable. The status of the girl child, who is more often regarded as a liability, the gender discrimination prevalent in the social milieu, and different forms of violence against women like infanticide, female foeticide, etc., adds to the vulnerability.

In many cases, involvement of family members in trafficking creates a very difficult situation. The study shows that even women (sometimes related to the girl child) are involved in trafficking. However, the men involved in trafficking are the main beneficiaries. They provide the muscle power and work out the strategies for the most profitable disposal of their 'merchandise'. There is considerable degree of internal trafficking and cross border trafficking. The procurement and sale of these children is undertaken in an organized manner by organized syndicates or individuals and sometimes, informal groups including relatives and parents. The organized syndicates are out of the reach of law or they operate in connivance with the authorities. They are particularly active during periods of crisis in any area, which

could be due to a natural calamity or riots and the like. By and large, they do not have a criminal record in the books of law. Children, when procured, are taken from place to place and kept captive in alien locations, to avoid being apprehended.

From home to the destination point, the child passes through many a hand. There is a chain of traffickers who exploit the children en route and in still fear in their minds through threats and punishments so that the child becomes submissive and accepts all orders. The clientele who visit the victims in the brothels are from different walks of life. Most of the clients look for girls who are young virgins and would withstand all types of perversions in silence of which 9.8 per cent clients were students. Besides the linkages of the traffickers with the source areas, the vulnerability of the victims and lack of attention by the government agencies, the culture of silence prevalent in the community has also been a factor which helped the traffickers to indulge in trafficking of children for non-sex-based purposes.

A trafficker is any person who can exercise a degree of power/control/authority on the child. This may be attributed to the age factor (the age difference between the trafficker and the child being trafficked), the socio-economic position of the trafficker, power derived from patriarchy and its structures or it could also be sheer muscle power. Both men and women are involved in the trafficking racket. Because the whole process of trafficking is so invasive and involves such a wide range of actors, it is difficult to identify or apprehend them. What makes it worse is the involvement of members of the family or the community in some instances.

Issues fuelling Child Trafficking:

There are multi dimensions towards factors that are contributing for the exploitation of children in India especially in Andhra Pradesh, Of which child labour is one the major issue which have multiple impacts on the children. A study on Child Abuse: India 2007 and last modified on May 31, 2011, conducted by Ministry of Women and Child development (GoI) revealed that across different kinds of abuse, it is young children, in the 5-12 year group, who

are most at risk of abuse and exploitation. The abuse involves physical, sexual as well as emotional abuse. The vulnerable children up to 18 years old who have involved in different kind of works, such as child labourers, child sex-workers, slum children, abused children, trafficked children, disabled children, Devadasis¹⁰, street children, children, and their families, infected with, or affected by, HIV/Aids, and children from the most vulnerable communities in Andhra Pradesh: scheduled Tribes, scheduled castes, and other backward castes. Families and communities will be actively involved in the programme because of the important role they play in enhancing the situation of vulnerable children.

The recent trend is the shift from food crops to the commercial crops has resulted in the use of more machinery in on-farm and off-farm activities. This

has decreased the man days and subsequently promoted unemployment. The growth of industries has encroached on the farmland around the towns such as Vizag, Ankapalli, Kakinada, Amalapuram, Rajahmundry, Tadepalligudem, Bhimavaram, Eluru, Tanuku, Vijayawada, Nuziveedu, Guduwada, Machilipatnam, Mangalagiri, Guntur, Tenali, Chilakaluripet, Narasarao pet, Sathenapalli, Ongole, Metharamitla, Chirala, Singarayakonda, Nellore, Kovuru, Naidupet, Sullurupet etc. and has promoted urbanization. As the agricultural land has started diminishing, many of the labourers that can do agricultural work alone have migrated. This has a caused an unhealthy imbalance in the socio and economic conditions of the poor.

Another major cause for this issue, is the practice of traditional prostitution in communities like Joginis, Mathammas, Kalavanthulu, Dommaras, Bogum and Basavi who dedicate their girl child to prostitution and it now the trend also exists that the women from these communities procure small girls and induce them into prostitution saying that they are their own children and A.P. is one state which has the most number of groups which are into traditional prostitution. In majority cases, it is the girl children and the women who are the

¹⁰ Originally a Hindu religious practice of dedicating women to god, it changed to dedicating young children to god and now this practice has ended in child prostitution

victims of this organized crime, however in some cases boys are the victims of trafficking for sodomy, begging, camel jockey, hotel/ dhaba workers, brick kiln workers and for pornography. Children of prostituted women are victims of sexual abuse as well. Children are forced to perform dances and songs for male buyers, and some are forced to sexually service the males. (Activists, Meena Menon, "Tourism and Prostitution," 1997).

Most of these people in the rural areas are dependent on agriculture, due depleting natural resources make them vulnerable who are desperately looking for an alternative livelihoods because of various pressures which has pushed them into indebtedness. The reduced people's livelihood opportunities resulted in increasing the distress of people and transfer of responsibilities on the shoulders of children and their vulnerability to trafficking. Low levels of education attained and membership to certain social groups are two socio-economic and cultural factors that increase the vulnerability of trafficking. Over 65 percent of the brothel population is illiterate or barely literate¹¹. 52 percent of the brothel population comes from socially marginalized sections of society ("scheduled castes, scheduled tribes, and other backward castes")¹². They migrate to cities and towns in search work and in most cases the children accompany the parents. Unaware of the exploitative mechanisms that exist in the cities, they become an easy prey to the exploiters and traffickers who are on the prowl. Over 60% of the victims of trafficking are minors¹³.

Most victims belong to option-less back grounds. The optionlessness could be due to economic disadvantages, or due psycho social disadvantages such as consumerism. It has to be understood clearly that in a given situation not everybody gets trafficked. A combination of factors which may include economic or psychological placed in a context with poor social support makes a person most vulnerable than others to be trafficked¹⁴. The National Human Rights Commission (NHRC) Action Research Study conducted in 2005 found that the majority of trafficking victims belong to socially deprived sections of society, including Scheduled Castes, Scheduled Tribes, etc. Children from drought-prone areas and places affected by natural or human-made disasters are also more likely to fall prey to traffickers. The NHRC estimates that almost half of the children trafficked within India are between the ages of 11 and 14¹⁵.

Legal and Judiciary Action in Andhra Pradesh

As per the AP state Crime Records Bureau of CID, missing cases of minor girls reported in Andhra Pradesh are 1978 in 2007, 2261 in 2008 and 1207 in 2009. Of these 5446 missing girls since 2007, 1305 are still untraced. The traffickers and the procurers are not properly prosecuted.

Trafficking cases are registered only after rescue operations, and not after the girls are found trafficked. The number of missing/trafficking cases registered is very small either due to unwillingness of the victim families to report to the police for fear of stigma, or lack of faith in the police. There is need for the support of the local police and the local PRIs will be taken to ensure that cases are registered.

¹¹ The National Human Rights Commission and UNIFEM. A Report on Trafficking in Women and Children in India. 2004. pp. 83. <http://nhrc.nic.in/Documents/ReportonTrafficking.pdf>

¹² *Ibid*, pp82. ¹² India Today, 2000, 6. Shakti Vahini report.(*)

¹³ www.india.gov.in/allimpfrms/alldocs/12262.pdf

¹⁴ Krishnan Sunitha and Abel Rekha, *op. cit*, p. 12.

¹⁵ NHRC. *Action Research Study*, 2005.

Though there were stringent laws, Acts and other legal measures to curb this activity, it is continuing unabatedly. Lack of political will to address the issue is also a major contributor to this crime. There were many instances where Police complain the Political Indulgence in the rescue operations. Reports of the Bureau of records in CID amply establish the lack of political will to address the issue. Analyses of these reports say that there is a decline on the number of rescue operations from 2007 to 2011.

Year	No.of Cases Registered	No.of victims Rescued	Minors	No.of Traffickers and other exploiters	
				Traffickers	Customers
2007	669	1017	122	1434	509
2008	371	525	33	780	416
2009	205	286	20	400	217
2010	205	286	20	400	217
2011	339	565	34	707	275

There are very few dedicated crime units that deal with the problem of trafficking in persons, and therefore, criminal prosecution of traffickers is almost non-existent. Over 52 percent of traffickers in a recent study said that they had never been arrested, and 60 percent said that the police were aware of their activities¹⁶. In sum, traffickers operate above the law and free from prosecution for the criminal violence that they commit against women and children.

Further It is observed that there has been fall in the cases registered to the extent of 50% within a year (2007-2008) from 679 to 371 in the number of cases registered and in no of victims registered from 1017 to 525. Similar decline can be observed in case of others also. While there are more and more cases are reported in the media, and the situation doesn't look like to have been improved, it is hard to believe that the gravity of the situation has come down to 50%. We can also observe from the above table that more than 10% of the victims are minors.

In 2007 AHTUS have been established in AP, there is number of rescue operation were made, and Capacity Building activities are carried. However this could not be sustained due to lack of financial resources and UNODC has stopped funds. Which has resulted in reduction of rescue operations, this does not mean the less trafficking issues, and it is due to non response by the police departments.

The 2012 statistics by the Police Department in Andhra Pradesh gives the clear picture of the action taken by the department

Year	Cases registered	victims rescued	persons arrested	brothels closed u/s.18 (1) ITP Act
2011	339	565(Majors-531 & Minors-34)	982 (Traffickers-707 & Customers-275)	18

Reasons for the snowballing of the trade:

- The perpetrators are not convicted under the appropriate Acts. In most cases, the cases at the destination areas are booked, but due to lack of evidences the cases do not stand. Hence, it is easy for them to come out without severe punishments. When rescue operations are

⁷ Extracted from U.S. State Dept Trafficking in Persons Report, June 2006].

conducted in destination areas by the police, the brothel owner/pimp, and customers are arrested, but the traffickers who first trafficked the victims or the others involved in the deal at source and transit points are not arrested, as the cases are usually not registered under Section 164 of IPC. Usually, the local police conduct rescue operations in destination areas when they receive information from the rescued victims about the other trafficked victims from AP to the destination areas. Sometimes, the local police conduct rescue operations in destination areas when they get a tip off from the families about their girls' destination.

- The rescued victims are entitled to immediate relief package of Rs. 10,000 under GOMs No.28, and another Rs. 10,000 towards socio-economic rehabilitation support under GOMs No.1. however it is not effectively implemented. In a study of 185 rescued victims in Guntur District during the last 3 years (2007, 08,09) only about 40 survivors could receive the package. The situation in Krishna and Prakasam Districts also is similar. Consequently, the victims fall prey to the traffickers in the absence of the above support services, as they cannot go back to their community and live with their families.
- Even if the rescued victims are sheltered at Homes, there are no trained counselors on trauma management. Quality counseling services too are not in place in most Homes.
- There are no linkages between source area and destination area NGOs. The reason for this is that only a few NGOs are working on trafficking issues. For example, HELP alone is working on trafficking in Guntur, Krishna and Parkas Districts. The NGOs conduct home investigations and submit the reports to the destination agencies. They do not follow up reunification, reintegration and other support service mechanisms. HELP would encourage and motivate the involvement and support services of both source and destination NGOs to ensure smooth coordination between them.
- Likewise, the coordination among WD&CW Department, Juvenile Welfare Department and Law enforcement agencies needs to be improved.
- There is no efficient mechanism in place to conduct home investigations. The girls rescued are to be produced before the CWC by the police. The CWC will order for home investigation and refer the survivors to transit Homes and rehabilitation services. But the police, in majority cases, do not produce the victims before the CWC. Therefore, the home investigations are not done HELP will sensitize the police to produce minor girls before the CWCs. Further, HELP facilitates the capacity building of the CWCs of these three districts by providing opportunities for them to visit and learn from the active CWCs of Maharashtra, Delhi, Karnataka etc.
- There are no victim/witness protection services. The victims, therefore, are threatened / blackmailed by the perpetrators and are re-trafficked.
- The most significant reason for the spread of nexus of the traffickers all over the state is the fact that the government has focused more on the prevention of the further spread of HIV/AIDS. There is an HIV/AIDS Legislators' Forum as well with some MLAs in the state. The police have been directed not conduct too many raids on red light areas, as the women in prostitution would run away from their places. In such a case, they cannot access condoms, and it is feared that it would promote HIV/AIDS.
- Lack of adequate and consistent advocacy efforts.
- Human trafficking is unfortunately not a priority of the state government.

Chapter 5 Critical Gaps

Prevention	Protection	Rehabilitation	Reintegration	Prosecution
<p>1. To consider awareness campaigns, launched by the government in close collaboration with NGOs, using the media to highlight child sexual abuse and exploitation. Such campaigns should advocate against the trafficking of children for sexual purposes, sexual exploitation, sexual abuse and violence as well as informing the public of where help can be sought for both the children and the abusers. They should also be aimed at breaking down the taboos surrounding these issues and the stigmas attached to victims in order to facilitate their reintegration into society. Furthermore, they should aim at raising awareness of HIV and the spread of AIDS, and should reach the hamlet level, wherever possible.</p> <p>2. Compulsory education for all</p>	<p>1. Though laws dealing with sexual abuse and sexual exploitation exist in the country most of them need to be strengthened in various ways, including the following.</p> <p>a. Laws should cater specifically to child abuse and exploitation if they do not already do so explicitly;</p> <p>b. Laws should be more child-centred, treating them as victims rather than as offenders, taking the children's statements of abuse at face value and implementing child-friendly court procedures such as video link evidence - presentation;</p> <p>c. In cases of sexual</p>	<p>1. Efforts should be made to persuade and motivate women and child victims of commercial sexual exploitation to recover and reintegrate in society and to lead a dignified life. Also Efforts should be made through awareness programmes, counseling, cajoling and if necessary by coercion to remove all children above 6 years age, especially</p>	<p>1. Reintegration strategies for victims of child sexual abuse and sexual exploitation should be developed that involve the national network of hospitals and health-care centres at the provincial, district and community levels in addition to national and international NGOs. These strategies should be implemented through a range of approaches, such as residential care, psychotherapy and community-based programmes that nurture and promote local support groups and networks. They should always seek to involve the immediate</p>	<ul style="list-style-type: none"> ◆ By amendment to specific provisions of statutes wherever a child or minor is mentioned, the definition of a child must comply with the definition under the UNCRC. Every person below the age of eighteen years must be considered to be a child. This should cut across all laws whether labor, criminal law or family law. ◆ Trafficking must be seen as an organized crime in criminal procedure and substantive criminal law. Existing principles, such as common intention, conspiracy, etc., must be used in cases of traffickingⁱⁱ. <ul style="list-style-type: none"> ◆ Cases must be taken up in designated courts, e.g., courts dealing with violence against women, and judges must be

<p>children should be enforced throughout the State. The curriculum should cover children’s basic rights as well as reproductive health in order to develop healthy attitudes towards sex, sex-related issues (such as safe sex) and STDs. The educational system should also be used to teach children how to avoid abuse and exploitation, and should target parents, teachers and social workers in addition to the children.</p> <p>3. Teachers should be made especially sensitive to the issues of child sexual abuse and sexual exploitation so that they can help in detecting its occurrence.</p> <p>4. National tourist boards should review and realign their marketing efforts to encourage responsible tourism and to discourage child sexual exploitation.</p> <p>5. Income generation schemes targeted at high-risk groups should be encouraged in order to reduce their poverty level and alleviate the need to resort to commercial sexual exploitation as a means of survival. Skills training should form an integral</p>	<p>exploitation of children, the age defining a “child” should be in line with the Convention on the Rights of the Child (up to 18 years of age), as a child in an exploitative situation is not in a position to offer consent;</p> <p>d. Laws should grant abortion rights to young women who have conceived as a result of sexual abuse or exploitation;</p> <p>e. Laws on pornography should address new technological developments, should be defined in such a way as to include electronic pornography, should criminalize its production, distribution and possession;</p> <p>f. Laws should be in line with the Convention on the Right of the Child, particularly</p>	<p>teenage boys and girl children of women victims to institutional care in boarding homes / hostels / foster homes / residential schools etc.</p> <p>2. Assistance would be provided by the Central and State Governments to NGOs for setting up of Child Development and Care Centres to provide education, health, counselling, vocational training, empowerment, guidance for recovery & rehabilitation and for institutionalization.</p> <p>3. The rescued child</p>	<p>families of the victims as appropriate.</p> <p>2. All services for the victims of sexual exploitation and sexual abuse must demonstrate respect for the child and be open and non-judgmental. These programmes can be effective and efficient only if they adopt participatory strategies involving the child, the family and the community.</p> <p>3. If not already in place, programmes of recovery, psychosocial rehabilitation and reintegration of victims of child sexual abuse and exploitation should be established, at least in all major urban centres.</p> <p>4. Facilities for formal and effective counselling for victims of child sexual abuse and sexual exploitation should be set up, keeping in mind</p>	<p>trained and sensitized to handle matters on trafficking. Cooperation mechanisms must be set up with mutual contacts at different levels to make rapid action possible.</p> <p>◆ There must be greater focus on trafficking for labor.</p>
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<p>part of the income-generating process.</p> <p>6. More research should be undertaken in order to better understand the sexual abuse and exploitation of children and to improve the services to deal with them. Such research should focus on:</p> <p>7. Further effective, culturally sensitive measures that could be undertaken to prevent the sexual abuse and exploitation of children</p> <p>Who are child domestic workers</p> <p>adopted children</p> <p>Teachers' behaviour with children and youth on sexual abuse</p> <p>motivate child prostitutes away from sex work</p> <p>effective counselling in rehabilitating sexually abused children</p>	<p>Article 2, ensuring the equal treatment of girls and boys before the law, "irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status".</p> <p>2. Existing laws pertaining to child sexual abuse and sexual exploitation should be strictly enforced by law enforcement agencies.</p> <p>3. Extraterritorial legislation should be enacted that would allow for the prosecution of foreign nationals who violate the rights of local children.</p> <p>4. Law enforcement personnel should be provided with training to increase their awareness of the causes of child sexual abuse and child sexual exploitation, as well</p>	<p>victims would be kept in the homes and initially be given psychological treatment for relieving them from the trauma under which they were subjected to while in the brothels and red light areas.</p> <p>4. The services in homes should be upgraded and include provision of special training to the personnel in the homes, including medical and psychiatric care etc.</p> <p>5. In case where women or child victims are from other States, the Department of Women & Child Development of the concerned States along with</p>	<p>the children's need for confidentiality.</p> <p>5. Training programmes targeting medical staff, law enforcement officials, lawyers, judges and others involved in providing services to victims of sexual abuse or exploitation should be provided. Such training should be aimed at raising awareness of the issues and at making the participants aware of how to deal with the children as victims rather than as offenders and how to avoid inflicting further trauma on them.</p> <p>6. Community support networks for victims of child sexual abuse and sexual exploitation should be established where they do not already exist and strengthened where they do.</p>	
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	<p>as existing legislation and how best to implement it.</p> <p>Key Recommendations in Protection</p> <ul style="list-style-type: none"> ◆ There must be a clear line drawn between the trafficker and the victim. ◆ Rescue of trafficked victims should go along with effective rehabilitation and must be done in a gender sensitive way. The survivors of trafficking should have the right to exercise independent agency, rather than being compelled to do whatever the State thinks is best for them. ◆ Civil remedies like torts claims and compensation must be created and enforced against traffickers or employers. ◆ States must commit finances for more and better schemes to rehabilitate victims. <p>Witness protection must be explored to create an</p>	<p>NGO's would jointly and collaboratively take action to ensure proper shelter, travel arrangements, medical & Psychological treatment and reintegration with humane treatment.</p> <p>6. Women's organisations should be involved in monitoring of remand, protective and other homes.</p> <p>7. Local communities, NGOs and other interested individuals could be mobilised and encouraged to be involved in identification, rescue and rehabilitation of women and child</p>		
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atmosphere free from fear within which a victim can testify.

victims.
ii) State Initiative and conviction

The state has to act with a conviction. Often in the past actions of states have been influenced by the private irrational beliefs of the incumbents of public positions namely

“Prostitution is a necessary evil”.

“Prostitution is a safety valve in absence of which many decent women will be raped in broad daylight in the plaza of a society” or “Prostitution is there because there are morally loose

		<p>nymphomaniac women in the society who want a quick buck by selling sex". The state has to follow a policy consistent with the Indian Constitution and the U.N. Conventions</p> <p>Though the focus of this report is on the status of girl child trafficking, but the focus needs to be on the health needs of child victims of sexual abuse and sexual exploitation, it is clear that the solutions to these complex problems are multidisciplinary.</p> <p>The</p>		
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		recommendations below, therefore, cover a variety of areas. The recommendations have been organized into five groups: general recommendations; recovery and reintegration; prevention; protection; and cooperation and coordination.		
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It is surprising to note that though India has signed and ratified the UN's *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others*, and made an Act in the name of *Suppression of Immoral Traffic Act* as early as 1956 and was later amended in 1976 and 1986 in the name of *Immoral Trafficking Prevention Act (ITPA-1986)* no clear definition to the word *trafficking* is given in either of the Acts¹⁷. The 1986 Act just refers to trafficking for prostitution and therefore does not provide comprehensive definition for the term.

The lack of specific and/or adequate legislation on child trafficking at the national level has been identified as one of the major obstacles in the fight against trafficking. There is thus, an urgent need to harmonize legal definitions, procedures and co-operation at the national and regional levels in accordance with international standards. The development of an appropriate legal framework that is consistent with relevant international instruments and standards will also play an important role in the prevention of trafficking and related exploitation.

Though the above definitions given by various agencies/Acts and Conventions differ slightly with each other, there are certain common elements in these definitions:

- Some degree of involuntariness on the part of the person being trafficked, either through the employment of deceit or fraud.
- Coercion or actual force, abuse of authority.
- Involvement of exchange of money or any other form of consideration.
- Subjection to situations of abuse and exploitation

With the exception of a few initiatives, recent years have been marked by limited coordination of anti-trafficking activities between stakeholders in South Asia and recycling of activities, strategies and recommendations. While NGOs, INGOs, individuals, the media and governments within the region have played an important role in raising awareness on the issue of child trafficking in South Asia, significant gaps remainⁱⁱⁱ

Lack of Protection for Witnesses

a. Influencing Child Victims and Child Witnesses

Although many cases are registered as commercial sexual exploitation of children, by the time trials conclude, most result in acquittals due to the lack of evidence^{iv}145. Often, the key witnesses in these cases are children who are rescued, since they are able to identify the alleged abuser and describe the abuser's acts.

In many of these cases, however, bail is granted quite easily to the accused and once released on bail, the accused is in a position to exert tremendous pressure on the children.

In many instances, the alleged abusers pretend to be the child's family and make applications to take their custody. Since children often do not have legal counsel, children's rights are not separately protected, and many courts unknowingly release children to their abusers' custody; the prosecutor has little or no contact with child witnesses and is not in a position to represent children's interests in these custody situations. In a case which resulted in an acquittal of traffickers in Delhi^v, all of the girls rescued made statements in court supporting the defence. With no other tangible evidence to rely upon, the traffickers were acquitted.

¹⁷ There are proposals to amend this Act, this is discussed at a later stage.

b. Lack of Access to Legal Counsel

Child victims are heard only as witnesses in the course of legal proceedings; they are witnesses for the prosecution, and their role ends there. Where a child victim chooses to engage a lawyer, the lawyer is only allowed to assist the prosecutor. A large number of applications, such as summoning witnesses and discovering evidence, can only be made by the prosecutor. In fact, many child victims prepare applications through private lawyers and then request the prosecutor to sign the application. This system was addressed by the Supreme Court in *Delhi Domestic Workers Union versus Union of India and others* (1995 1 SCC 14, par. 15.) where, while dealing with rape cases, the Court held that the victim in a sexual assault case must have legal assistance starting from the police station. In reality, this is not followed.

For example, after being rescued and placed in a protective home, when interviewed by a police officer, children's statements are treated as evidentiary declarations that can be used in legal proceedings, but there is no provision to provide these children with legal counsel. Moreover, when the child is finally called to testify at trial – which may be months or years later – the child is not shown the statement s/he made at the time the complaint was registered, and the child may or may not have seen the FIR. During the trial, the child will be asked to explain what happened, and then be cross-examined by opposing counsel on any inconsistencies between the child's statement at the time of the incident and years later, at trial. Again, the Criminal Procedure Code does not allow for children in these circumstances to have legal counsel, and while the Supreme Court has passed judgments providing rape victims access to legal counsel, this ruling not been extended to child victims.

c. Protection for Providing Testimony

Several NGOs have raised the issue of problems that arise when girls are physically brought to the court to give their evidence¹⁴⁸. They observe that since there are a large number of cases pending, invariably both the accused and the victims must wait a long time in court for their cases to begin. During this time, the accused and the child victims may come in contact with one another, and sometimes this can occur for more than one or two hours. This makes child victims vulnerable to the attentions and overtures made by the accused. For example, children who are staying in protective homes are often trying to find ways to get out of these homes¹⁴⁹, and in cases where children are repatriated back to their families, they may be subject to ill-treatment as a result of being sexually exploited. Under these circumstances, the children see the brothel owners and others as their allies, and many children turn hostile to the prosecution¹⁵⁰. In this light, in a case pending before the Delhi Court (FIR No.144 of 2000, Kamla Market Police Station, Delhi.). the Comments in the *Report on Consultation in India Conducted in Kolkata India* suggest that it is not uncommon for children in government homes to be harassed and abused by care givers and resident girls alike, as well as having substandard living conditions. An illustration of this issue can be found in the Case Studies of the report.

2. The Strength and Impact of the Evidence

a. Improperly Prepared Charge Sheets, Witnesses: After completing their investigation of a case, the police must prepare a charge sheet that includes a description of the offence and

all sections of the law that may be relevant to the case. Unfortunately, the facts of the case and pertinent citations to laws are often missing. In addition, the police often do not identify all witnesses at an early stage of the investigation or explain to witnesses that they need to make themselves available to provide testimony for the case. In the absence of good witnesses, the trial results in an acquittal (NHRC, UNIFEM and ISS. p.94).

b. Age Determination

Another issue impacting the effective prosecution of sexual crimes against children is age determination. Difficulties arise in cases where children are in their late teenage years. At that time it is difficult to determine whether the victim is a child or an adult by mere physical examination. Only in limited circumstances is a bone ossification test made to ascertain the child's age, and the application for the test can only be requested by someone other than the child. Since children rarely have their own lawyers, this application is not often made. And, since trials do not begin until one or two years after the crime is reported, at the time of trial the child has become an adult, and at that stage is not treated as a child under the law.

- Children may also be instructed or influenced by alleged offenders to state a false age; alleged offenders and others advise girls to increase their ages so that they can be treated as adults who 'willingly' participated in prostitution, so the traffickers can be acquitted.

c. Prosecutors' Access to Child Witnesses:

The lack of legal representation for child victims of sexual crimes can lead to a situation where children's rights are not addressed. The structure of the criminal justice system is to look at the offence and provide justice to the abuser without regard to the rights of the victim, and the victim's role is to assist the State's criminal prosecution. Thus, prosecutors are not allowed to meet with or interview victims in advance and advise them on the course of action to be taken; prosecutors generally meet victims for the first time in court at the time of evidence¹⁵⁴. Prosecutors must act as officers of the court and not appear prejudiced, but in many cases, the result is that prosecutors do not know the nature of witnesses' statements.

Prosecutors are not supposed to meet with child victims and child witnesses before trial, in accordance with the prosecutor's Code of Ethics.

3. Lack of Knowledge of Trial Proceedings

During an investigation, children that are rescued and placed in protective custody are not contacted by the police; even the protective homes are not aware of the status of the investigations or legal proceedings in which the children may be called as witnesses. Similarly, child victims are not aware of the outcome of trials, unless they make an effort to find out. There is no mandatory requirement under Indian law to inform witnesses about the outcome of a case. Therefore, even in cases where a child victim may have a legal basis under the revisional jurisdiction to approach the Appellate Court, the case is invariably barred by the statutory limitation period by the time the child learns the outcome of the case.

Through interaction with various stakeholders it is understood that the following are critical gaps in the existing policies and implementation of Acts:

- 1) Lack of victim witness protection system
- 2) No trial monitoring

- 3) No mock trial conducted to mentally prepare victims and witnesses for court room environment
- 4) Investigation not on scientific lines
- 5) Search and seizure procedure not properly followed/ Government officers not involved as panchas or Mediators
- 6) 164 Cr. Pc. statement of victim or witness has not been recorded before the Magistrate
- 7) FIR not filed under proper sections of not only ITPA but also under IPC sec 376 in the case of minor victims
- 8) Charge sheets not vetted by prosecutors
- 9) Delay in conducting of trial
- 10) No involvement of anti trafficking NGO's as complainant in FIR or as panchas for Mediators report or in raid and rescue which supports and strengthens the further legal proceedings against the trafficker.

By keeping in view of above we are herewith suggesting few recommendations to amend the existing laws so as to justify the victims and to strengthen in terms of combating the crime effectively. They are....

- The trafficker's property should be seized and the rescued victim should be compensated with the same with rapid proceedings. Because, support by the state is the matter of years long process which will no way confines the victim from re-trafficking. Otherwise, the trafficker is usually/casually attending court, getting bail and continuing his/her activities without any hesitation as he is having property and plenty of money to manipulate in many ways and by all means. Usually there will be 2-3 years time for prosecution and case disposal, meanwhile everything will be manipulated which sets free the trafficker from the clutches of law. Again the things will be same by the so called trafficker and no. of children/women will be drastically affected.
- Every rescued minor from trafficking should be treated not only under ITP Act but also a victim of rape and file a case against trafficker under Sec 376 of IPC so that the victim can get the compensation by the state in such way too along with the meager delayed provision/support under ITP Act. Because, the sexual intercourse with a minor below 18 years is a rape either with her consent or without consent.
- Special courts to be established to deal with only ITPA cases that could result in fast proceedings i.e. within 2 – 3 months to dispose the case. Due to these fast track proceedings, the trafficker also may not attempt several sources to manipulate the case at his extent due to time constraint.
- Mandatory in camera hearings, video-conferencing, or other alternative methods to record evidence/witness.
- The assets of the trafficker must essentially be seized and compensate the victim with the same (the support by the state may or may not reach her later which is a long procedural issue).

- The premises where the rescue held shall be seized till the disposal of the case and the real owner of the place/premises/property must be arrested who some times directly or indirectly encouraging such notorious offence.
- The victims should not be handover to parents or care givers or relatives etc., /repatriated before the disposal of the case so that there will be lower chances to get threatened/pressurized by the trafficker or re-trafficked (if she is in a shelter home with due care and protection).
- The victim should be repatriated only after receiving the relief package/compensation so that she would be equipped with some confidence and parents as well as family members too can show/have more care and concern compared to receiving a victim with empty hands.

Victims witness support:

Even though the cases have been registered, the victims and the witnesses are not attending the adjournments. The police are unaware of the whereabouts of the victims, as the victims usually give wrong addresses at the time of rescue. Due to insufficient budgetary allocation for the travel of the police to trace the victims and due to the heavy workload of the court constables, the police submit to the court a statement stating that the victims are not available. The witnesses also are unwilling to present themselves during every adjournment as they have to lose their wages for the day.

In most cases, the police send the survivors to their home places without conducting home investigation, after rescue operations. Andhra Pradesh is the first state in the country to have launched an immediate relief package to the tune of Rs. 10,000 for each survivor. But most of them cannot utilize this scheme as they are sent to their places immediately after rescue. For want of livelihood, the survivors are likely to get back to prostitution.

The police do not follow and honor the protocols during pre and post rescue operations. The rights of the survivors are not protected. This violation makes the survivors to lose their faith in the police and so cannot cooperate with the police during further investigations. For these reasons, the traffickers are able to continue their activities.

On the other hand, traffic cases are registered only after rescue operations, and not after the girls are found trafficked. The number of missing/trafficking cases registered is very low either due to unwillingness of the victim families to report to the police for fear of stigma, or lack of faith in the police.

Still many traffickers were not arrested?: By the movement when a rescue operation held, it became usual to arrest both brothel owner and pimp at where the girl rescued at demand areas. But source area traffickers were not arrested. So, when rescued girl reunifying with the families by the police/NGOs and again re-trafficked by the threatening of the trafficker at source area. But the trafficker who resides at source area stands on safe side. Because he is not arrested, usually he/she continues their activities.

As per our expertise in this field so far, we realized that while working on prevention we should address the demand also simultaneously. Then only the result will be productive and paves a way for future initiatives.

In the name of HIV Prevention : One more keen observation is some of the CBOs under the veil of women rights emphasizing that prostitution is their right and are demanding for the

legalization of the sex work. Most of the agencies working on human rights supporting the same. Some of the organizations funded by the Govt. also supporting for legalization movement in the name of HIV prevention.

The most significant reason for the spread of nexus of the traffickers all over the state is the fact that the government has focused more on the prevention of the further spread of HIV/AIDS. There is an HIV/AIDS Legislators' Forum as well with some MLAs in the state. The police have been directed not conduct too many raids on red light areas, as the women in prostitution would run away from their places. In such a case, they cannot access condoms, and it is feared that it would promote HIV/AIDS.

It is surprising to say that the central Govt. agency NACO and Andhra Pradesh SACS simply distributing condoms through different NGOs by the name of HIV prevention though they recognize even 13 or 14 year old girls at prostitution localities or red light areas but there are no even a bit of efforts to rescue those minor girls. At this juncture some of the police officials getting pressure by higher authorities and people representatives to not commit for ride on those places. Because the so called organizations working on HIV prevention arguing that the girls will abandon from those places and causes HIV prevalence if police rides on them.

This is the part of police to getting in dilemma that they realizing something at trainings and experiencing other than what they realized as they couldn't able to work against their superiors.

The other major reasons are as follows:

- Even if the rescued victims are sheltered at govt Homes (swadhar and ujwala), there are no trained counselors on trauma management. Quality counseling services too are not in place in most Homes.
- There are no linkages between source area NGOs and destination area NGOs. The reason for this is that only a few NGOs are working on trafficking issues. It will further establish linkages with other destination area NGOs and facilitates sharing of information between them and source area NGOs to ensure that good coordination between them exists. The NGOs conduct home investigations and submit the reports to the destination agencies. They do not follow up reunification, reintegration and other support service mechanisms.
- Likewise, the coordination among WD&CW Department, Juvenile Welfare Department (CWCs) and Law enforcement agencies is not encouraging.
- There is no efficient mechanism in place to conduct home investigations. The girls rescued are to be produced before the CWC by the police. The CWC will order for home investigation and refer the survivors to transit Homes and rehabilitation services. But the police, in majority cases, do not produce the victims before the CWC. Therefore, the home investigations are not done.
- There are no victim/witness protection services. The victims, therefore, are threatened / blackmailed by the perpetrators and are re-trafficked.
- Lack of adequate and consistent advocacy efforts
- Human trafficking is unfortunately not a priority of the state government.

Recommended Interventions

As per our experience in the field we proposed the below interventions for prevention of Human trafficking....

- Victims witness protection services
- Support of more transit centers with efficient counselors, legal support services and vocational/skill trainings
- Continuous trainings for police personnel (at station level officers)
- Trainings for judicial officers (magistrates on ITPA and JJ Act)
- Ensure speedy disposal of trafficking cases.
- Ensure witness shall be recorded within the 3 months of rescue.
- Ensure the improvement of conviction rate
- Re-establishment of Regional Anti Human Trafficking Units (AHTUS)
- Conducting rescue operations constantly
- Building linkages between police and Child Welfare Committees
- Formation and strengthening of Community Vigilant Groups (CVGs) at village level (for prevention of trafficking/abuse/sexual exploitation and to prevent re-trafficking of rescued victims)
- Formation, networking and strengthening of Groups among victims
- Vocational and life skill trainings to be provided to second generation
- Providing education support /residential education support for second generation children
- Legal awareness among women in prostitution
- Protection of Second Generation (children of women in prostitution)
- Ensure appropriate rehabilitation packages for rescued victims.

There is a need to develop an institutionalised system of co-ordination between the law enforcement agencies and non governmental organisations (NGOs) who sometimes prove to be more effective than government agencies in exposing human trafficking networks. There is a need to have greater co-ordination between different states in India as trafficking has a long trail from the source point to the destination with several transit points in between. Investigation in the cases involving human trafficking should be carried out with the aim to destroy this long trail. Increased co-ordination between government departments like police, public welfare, health, women and child is required to ensure an effective response. Government and NGOs should work together to ensure post-rescue rehabilitation of the victims in terms of providing them healthcare, education and other employment opportunities.

The Government of India has taken steps to create machinery and institutional mechanism across the country with the roll out of Integrated Child Protection Scheme and the Integrated Human trafficking Units. In both these schemes NGOs and Civil Society is an integral part of the system. Now the time has come to create a robust technological system for profiling, publishing and disseminating information as fast as possible among all stakeholders and also a synergy and convergence among all agencies.

Chapter 7

Recommendations and Way forward

It is clear from the above study that the issue of child trafficking in the State of AP is very high and some urgent and concrete measures need to be taken to address the issue. An attempt has been made below to suggest some recommendations and way forward

1. Rehabilitation is at once a psychological, economic, physical, as well as socio cultural goal. Therapeutic (psychiatric) intervention aims at helping the victim of CSE&T overcome the memories of the episode/s.
2. On the contrary the Justice system demands the victim to testify all the vivid details of the episode in giving evidence and facing cross examination. A victim is thus subjected to a contradictory process. This is accentuated enormously due to the inordinately delayed and prolonged prosecution process. Special courts, Special judges, Priority Hearing, Short Time Frame for disposal, Summary Trials, etc are some of the measures which can expedite justice and remove obstructions in the way of social reintegration of the victims.
3. The special Juvenile Homes should be set up with facilities of counselling, vocational training and health unit for children affected by commercial sexual exploitation and HIV/AIDS.
4. Maintenance grant should be given to traditional sex workers and their children should be supported with free educational material.
5. The Government of Madhya Pradesh has started a Scheme call Jabali could be replicated. The objective of this scheme is to assist Voluntary Organisations to take up activities for the welfare and development of women and child victims of commercial sexual exploitation so as to eliminate commercial sexual exploitation. The Scheme is mainly targeted at the women & children in those castes/tribes where there is social acceptance & even collusion by the male members with the commercial sexual exploitation of their women. The scheme has five components:
 - Running of Boarding Schools for children or women victims
 - Setting up protective homes for young girls
 - Providing women victims with benefits for Income generation and economic rehabilitation
 - Creation of public awareness through information, education & publicity.
 - Health checkups and treatment.
6. Services for institutional care of children, providing night shelter, balwadi, educational support programme, women's empowerment programmes in the red light areas could be some of the alternatives.
7. There is an urgent need to upgrade the Child Welfare Committees constituted under the Juvenile Justice Act 2000. The CWC is a full time service that must be available for at least 12 hours a day and 7 days a week. Positions on the CWC must be made attractive so as to attract highly competent and qualified staff. The structure must be reorganized for better coordination, outreach and monitoring.
8. The infrastructural and managerial conditions of the Rescue Homes and Protective Homes are admittedly subhuman and need urgent upgradation. Professionally managed Rescue Homes and Protective Homes is the kingpin of a successful Post Rescue Operations.

Awareness Generation and Social Mobilisation

1. The public perception of women and child victims of commercial sexual exploitation is hardened by patriarchal attitudes and gender roles. Hence there are myths prevailing that women willingly take up this so called profession for a livelihood, but there is never a thought given for the need to provide "safety Valves" for these victims. There is also refusal to recognise and accept the existence of trafficking and the commercial sexual exploitation of children. Such perceptions among the public need to be countered through removing gender bias in text books, teaching methods and media messages. Media campaigns that initiate a process of questioning gender roles, gender discrimination and project positive images of partnership between women and men, and of girl children and women would be taken up.
2. Training and programmes of activities for youth organisations and local bodies should include a strong component of gender sensitization and the role of gender in daily life.
3. Programmes of advocacy and information through the media, awareness generation camps, education work etc., would also sensitise citizens to the plight of women and child victims and the need to change social attitudes or stigmatising them and their children.
4. Programmes of providing education and knowledge about sex and reproduction must be implemented at the appropriate level in schools to dispel ignorance and thereby reduce the risk of deception of young girls for sexual abuse & commercial sexual exploitation.
5. For nonschool going youth, specific programmes may be implemented through Nehru Yuvak Kendra's, non formal education and other literacy centres etc.
6. In order to raise the consciousness of the public and highlight the issue of trafficking, both of women and children, cases of conviction of exploiters, traffickers etc. Needs to be given due publicity.

Health Care Services

1. While total elimination of commercial sexual exploitation of women & children is the objective, the fact that it continues to exist and would continue to exist in whatever magnitude or form, in spite of policies against it, cannot be ignored. Therefore provision of health services of immediate nature which would mitigate the suffering of the victims and enable them to access their entitlement to their rights and Government services, in the primary health units or by NGOs, on par with other citizens, would be worked out.
2. Health cards to be issued to women and child victims ensuring free medical treatment, provision of adequate drugs and medications in Government institutions.
3. Health Care Centers be set up, in or near red light areas, which would provide immunization, primary health care, first aid, health tuberculosis/HIV/AIDS education, gynaecological care facilities, free contraception and counselling. The timings of these centers should be convenient to the women & child victims. These could be set up by State Govt. or by NGOs with assistance from Central/State Government.
4. Educational campaigns through various media about risks of unprotected sex should be intensively done in known red light areas, on highways, and other identified centres where commercial sexual exploitation takes place.
5. Psychological health of the women and child victims as well as children of the women victims is endangered due to the circumstances of their exploitation. Psychological counselling services should be provided on a part time basis in the health care centres.

This could be done under the Family Counselling Centres Scheme of CSWB with specially trained counsellors.

6. There should be a provision to give shelter and medical services to the women victims suffering from terminal stages of AIDS and this would require separate shelter homes to be set up in major cities.

Education and Child Care

1. Coercion to remove the child and mother, wherever possible, would be more relevant in the context of the type of environment she lives in, for instance, in areas where brothels are located. Considering the fact that taking away a child from her mother by coercion would only add to her trauma and that of the mother and keeping in view the inadequacy of institutional facilities for sheltering the children, as far as possible, persuasion and motivation would be used to remove the child to a healthy environment. Further, care will be taken to provide institutional facilities to the maximum extent so that the child is not isolated and she can be brought into the mainstream.
2. Free and compulsory education would be provided to child victims and children of women victims in Government/Municipal schools. There would be free supply of textbooks, uniforms, scholarships to children of women victims and to child victims under existing schemes or projects.
3. The name or consent of the father/male guardian would not be insisted upon for the purpose of admission into any schools or hostels. The mother/one parent's name would be enough for admission of a child into any school or hostel.
4. Assistance and guidance would be provided to mothers to institutionalise their children especially teenage children and girls above 6 years, in boarding homes / hostels.
5. Educational support programme in terms of tuition, supplementary nutrition and health checkups to school going children of women victims in red light areas and high supply / risk areas would be provided under existing schemes or as part of integrated projects for providing services in such areas.

Shelter and Amenities

1. Women victims should be assisted for inclusion of their names in electoral rolls and to obtain electoral photo identity cards to help them exercise their franchise.
2. Since shelter is the main requirement for women victims who wish to be reintegrated in society, they should get preferential allotment of sites and houses reserved for Economically Weaker Sections in urban and rural areas, under schemes of the Central Government like Indira Awas Yojana and schemes of the State Government as well as housing projects of local bodies and development authorities.
3. Special Short Stay homes that are set up near red light areas should allow women victims who are pregnant to stay there during pregnancy and after delivery. Existing Short Stay Homes will set apart some seats for women victims of sexual exploitation.

Economic Empowerment

1. Women victims should be guided & assisted to form self help groups to take up, among other activities, savings and credit activity. Once they have gained sufficient experience and accumulated savings, they would be assisted by RMK, banks, cooperative banks etc for micro credit for income generating activities.

2. Women Development Corporations, NGOs and other agencies would be encouraged to take-up training cum employment /production projects in both traditional and non traditional trades in red light areas and high supply areas to trained women, child victims and children.
3. The public and private sector would be encouraged to take part in rehabilitation of rescued women and child victims through providing income generating training and employment / self employment opportunities for them including piecework, sub contracting, and assembly units.

Cooperation and coordination

1. Child sexual abuse and exploitation are complex problems that demand a multidisciplinary and well integrated response. The development and implementation of strategies to deal with these issues should involve relevant members of the public sector, the private sector and civil society.
2. Networking and coordination among service providers, the government and law enforcement agencies should be made part of their routine operations, and should also form an integral part of any action plan to address child sexual abuse and sexual exploitation.
3. Organizations should be more open to sharing information with professionals working on child sexual abuse and sexual exploitation so that they can work together toward a comprehensive solution to the issue.
4. Programmes to combat child sexual abuse and sexual exploitation should be regularly monitored and evaluated to determine their effectiveness. The results of this evaluation should be shared with all those concerned on a regular basis so that programmes can be modified accordingly.
5. Income-generation schemes should be coordinated with government poverty alleviation programmes as well as microcredit schemes provided to the victims and potential victims' families at the grass-roots level.

Broadly the recommendations can be categorized into prevention, protection rehabilitation and reintegration and repatriation. Below matrix gives clearly the road map for programming in future

Rescue and Rehabilitation

1. Rehabilitation is at once a psychological, economic, physical, as well as socio cultural goal. Therapeutic (psychiatric) intervention aims at helping the victim of CSE&T overcome the memories of the episode/s.
2. On the contrary the Justice system demands the victim to testify all the vivid details of the episode in giving evidence and facing cross examination. A victim is thus subjected to a contradictory process. This is accentuated enormously due to the inordinately delayed and prolonged prosecution process. Special courts, Special judges, Priority Hearing, Short Time Frame for disposal, Summary Trials, etc are some of the measures which can expedite justice and remove obstructions in the way of social reintegration of the victims.
3. Efforts should be made to persuade and motivate women and child victims of commercial sexual exploitation to recover and reintegrate in society and to lead a dignified life. Also Efforts should be made through awareness programmes,

- counseling, cajoling and if necessary by coercion to remove all children above 6 years age, especially teenage boys and girl children of women victims to institutional care in boarding homes / hostels / foster homes / residential schools etc.
4. Assistance would be provided by the Central and State Governments to NGOs for setting up of Child Development and Care Centers to provide education, health, counseling, vocational training, empowerment, guidance for recovery & rehabilitation and for institutionalization.
 5. The rescued child victims would be kept in the homes and initially be given psychological treatment for relieving them from the trauma under which they were subjected to while in the brothels and red light areas.
 6. The services in homes should be upgraded and include provision of special training to the personnel in the homes, including medical and psychiatric care etc.
 7. In case where women or child victims are from other States, the Department of Women & Child Development of the concerned States along with NGO's would jointly and collaboratively take action to ensure proper shelter, travel arrangements, medical & Psychological treatment and reintegration with humane treatment.
 8. Women's organisations should be involved in monitoring of remand, protective and other homes.
 9. Local communities, NGOs and other interested individuals could be mobilised and
 10. Encouraged to be involved in identification, rescue and rehabilitation of women and child victims.

Recovery and reintegration

1. Reintegration strategies for victims of child sexual abuse and sexual exploitation should be developed that involve the national network of hospitals and health-care centres at the provincial, district and community levels in addition to national and international NGOs. These strategies should be implemented through a range of approaches, such as residential care, psychotherapy and community-based programmes that nurture and promote local support groups and networks. They should always seek to involve the immediate families of the victims as appropriate.
2. All services for the victims of sexual exploitation and sexual abuse must demonstrate respect for the child and be open and non-judgmental. These programmes can be effective and efficient only if they adopt participatory strategies involving the child, the family and the community.
3. If not already in place, programmes of recovery, psychosocial rehabilitation and reintegration of victims of child sexual abuse and exploitation should be established, at least in all major urban centres.
4. Facilities for formal and effective counselling for victims of child sexual abuse and sexual exploitation should be set up, keeping in mind the children's need for confidentiality.
5. Training programmes targeting medical staff, law enforcement officials, lawyers, judges and others involved in providing services to victims of sexual abuse or exploitation should be provided. Such training should be aimed at raising awareness of the issues and at making the participants aware of how to deal with the children as victims rather than as offenders and how to avoid inflicting further trauma on them.

6. Community support networks for victims of child sexual abuse and sexual exploitation should be established where they do not already exist and strengthened where they do.

Prosecution

1. By amendment to specific provisions of statutes wherever a child or minor is mentioned, the definition of a child must comply with the definition under the UNCRC. Every person below the age of eighteen years must be considered to be a child. This should cut across all laws whether labor, criminal law or family law.
2. Trafficking must be seen as an organized crime in criminal procedure and substantive criminal law. Existing principles, such as common intention, conspiracy, etc., must be used in cases of trafficking^{vi}.
3. Cases must be taken up in designated courts, e.g., courts dealing with violence against women, and judges must be trained and sensitized to handle matters on trafficking. Cooperation mechanisms must be set up with mutual contacts at different levels to make rapid action possible.
4. There must be greater focus on trafficking for labor.

Prevention

1. To consider awareness campaigns, developed and launched by the government in close collaboration with NGOs, using the media to highlight child sexual abuse and exploitation. Such campaigns should advocate against the trafficking of children for sexual purposes, sexual exploitation, sexual abuse and violence as well as informing the public of where help can be sought for both the children and the abusers. They should also be aimed at breaking down the taboos surrounding these issues and the stigmas attached to victims in order to facilitate their reintegration into society. Furthermore, they should aim at raising awareness of HIV and the spread of AIDS, and should reach the hamlet level, wherever possible.
2. Teachers should be made especially sensitive to the issues of child sexual abuse and sexual exploitation so that they can help in detecting its occurrence.
3. National tourist boards should review and realign their marketing efforts to encourage responsible tourism and to discourage child sexual exploitation.
4. Income generation schemes targeted at high-risk groups should be encouraged in order to reduce their poverty level and alleviate the need to resort to commercial sexual exploitation as a means of survival. Skills training should form an integral part of the income-generating process.
5. More research should be undertaken in order to better understand the sexual abuse and exploitation of children and to improve the services to deal with them. Such research should focus on:
6. Further effective, culturally sensitive measures that could be undertaken to prevent the sexual abuse and exploitation of children
 - The exploitation of and violence against child domestic workers
 - The sexual exploitation of adopted children
 - Teachers' behaviour with children and youth with special reference to sexual abuse
 - The need to motivate child prostitutes away from sex work
 - The effectiveness of counselling techniques in rehabilitating sexually abused children

- The relationship between education and sex work, exploitation and abuse
7. Anti-trafficking trainings must continue with renewed vigor for different implementing agencies. Trainings must be done continuously and at three levels-Basic/ Qualification Training Trainings to in-service personnel, and Trainings for those deputed to anti-trafficking squads/ police/ border controls Employment and recruitment agencies must be closely monitored^{vii}.
 8. There must be greater awareness at all stages of source, demand and transit, and whistleblowers must be protected.
 9. Corruption among the police, border officials and other government personnel must be addressed more firmly.
 10. Community initiatives must be strengthened in order to ensure greater awareness on trafficking. Generating of labor opportunities locally and enforcement of labor standards nationwide will reduce the vulnerability of labor to trafficking.

Protection:

Though laws dealing with sexual abuse and sexual exploitation exist in all countries within the sub region, most of them need to be strengthened in various ways, including the following.

- a) Laws should cater specifically to child abuse and exploitation if they do not already do so explicitly;
- b) Laws should be more child-centred, treating them as victims rather than as offenders, taking the children's statements of abuse at face value and implementing child-friendly court procedures such as video link evidence - presentation;
- c) In cases of sexual exploitation of children, the age defining a "child" should be in line with the Convention on the Rights of the Child (up to 18 years of age), as a child in an exploitative situation is not in a position to offer consent;
- d) Laws should grant abortion rights to young women who have conceived as a result of sexual abuse or exploitation;
- e) Laws on pornography should address new technological developments, should be defined in such a way as to include electronic pornography, and should criminalize its production, distribution and possession;
- f) Laws should be in line with the Convention on the Right of the Child, particularly Article 2, ensuring the equal treatment of girls and boys before the law, "irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status".
- g) Existing laws pertaining to child sexual abuse and sexual exploitation should be strictly enforced by law enforcement agencies.
- h) Extraterritorial legislation should be enacted that would allow for the prosecution of foreign nationals who violate the rights of local children.
- i) Law enforcement personnel should be provided with training to increase their awareness of the causes of child sexual abuse and child sexual exploitation, as well as existing legislation and how best to implement it. The fact that abused or exploited children are victims and not offenders should be emphasized. Training should be carried out involving law enforcement agencies, NGOs and organizations involved in recovery and reintegration work as well as the legal and medical professions. This would contribute to a better understanding of the role of each

party in the recovery of children from sexual abuse and exploitation and their reintegration into society.

- j) Rescue operations aimed at removing children from prostitution should be coordinated with all relevant agencies in order to ensure that rescued children can be taken care of appropriately.
- k) There must be a clear line drawn between the trafficker and the victim. Victims must not be further penalized, and a distinction must be made between trafficking on the one hand, and prostitution or unsafe migration on the other, even if laws relating to border controls have been breached by such persons.
- l) Rescue of trafficked victims should go along with effective rehabilitation and must be done in a gender sensitive way. The survivors of trafficking should have the right to exercise independent agency, rather than being compelled to do whatever the State thinks is best for them.
- m) Civil remedies like torts claims and compensation must be created and enforced against traffickers or employers.
- n) States must commit finances for more and better schemes to rehabilitate victims.
- o) Witness protection must be explored to create an atmosphere free from fear within which a victim can testify.

General recommendations

1. Existing national policies and programmes should be thoroughly reviewed, leading to the formulation and implementation of comprehensive plans that meet the needs of child victims of sexual abuse and sexual exploitation and their families. These plans and the resultant policies need to be based on children's rights and respect for social justice.
2. The national governments and political parties within the subregion need to make an explicit commitment to these comprehensive plans for victims of child sexual abuse and sexual exploitation in order to ensure their success.
3. More resources should be allocated to the prevention of further child sexual abuse and sexual exploitation as well as to the recovery and reintegration of victims into society.
4. There must be ratification of the UNTOC and the Protocols, so that there will be a common blueprint and a common as well as comprehensive legal framework.
5. In order to have a common understanding of trafficking and also to ensure that all forms of trafficking are penalized, the definition under the Protocol must be adhered to. Even if this is not done under one comprehensive law on trafficking, it must be woven into existing legal frameworks.
6. There must be a greater sensitivity to the violations of rights by women who have been trafficked. The woman must have a say in legal proceedings pertaining to her matter. Women should not be forced into homes or separated from their children and families. Cases are not always taken up in designated courts dealing with violence against women.
7. The Government of Madhya Pradesh has started a Scheme call Jabali could be replicated. The objective of this scheme is to assist Voluntary Organisations to take up activities for the welfare and development of women and child victims of commercial sexual exploitation so as to eliminate commercial sexual exploitation. The Scheme is mainly targeted at the women & children in those castes/tribes where there is social acceptance & even collusion by the male members with the commercial sexual exploitation of their women. The scheme has five components:
 - o Running of Boarding Schools for children or women victims

- Setting up protective homes for young girls
 - Providing women victims with benefits for Income generation and economic rehabilitation
 - Creation of public awareness through information, education & publicity.
 - Health checkups and treatment.
 - The special Juvenile Homes should be set up with facilities of counselling, vocational training and health unit for children affected by commercial sexual exploitation and HIV/AIDS.
 - Maintenance grant should be given to traditoanal sex workers and their children should be supported with free educational material.
- 8 Services for institutional care of children, providing night shelter, balwadi, ducational support programme, women's empowerment programmes in the red light areas could be some of the alternatives.
- 9 There is an urgent need to upgrade the Child Welfare Committees constituted under the Juvenile Justice Act 2000. The CWC is a full time service that must be available for at least 12 hours a day and 7 days a week. Positions on the CWC must be made attractive so as to attract highly competent and qualified staff. The structure must be reorganized for better coordination, outreach and monitoring.
- 10 The infrastructural and managerial conditions of the Rescue Homes and Protective Homes are admittedly subhuman and need urgent up gradation. Professionally managed Rescue Homes and Protective Homes is the kingpin of a successful Post Rescue Operations.

To address the issues different strategies needs to be adopted and interventions of generalization and presumption are suggested are:

Generalization	Deduced intervention
The children of trafficked victims are more vulnerable to getting trafficked as they are closely and helplessly exposed to the traffickers.	If the children of trafficked victims are insulated against the traffickers and provided help their vulnerability to trafficking will be reduced.
The children of trafficked victims are more vulnerable to getting trafficked as they are alienated from the developmental path	If they are placed or replaced on a developmental path then their vulnerability to trafficking is reduced.
Lack or disintegration of support systems increases vulnerability to trafficking	Providing / rebuilding the disintegrated support system reduced the vulnerability to trafficking.
Trafficking is a compound crime comprised of sequentially chained unit crimes over a period of time.	The completion of the crime of trafficking does offer a scope for AHT intervention to break the chain of unit crimes at different points .
Even after successful search, arrests, and rescues, the investigation and Prosecution mostly fail because of lack of cooperation from the witnesses	Victim assistance and victim witness protection programmes can go a long way in facilitating investigation, and prosecution
The damage caused by trafficking is partly reversible, victims can be freed, and helped to reintegrate with themselves and the society	Efforts can be made for rescue, recovery, rehabilitation, and personal and social reintegration.
Damage caused by trafficking is often irreversible and sometimes fatal	Prevention is a better intervention
The ignorance of a potential victim is the capital of the trafficker	Awareness programmes can reduce the vulnerability and thus the incidence of trafficking

Gap Areas	Description	Proposed Approach/Activities
Convergence	Trafficking is often dealt as a 'stand-alone' issue without linkages with factors in which it is embedded such as migration, child labour.	Develop an integrated approach to trafficking that looks at diverse aspects that have implication- livelihood, health, etc. Initiate meetings between anti-trafficking organizations with HIV/AIDS, child abuse and other networks.
	There are various programs for distressed women. However, convergence is poor and there is no 'one-stop' from where a victim can access support on multiple fronts	Create Community Resource Centers that act as the point of convergence of all support programs as well as info hub that create and maintain crucial linkages for rehabilitation of the victims and the vulnerable.
	The Anganwadi workers have been identified for working in villages as Vigilance squads. However, they are not well trained to take up the issue.	Support training & sensitization programs for Anganwadi on anti-trafficking interventions.
	There are multiple agencies (Anganwadi, police, NGOs, CBOs, Child labour camps supported by National Child Labour Program) working on trafficking and grassroots level workers in each need further sensitization to deal with trafficking issues.	Impart training and sensitization programs for the workers of various agencies.
Vocational Training	Current vocational training often do not base their programs on a needs analysis and fail to link with current employment opportunities. Many girls who complete vocational training programs remain unemployed either due to the lack of access to funding or technical assistance in starting their business. There is a lack of clarity as to the purpose of the vocational training courses. The training programs are focused on traditional courses such as embroidery and sewing.	Promote livelihood options through linkages with existing government or NGO vocational training programs. Provide linkages to entrepreneurial support through technical resources, credit, infrastructure and marketing. Provide technical assistance on the development of needs-based/context-specific vocational training programs.
Personnel Support	There is a shortage of staff trained and experienced in trauma care and counseling both in government and privately run homes.	Support the hiring and training of staff in trauma care and counseling.
	There is a shortage of caseworkers who can devote their full attention to the psycho-social support.	Support the hiring and training of caseworkers.
	The ICDS and NGOs need training on home investigation	Provide training for ICDS and NGO staff on home investigation

	protocols to prevent stigmatization and re-entry into the profession.	protocols before repatriation of rescued girls from Mumbai or Hyderabad.
Infrastructure	There is no home for rescued girls in the source districts and they are usually placed in the government service homes. Some girls are also afraid to come out in the open or seek assistance because of fear that they would be stigmatized.	Establish a transit home in CRC to provide a safe place for repatriated women and girls who are not ready to go back to their villages.
	Most of the govt. homes in Mumbai operate beyond capacity. While the estimated number of women in prostitution ranges between 50,000 to 100,000, all the present homes taken together can accommodate only about 250.	Advocate for increased facility for the rescued victims. Advocate for speedy licensing of existing privately run rehabilitation homes. Advocate for more government licensed protective homes.
Inter-Agency Coordination	The rescue operations do not involve multiple-agency collaboration/ coordination.	Support networking initiatives among organizations involved in rescue operations.
	The government homes are filled beyond capacity and could not provide adequate care and support for the rescued women and girls.	Advocate and support current initiatives for the improvement of facilities and services in the government homes.
	There is a demand for more drop in centers in the red light districts.	Advocate for the establishment of drop-in centers for children of prostitutes.
	There is no long stay home for the placement of rescued major girls other than the government protective home.	Advocate for the establishment of a rehabilitation home for major girls.
	Most organizations are run by their founders and would need support to ensure development of a second line of leadership.	Organize capacity building training programs in leadership development.
	Currently only International Justice Mission provides comprehensive legal support to the victims and could not meet the demand for their services.	Support hiring of trained staff in legal counseling and assistance.
	There is a lack of inter-state coordination in ensuring the proper repatriation of rescued girls.	Provide assistance in the development of inter-agency communication and inter-state coordination on the repatriation of rescued girls.

Stake Holder analysis

List of Stakeholder	Their interest and effect.	Their potential influence.	Their relation with other stakeholders.	Their capacity.
survivors	The rights of the survivors are protected, and they receive all support services from the government and other key and secondary stakeholders for a smooth rehabilitation	Their participation will bring positive results in the program.	Development of positive attitude towards other stakeholders.	Through child to child approach they can bring a positive change in the life style of other victims
Families of survivors	Their willingness for reunification of survivors with the family	They will take all measures to protect their children from being re-trafficked/abused/exploited.	The families may initially not be cooperative with other stakeholders and the project. But they will be motivated and sensitized to cooperate for the smooth rehabilitation of all survivors.	They will understand the circumstances that led the girls to fall prey to traffickers.
Witnesses	Their commitment to get the accused convicted so as to save many innocent girls	Their witness statements in the Court will play a key role in prosecuting the guilty.	There may not be any relation, but they will be sensitized on how their witness statements would save hundreds of innocent girls.	They will boldly attend the court adjournments.

Homes	Rehabilitation of the survivors	Secure shelter, quality and patient counseling sessions, support for vocational trainings in case possible	All the Homes have good and regular linkages with many of the stakeholders.	They will counsel the survivors, and help them get reunified with their families.
Community leaders (CBOs)	Through the project they can understand the plight of the survivors and help them reintegrate into the society.	They have the support of the community.	As CBOs, they have already established good linkages with the district administration, and the police.	Community leaders participation in the project will create credibility among the other stakeholders i.e. Community
Elected representatives (policy makers)	They constitute a powerful section of the society. They can take appropriate decisions that strengthen the case management initiatives.	They can become the agents of change.	Relationship will improve and they will receive cooperation from other stakeholders.	Leader's participation in the project will encourage other stakeholders to participate in the project.
NGOs (both working in rural & urban communities and running homes)	Contribute to the project in terms of vocational trainings, home investigations, protection of survivors, rehabilitation etc.	They will influence the communities and the families of the survivors	As NGOs, they have good relations with the local government, local police and Media.	Capacity to work as a network will improve. Capacities to establish and maintain DICs will improve.
Media	Contributing towards child protection and prosecution of perpetrators as a social responsibility.	The government, and the society will be sensitized	Positive relations with all other stakeholders	Greater credibility among communities and Government
Police Department.	The police department can extend support in providing care and protection for the survivors, and will book the cases under appropriate sections.	Being the law enforcement agency, they will ensure the conviction of the	They can approach any other stakeholder.	They traffickers, brokers

		accused.		
Dept of Women & Child Welfare .	The government provides support services for survivors through this department. Hence, the department is a key actor in providing the required services for the survivors.	The department has control over Homes. It is through this department that the relief packages are released to the survivors.	Positive relations with all other stake holders	The government provides support services for survivors through this department. Hence, the department is a key actor in providing the required services for the survivors.
Judiciary (CWCs & public prosecutors)	The Judiciary is a key actor in prosecuting the culprits.	They can create a confidential and child friendly environment during the court proceedings. They can order for safe shelter for survivors.	They can instruct or summon any other stakeholders.	They can ensure the speedy disposal of cases and the prosecution of culprits.

Chapter 8

Challenges

The Government of India has spearheaded many of its initiatives, with enthusiastic support from the respective Ministries, State Governments, international organisations and CSOs. The recently-launched ICPS will contribute to the improvement in well-being of children in difficult circumstances and reduction of vulnerabilities. However, various factors and difficulties continue to affect the degree of fulfilment of obligations under the Protocol. Some of these include:

1. Traditional mindsets and culturally sanctioned practices, such as *devadasi*, which continue to exploit young girls.
2. Displacement and unsafe migration, which leaves a large number of children in urban poverty, majority of them living in informal and illegal settlements, such as railway lines and on the street, thus making them vulnerable.
3. Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
4. Lack of awareness on the issue and on legal provisions amongst caregivers, including right attitude towards the victim, which results in re-abuse of victims.
5. Lack of reporting of cases of children in need of care and protection.
6. Lack of systematic national and State-wise data.
7. Inadequate standards of care in homes, which prevents children from being rehabilitated.
8. Limited rehabilitation infrastructure and re-integration assistance for the victims once they leave the institution.
9. Prosecution depending too heavily on witness testimony and too little on forensic and other evidence. There are difficulties in providing adequate evidence leading to prosecution. Sometimes, victims are the only witnesses of the crime, which poses difficulties for prosecution.
10. Limited follow-up and monitoring.
11. Although a progressive system has been developed with the amended juvenile justice system, its implementation in full spirit has remained a challenge. Some of the factors in this challenge include:
 12. „. Lack of adequate infrastructure and institutional care systems with minimum standards, supervision and commitment.
 13. Lack of single window mechanism and method of accreditation for registration of institutions / homes.
 14. Dearth of trained and sensitised manpower at every level of implementation; absence of designated police and an overburdened judicial system.
 15. . Lack of effective provisions for review and re-consideration of the child’s placement in institutions at regular intervals.
 16. „. Inadequate facilities, especially counselling services and vocational skills training.
 17. „. Creation of new options and strengthening the existing initiatives for the rehabilitation of children in institutions.

CONCLUSION

India needs to ensure that major Conventions especially UNTOC and Protocols are ratified for a more uniform system of anti-trafficking frameworks for tackling cross border trafficking. While in Goa there is a definition of trafficking, this is not true for the rest of the country, and clear definitions on trafficking and organized crime must be formulated. The internationally accepted norm of a child being a person below the age of eighteen must be incorporated in all statutes, including those on labor. India needs to cooperate with its neighbours, especially with Nepal and Bangladesh, to tackle cross border trafficking. Although some measures exist, these need to be formalized in law and policy and operationalised through training programmes for different stakeholders. Cross border trafficking in the region cannot be tackled without India's commitment matched by law, policy and action.

1. From the findings in the national reports it can be said with certainty that the problem of child sexual abuse and commercial sexual exploitation of children exists and is prevalent in all five countries of the South Asian subregion covered under this report.
2. The problem of child sexual abuse and sexual exploitation remains hidden in most of the countries in the South Asian subregion because of social norms and values. In Pakistan and Sri Lanka, for example, there are no identifiable “red light” districts such as the ones in some cities of South-East Asia.
3. Various studies identified many causes of sexual exploitation and abuse, but the most commonly identified ones included poverty, lack of education, lack of employment opportunities, the migration of women abroad to seek employment, broken families, and male-dominated social systems.
4. Building on this last point, it appears that social values that place women in a subordinate position to men contribute to the sexual abuse and exploitation of girls. It was noted that in some countries, the law did not provide the same rights to women and girls that it did to men.

2. Child sexual abuse and sexual exploitation

1. The study clearly indicted that children were sexually abused mostly at the hands of known or trusted people, including relatives and teachers.
2. Victims of sexual abuse commonly included street children, child domestic workers, child labourers in sweat shops such as carpet factories, hotels or small restaurants, assistants to bus or truck drivers, and children in other similar occupations.
3. Based on these studies, the majority of victims of sexual abuse and exploitation, both girls and boys, were in the range of 12 to 15 years old, though many of the victims were found to be much younger.

3. Health problems of sexually abused and sexually exploited children

1. The victims of sexual abuse and exploitation were seen to have physical injuries such as bruises, bite marks on breasts and buttocks, unwanted pregnancies and infections in the vagina or anus.
2. Illegal abortions were a common occurrence, particularly abortions performed by unqualified health practitioners resulting in post-surgery complications such as vaginal bleeding and damage to the reproductive organs. The consequences of such

abortions also included vaginal discharge, indicating infection, and various skin infections, such as scabies.

3. Most victims of sexual exploitation and abuse seemed to have frequent fits of coughing, colds, fevers and nasal tract infections. Some were afflicted with tuberculosis, while others complained of intestinal problems, worms and lice.
4. Many of the victims were found to be suffering from STDs such as syphilis, gonorrhoea and HIV/AIDS infection. Some girls also suffered from uterine prolapses, puss and white discharge, while some boys had infected anal passages and urinary tracts.
5. The psychological and emotional effects of sexual abuse and exploitation were found to include depression, fear, mental disturbances, sleeping problems and low self-esteem. These and other psychological problems sometimes resulted in suicide and even murder.

4. Health service providers

The national studies highlighted the insufficiencies of the existing services provided to victims of sexual abuse and exploitation. Furthermore, the services available were inadequate, in terms of both quality and scope. The services were there to meet some of the needs of the victims but that gaps in the services were also present. The availability of medical provisions of a curative nature is highlighted but also recognized the lack of services aimed at helping victims recover and reintegrate into society. There is a strong need to develop the capacity of the public sector to deliver health services.

Annexure's 1

Initiatives of the Government of Andhra Pradesh (W & CWD and Police Department)

1. G.O.Ms.No 47. Wd, CW & DW (Prog) Dept.. Dt: 12.07.1999:

Relief and Rehabilitation Fund was Set up for providing relief to women who become unfortunate victims of atrocities, like rape, molestation, kidnapping, abduction of women and girl, dowry deaths, etc.

During the review of the implementation of the scheme, it was felt necessary to simplify the procedures and also enlarge the scope of the scheme so as to bring the victims of trafficking within its purview for the purpose of providing immediate relief.

Having examined the proposal of Director, women Development & child Welfare Department in the reference 3rd cited, Government delegate the power of sanction of relief as provided in G.O.1st cited to the District Collector's. Government further order that an amount of Rs. 5,000/- or actuals, whichever is lower shall be paid either by Director, Women Development & Child Welfare or District Collector to the children/ women who are rescued from trafficking as immediate relief for the purpose of their travel, clothing medicine and other immediate basic necessities as indicated in the Annexure to this order.

Government have also decided to modify the procedure laid down for claiming relief and filing First information Report (Fir) as follows :-

- Whenever any atrocities are brought to notice by either individuals or Organizations or are reported in the media, the Child Development Project Officer (CDPO) concerned / Project Director (PD), District Women & child Dev.Agency will record the case in a register immediately. The registration of the case can be done suo-moto or on the representation made, to the CDPO/PD by the victim of the atrocity or her family members/Social Worker any concerned citizen within 10 days of its occurrence.
- Wherever the case is registered suo-moto, the CDPO having jurisdiction should report the matter to the Police Station having jurisdiction and file FIR, Wherever the family members / Social Worker (s) take up the matter, they should simultaneously register the complaint with the Police Station and obtain FIR and a copy of such FIR should be handed over to the CDPO concerned.
- The victim of the atrocities such as rape / custodial rape gang rape should be advised to / referred for medical examination by the Civil Assistant Surgeon in – charge of Primary Health Centre or the nearest Government hospital.
- After the charge sheet is filed and medical report is received the District Collector shall after due scrutiny accord sanction of compensation / Relief to the victim as per the scale and up to the limits laid down in the Annexure to this order. On the basis of the sanction accorded by the District Collector, the CDPO of the area concerned will draw and disburse the amount form the Treasury in the shape of Demand Draft / Pay order.

An amount of Rs. 50.00 Lakhs has been provide in the budget Estimates for 2003-2004. The expenditure on Compensation / Relief shall be debited to 2235 SS & W – 02 SW MH 103 Women Welfare (SH) 27 Financial Assistance to women and girl affected by cognizable offences under criminal procedure code and victims of trafficking 310 Grantin – aid 312 Other Grant aid

G.O.Ms.No.1.WD, CW & DW (Prog) Dept., Dt: 03.01.2003

Government have issued orders on the policy for combating trafficking of women and children for commercial sexual exploitation and Government have also decided to utilize the existing rehabilitation and relief fund for providing relief to victims of trafficking. It was also

ordered therein that the fund should be utilized for the purpose are enumerated under the Rehabilitation and Relief Fund.

The problem of trafficking of women and children for the purpose of sexual exploitation has assumed alarming proportions in recent years. Trafficking is prevalent at various levels-local, inter-district, Inter-State and Cross-border. Commercial exploitation of women and children takes place in various forms including brothel based prostitution, sex tourism entertainment industry and pornography in print and electronic media. There are major obstacles in assessing the exact magnitude of the problem of trafficking. However, various reports have highlighted the fact that a high percentage of victims of trafficking are from the State of Andhra Pradesh alone. Similarly, while there are no precise estimates, the available data indicate that nearly 50% of the victims belong to Scheduled Caste and up to 30% belong to the other Backward Classes.

Trafficking is a multi-dimensional problem encompassing a whole range of economical, social and cultural issues, which are varied and highly complex. Most of the victims have been trafficked with promises of jobs, better career prospects and marriage. Some of are inducted forcibly through abduction. Poverty and deprivation, secondary status accorded to women in society, prejudice against the girl child, weakening of the family structure, changing public attitudes towards sex and morality, the caste structure, urbanization and migration are other factors, which have contributed to the commercial sexual exploitation of women and children. Apart from trafficking, certain traditional forms of prostitution are prevalent, e.g. Jogins, Marthammas, Dommaras, Basavis.

Trafficking and commercial sexual exploitation of women and children have resulted not only in violation of rights but also in very adverse physical, psychological and moral consequences for the victims, which are serious, life-long, and also life-threatening. About 60-70% victims suffer from more than one disease including sexually transmitted diseases such as HIV/AIDS. The rescued victims are invariably penniless, physically ill and psychologically broken.

Taking into consideration the above, a comprehensive policy and action plan covering various aspects such as prevention, trafficking, rescue, repatriation, economic empowerment, health care, education, housing, legal reforms and creation of corpus fund is necessary for addressing the problem of trafficking. There is also need for planning and coordination both at the district level and the state level for addressing the deep rooted and underlying causes of trafficking and also taking adequate measures for psychological support, economic empowerment and re-integration so that the victims do not get drawn into the trade again on account of non availability of other options for livelihood.

As most of the components of the Action Plan have to be implemented at the District level, Government have decided to constitute District –level Committees with the following composition for taking up activities for prevention, rescue and rehabilitation of victims :

District Collector	Chairman
Superintendent of Police	Member
PD, District Rural Development Agency	Member
District Medical and health officer	Member

Representatives of the SC/ST/BC/Women Finance corporations Member

NGOs/Prominent social workers working in related areas to be nominated by

Dist Collector Member

Project Director, Women Development & Child Welfare Agency Convener

Government have also decided that the following activities shall be taken up by the District level Committees: -

PREVENTION:

Prevention of Trafficking in women and children can be achieved only by addressing the root causes. Poverty and illiteracy have been identified as two primary causes of trafficking. It is, therefore, necessary to ensure that the various schemes for eradication of poverty are focused at benefiting families in which women and children are vulnerable or are at high risk of being trafficked for sexual exploitation and commercial purposes.

The District Committee shall, therefore, among other measures, take the following preventive action :-

- o Create a reliable and relevant database with the help of NGOs on the high supply areas, routes, destinations, causes of trafficking, exploitation and the magnitude of the problem.
- o Create public awareness and motivate public resistance to trafficking through programmes in educational institutions, Self-Help Groups (SHGs), Women Groups, youth groups using print and visual media extensively.
- o Adopt a campaign approach /mode to combat the evils of trafficking and sexual exploitation with the help of local bodies, Educational Institutions, NGOs, etc.,
- o Organize social boycott of the persons indulging.
- o Prepare Panchayat level and Mandal level Action Plans by establishing similar committees at the Mandal and Panchayat levels.
- o Set up Community Vigilant Groups in every Panchayat especially in high-risk groups like street children, neglected children, etc., so as to prevent exploitation of their vulnerability.
- o Create a proper convergence of various benefit schemes for women and girl children to empower high-risk groups.

ANTI – TRAFFICKING MEASURES :

The District Committee shall set up an Anti-trafficking Squad in every District headed by an officer not below the rank of Deputy Superintendent of Police. The Project Director of Women Development & Child Welfare, Probation Officers, Social Workers and other NGOs who are specially sensitized and trained for rescue and rehabilitation shall support the Anti-trafficking Squad. The Anti-trafficking Squad shall:

- o Be vigilant at all entry and transit points within its control area and act quickly on any report from the community Vigilant groups or from any concerned citizen on cases of trafficking.
- o Establish Contact Centers at major transit points like Bus Stops/Railway Stations to monitor migration of women and children.
- o Establish Help lines, Help-booths and support centers under the jurisdiction of each police station and assist the victims in getting immediate help.
- o Conduct rescues with sensitivity, confidentiality and care for the victims.
- o Book cases only against the traffickers and not against the victims of trafficking.
- o Enforce strictly the law against pornography including possession, production, sale and exhibition of any kind of pornographic material.

RESCUE : The District Committee shall :

- Immediately arrange for shelter facility for rescued victims.
- Submit proposals for establishment of Transit Homes with facilities for trauma counseling , victims care, vocational guidance, re-integration which will be co-managed with credible NGOs, under Centrally Sponsored Scheme SWADHAR.
- Arrange for foster care of child victims or children of victims of trafficking wherever possible.

ECONOMIC EMPOWERMENT :The District Committee shall :

- Formulate special schemes, which will converge with existing schemes to economically empower a victim.
- Provide guidance and assistance through Self-help Groups of victims for micro credit facility and income generating facilities.
- Provide special assistance schemes under women's SC/ST/BC Finance Corporations for training and employment of self-employment on priority basis.
- Establish livelihood training programmes and training-cum-production centers for victims with collaboration and support of private institutions.
- Establish adequate marketing tie-ups.
- Make it mandatory for NGOs supported by the Government to employ victims who will form 50% of the total staff strength.

HEALTH CARE SERVICES: The District Committee shall :

- Provide health cards to women and child victims ensuring free medical treatment, adequate drugs and medications in all Government Hospitals.
- Provide care and support for HIV+ ve victims of trafficking so as to ensure holistic and non-discriminatory un-biased access to Health Services.
- Establish Homes or support reputed NGOs to establish Homes wherever required for terminally sick victims by utilizing existing infrastructure under various Departments/Agencies.
- Start mental Health Intervention Centres or Counselling services for victims for effective reintegration back to the mainstream society.

EDUCATION AND CHILD CARE: The District Committee shall:

- Establish Residential Transit Schools with proper counseling facilities in all Mandals so as to prevent second generation trafficking.
- Make it mandatory to admit all children of victims of trafficking in Residential Schools over and above the sanctioned strength.
- Provide free and compulsory education with support services like scholarships, supplementary Nutrition, Tuition so as to prevent Dropouts.
- Establish Vocational Training Centers with adequate marketing links so as to provide livelihood skills for mainstream reintegration.
- Declare the Children of trafficked women as orphans and provide benefits in SC/ST/BC Residential Institutions/Hostels/Homes.

HOUSING AND CIVIC AMENITIES: The District committee Shall :

- Arrange to provide victims of trafficking with electoral photo identity cards, if they are registered electors of the relevant constituency.
- Provide white ration cards as a separate eligible category as a special case adopting existing income criteria.
- Provide allocation of house sites to rescued persons on priority.

LEGAL REFORMS:

Government has also decided that necessary legal reforms shall be introduced for ensuring effective and speedy justice by:

- Working on amendments of criminal procedures to ensure gender and child sensitive application of judicial processes and efficient, tight and stringent prosecution of traffickers including summary disposal of such cases ensuring proper and quick justice.
- Making provisions in the law for confiscation of assets of exploiters and for compensation to the victims.
- Setting up night courts so as to prevent the holding of victims in police custody at night.
- Enacting a law for imposing fine on the traffickers and crediting the amounts to the rehabilitation fund for the victims of trafficking.

REHABILITATION AND RELIEF FUND :

The Government has also decided to utilize the existing rehabilitation and relief fund for providing relief to victims of trafficking. The fund shall be utilized for :

- Facilitating the repatriation of victims rescued from brothels and other places of trafficking to their homes.
- Providing immediate and timely relief to the victims of trafficking.
- Meeting expenditure towards travel, clothing and other immediate necessities, urgent medical care and other contingencies for victims of trafficking or their children.
- Supporting and Networking with NGOs who are engaged in rescue and rehabilitation.

For reviewing the activities of the District Committees and achieving the required inter-departmental/multi-sectoral coordination a STATE LEVEL COORDINATION COMMITTEE under the Chairmanship of the Chief Secretary to Government is set up with the following composition :

Chief Secretary to Government	Chairman
Principal Secretary to Government, Home Dept.	Member
Principal Secretary to Government, Medial, Health & Family Welfare Dept	Member
Principal Secretary to Government, Social Welfare Dept	Member
Secretary to Government, School Education Dept	Member
Secretary to Government, Law Dept	Member
Commissioner, Juvenal Welfare, Correctional Services & Welfare of Street Children Dept.	Member
Project Coordinator, A.P.State Aids Control Society	Member
Director, Women Development & Child Welfare Dept	Member
Two Non-Governmental Organizations (NGOs)/Social Workers to nominated by By the Government	Member
Principal Secretary, Women Development, Child Welfare & Disabled welfare Dept	Convenor

The State Level Coordination Committee will meet once in three months to review the situation relating to Trafficking and the implementation of measures for rescue, rehabilitation, reintegration and mainstreaming Of the victims of trafficking.

All the concerned Departments are requested to take further action and issue detailed guidelines for the proper implementation of the policy. The Collectors and District Magistrates are also requested to constitute the District level committees and take up vigorous Campaigns against trafficking as well as implement the various measures envisaged for the rehabilitation of the victims of trafficking.

G.O.Ms.NoA.26 Dated : 14.09.2001: Constitution of State Coordination committee on prostitution, Child prostitution and children of prostitutes

The Hon'ble Supreme Court of India in its judgement dated : 9-7—97 in W.P. (Civil) No. 824 of 1988 – Gaurav Jain – versus – Union of India directed the Government of India to constitute a Committee to make an indepth study of the problems of prostitution, child – prostitution and children of prostitutes and to make suggestions for the welfare programmes to be implemented for the care, protection treatment and rehabilitation of the young victims mainly children and girls rescued either from the brothel houses or from the vice of prostitution. Accordingly, the Government of India constituted a Central Advisory Committee.

In the letter read above, the Secretary to Government of India, Ministry of Human Resource Development, Department of Women & Child Welfare, New Delhi, informed that without necessary cooperation of the State Governments, it may not be possible to realize the objectives of the Committee and requested the State Secretary to Government to review the situation and send the information in reporting formats prescribed by the Government of India.

Accordingly, the Government her by constitute the Coordination Committee on Prostitution, Child Prostitution and children of Prostitution with the following:-

1	Chief Secretary to Govt.	Chairperson
2	Spl. Chief Secretary to Govt.,	Member
3	MH&FW Dept. or his nominee	Member
4	prl.. Secretary to Govt., Home Dept	Member
5	Secretary to Govt., School Education.	Member
6	Secretary to Govt., WD, CW & DW Dept	Member
7	secretary to Govt., WD, CW & DW Dept	Member / Convenor
8	director General of Police or his nominee.	Member
9	Commissioner J.W., C.S & W.S.C.	Member
10	Commissioner, WE & SE	Member
11	Director, W.D. & C.W.	Member
12	Project Director, A.P.Aids Control Society, Hyderabad	Member
13	Two NGOs/ social Workers to be Nominated by the Govt	Member

The Committee will work towards improving the coordination in the enforcement of the Immoral Traffic (Prevention) Act, 1956, guide and oversee the efforts for the rescue and rehabilitation of prostitutes / child prostitutes. The Coordination Committee shall meet at least once in three months.

G.O.Ms.No.28.WD,CW & DW (Prog) Dept., Dt: 04.07.2003

Government ordered that an amount of Rs,5,000/- or actual, whichever is lower, be paid either by the Director, WD&CW or the District Collectors to the children/women who are rescued from trafficking as immediate relief for the purpose of travel, clothing, medicine and other immediate necessities as indicated in the Annexure for the women and children rescued from trafficking.

In the review meeting of State Level Coordination Committee on Policy for Combating Trafficking of Women and Children for commercial sexual exploitation held on 16-12-2005, it was declared to

increase the immediate relief to women and children rescued from trafficking from Rs.5000/- to Rs.10,000/-.

After careful examination, Government hereby order that the immediate relief to women and children who are rescued from trafficking be enhanced from Rs.5000/- to Rs.10,000/-.

<p>1. Sexual exploitation of women</p> <p>2. outraging the modesty of women (rape) as per Sec.375 of I.P.C</p> <p>3. Kidnapping and abduction of women or child as per Sec. 360 & 361 of I.P.C</p>	<p>i. An amount of Rs. 50,000/- to each case</p> <p>ii. 25% when charges sheet filled after medical examination done.</p> <p>iii. 25% after 2 months of filling by the filling by the Director / Commissioner. WD & CW, Hyderabad</p> <p>iv. The trial should be completed within (1) year in any case it should not delayed beyond (2) years after registration of the crime.</p> <p>Rs. 20,000/- to each victim if she is alive, if not to the head of the family as the case may be.</p>
<p>4. Dowry Death</p>	<p>i. Rs. 50,000/- in case of dowry death. Rs. 25000 will be released to their parents to make a legal fight, if the mother is left out with children they should be admitted to the residential schools run by the Social Welfare and Women Development & Child Welfare Department with the permission of family members.</p> <p>ii. Providing the facility of Girl Child Protection Scheme to all the girl children of the deceased if they want the benefit of the scheme and are eligible in case, they are not eligible for the scheme. Rs. 25,0000/- will be deposited in the name of the child, which the child will get after she becomes 20 years.</p> <p>iii. The Government will take care of full cost of education up to primary level.</p> <p>iv. Whenever any dowry death is recorded the husband if he is a Government employee, should be immediately suspended from service, and strict action as per the Dowry Prohibition Act to be initiated.</p>

<p>5. Gang rape (or) Custodial rape as per Sec. 375 & 376 of I.P.C</p>	<p>A compensation of rs. 1,00,000/- to each victim</p> <ul style="list-style-type: none"> i. ¼ of the amount when FIR/ medical examination is done. ii. ¼ of the amount within 20 days of the occurrence of the incident subject to the satisfaction of Director Commissioner. WD & CW Hyderabad iii. remaining amount after trial
<p>6. Women and Children rescued form trafficking</p>	<p>An amount of Rs. 5,000/- in each individual case of actual which ever is lower be paid either by the Director, WD & CW or the Dist. Collector to the children women who are rescued from trafficking.</p> <p>For repatriation of victims rescued form brothels and other places of trafficking to their homes transit home / Rescue Home</p> <ul style="list-style-type: none"> i. Expenditure towards travel, clothing and other immediate necessities, urgent medical care, food and accommodation expenses.

Annexure 2

Legal and Policy Frame Work

United Nations statement on trafficking

The increasing international focus on trafficking since the 1990s culminated in 2000 with the adoption of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. Also known as the Palermo Protocol, this is the first major international intervention to address trafficking based on an expanded understanding of the term. Article 3 defines “trafficking in persons” for the purposes of the protocol, as follows:

(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) “Child” shall mean any person under eighteen years of age. In this definition, influenced by a crime-control and anti-prostitution position, prostitution² is mentioned only in the broad sense of exploitation and coercion. Neither term is clearly defined; further, consent or choice is irrelevant if any form of coercion or exploitation is used (Warren 2007). One of the key areas of contention during the drafting of the Protocol was the definition of trafficking itself. Scholars and sex worker rights advocates point out that by including clauses b, c, and d, which all relate to consent, the definition conflates sex work and sex trafficking, and nullifies the position of voluntary prostitution (Ditmore and Wijers, 2003; Doezema, 2005).

General Legal Framework in India

The Indian legal system is based on the British Common Law system, in addition to state and central legislations in certain areas. All national laws passed centrally apply to the entire country, except the State of Jammu & Kashmir^{viii}.

There are no established guidelines on the applicability of laws passed at the central and state levels. Normally, most state laws are considered special laws that apply only in those states where they are passed. It is important at this juncture to understand how a law is passed both centrally and by a state.

For Central Acts, normally a bill is introduced in both Houses of Parliament, the Rajya Sabha and the Lok Sabha^{ix}. A bill is passed if it receives at least two-thirds of the vote of parliamentarians. After both houses pass the bill, it is sent to the President for his/her formal assent. After the President assents, the Central Government must notify a date on which the bill comes into force as an Act. Although passed by the Central Government, State Governments have power to frame rules under the Act. The Act can be formally brought into force in any state from the time the rules are provided to the public and legal community. Rules under the Act are the guiding factor for the practical

implementation of the Act as all appointments, setting up of special courts, and other infrastructure must be provided by the State Governments.

States may also pass their own Acts that apply in that particular state. The procedure for passing a State Act is similar to that for Central Acts, except that in a state, the bill must be presented to the State Legislative Assembly. State Special Acts ordinarily supersede Central Acts. Almost all special legislations have *non-obstante* clauses^x, giving them precedence over other legislations. Where there are several special legislations, all of which have *non-obstante* clauses, the Supreme Court has stated that the most recently enacted special legislation prevails^{xi}.

National Legal Framework to Protect Child Rights in India

Several national statutes may apply to cases concerning the commercial sexual exploitation of children:

1. The Indian Penal Code, 1860
2. The Immoral Trafficking (Prevention) Act, 1956
3. The Indecent Representation of Women (Prohibition) Act, 1986
4. The Juvenile Justice (Care and Protection of Children) Act, 2000
5. Child Marriage (Restraint) Act, 1929
6. Information Technology Act, 2000

There are also a few state laws related to the commercial sexual exploitation of children:

1. The Andhra Pradesh (Andhra Area) Devadasis (Prevention of Dedication) Act, 1947
2. The Karnataka Devadasis (Prohibition of Dedication) Act, 1982
3. The Goa Children's Act, 2003

The Indian Penal Code, 1860 (Penal Code) is the primary code for all criminal offences and punishments granted by the Courts. The Penal Code, though archaic, is an exhaustive statute and is the main law relating to crimes in India; it defines offences and prescribes punishments. Complementing the Penal Code is the Code of Criminal Procedure, 1973, which prescribes the procedures that must be followed by police, prosecutors, judges and others in the course of prosecuting criminal cases⁶⁴. Similarly, the Indian Evidence Act, 1872 outlines procedures for recording and presenting evidence.

In addition to the Penal Code and Criminal Procedure Code, other laws such as the Juvenile Justice (Care and Protection of Children) Act, 2000 (Juvenile Justice Act); the Immoral Trafficking (Prevention) Act, 1956; Child Marriage (Restraint) Act, 1929; and the Information Technology Act, 2000 may apply in cases involving the commercial sexual exploitation of children. These Acts are special legislation that take precedence over more general laws. Some of these special legislations, like the Juvenile Justice Act, complement other legislations. In this situation, both the special and general law can be applied.

There are no civil remedies for cases involving the commercial sexual exploitation of children.

National Legislation Concerning the Commercial Sexual Exploitation of Children

1. Child Prostitution

a. International Standards

There is extensive international human rights law prohibiting child prostitution. In particular, under article 34 of the CRC, "States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent ... the exploitative use of children in prostitution or other unlawful sexual practices^{xii}."

The CRC is further strengthened by the adoption in 2000 of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, whereby States Parties shall prohibit child prostitution^{xiii}.

Accordingly, the Optional Protocol defines prostitution as the use of a child in sexual activities for remuneration or any other form of consideration^{xiv}. Moreover, such acts must be covered under the

State Parties' criminal or penal laws "whether these offences are committed domestically or trans-nationally or on an individual or organized basis"^{xv}.

Other international standards are in ILO Convention No. 182 on the Worst Forms of Child Labour, which includes prostitution as one the worst forms of child labour and calls upon States parties to prioritize its elimination^{xvi}. Therefore, the Convention requires States parties to condemn child prostitution and adopt penal sanctions to eliminate it^{xvii}.

Similarly, the Trafficking Protocol calls for the elimination of prostitution and other forms of sexual exploitation^{xviii}. The Declaration on the Elimination of Violence against Women calls upon State parties to eliminate violence against women, especially forced prostitution^{xix}. Finally, ILO Convention No. 138 on Minimum age is silent on the issue of prostitution in the context of work, and whether such commercial sexual exploitation "is likely to jeopardise the health, safety or morals of young persons"^{xx}.

Regional Standards

Despite the existence of the SAARC Conventions discussed above, there are no regional standards or definitions regarding the legal status of children involved in prostitution in South Asia.

National Legislation against Child Prostitution

i. Immoral Trafficking (Prevention) Act, 1956

Pursuant to the International Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of others, 1949 that was signed by the Indian government in New York on May 9, 1950, the Central Government passed the Immoral Trafficking (Prevention) Act, 1956 (ITPA). This is the principle legislation on commercial sexual exploitation in the country, and all cases of prostitution are registered under it.

The ITPA is the only statute that defines prostitution. Unfortunately, it does not contain any special provisions relating to children, particularly with respect to the treatment of rescued children. According to the ITPA, "prostitution means the sexual exploitation or abuse of persons for commercial purposes, and the expression 'prostitute' shall be construed accordingly"^{xxi}. Since the ITPA does not define "persons", it is understood to include children. In support of this reading of the law, throughout the act, there are references to offences against children and prescribed punishments where children are detained for prostitution. In addition, the law defines a child as a person who has not completed 16 years of age; a minor as a person between 16-18 years of age, and a major as a person who has completed 18 years of age^{xxii}.

While this Act does not directly state that prostitution is illegal, it penalises the act of prostitution. The ITPA defines prostitution as sexual exploitation or abuse of persons for commercial purposes, but it does not define the terms sexual exploitation or commercial purposes^{xxiii}. Under the ITPA, prostitution in or in the vicinity of a public place is illegal, and it is illegal to solicit commercial sex in any form from any place visible from a public place; public place is defined as any place intended for use by, or accessible to the public, as well as public conveyances^{xxiv}. The ITPA also makes it an offence to: keep a brothel or allow premises to be used as a brothel^{xxv}; live on the earnings of prostitution^{xxvi}; solicit for prostitution^{xxvii}; or detain a person in a place where prostitution occurs (ITPA section 6.). The ITPA prescribes punishments for all of these violations, and increases the punishment for repeated violations (82 See, for example, ITPA section 3.) Furthermore, this law provides for the closure of brothels and the eviction of offenders from those premises (83 ITPA section 18.). A person in prostitution may make an application to the local magistrate for an order directing that s/he be kept in a protective home (ITPA section 18.) ; under the ITPA, State Governments have discretion to establish protective homes and corrective institutions, and these homes and institutions must be maintained according to standards set forth in the law(85 ITPA section 21.). The State can also issue licences to others to establish and/or maintain protective homes.

A combined reading of these sections results in the following: a brothel is any physical place where commercial sexual exploitation is carried on; prostitution is the act of commercial sexual exploitation; a public place is any place accessible to the public; it is illegal to run a brothel or be remotely associated with it even if it is vicarious; it is illegal to carry on the activity of prostitution in a public place or within 200 metres from a public place; soliciting or seducing for prostitution from outside or inside a public place by words, gestures, or in any other manner is illegal; and, a magistrate can order a person in prostitution to be removed from the jurisdiction. Finally, while this law provides for the constitution of special courts and summary trials, it provides no procedures for establishing such courts or conducting such trials (ITPA sections 22-AA, 22B.)^{xxviii}

ii. The Penal Code, 1860

The Indian Penal Code (Penal Code), framed during the time of the British, is the standard code with respect to all criminal offences, and it is the main legislation taught in police training schools. The Penal Code covers all criminal offences, and contains some sections relevant to the prostitution of children, although it does not define prostitution.

Penal Code section 366A makes it illegal to procure a minor girl by any means and induce a girl under 18 years of age into prostitution or any form of "illicit sexual intercourse," and violators are subject to up to ten years' imprisonment and a fine.

Similarly, Penal Code section 367 makes it illegal to bring a girl under 21 years of age into a situation with the intention or awareness that it is likely that the girl may be forced or seduced to have intercourse with another person; punishment for this violation is up to ten years' imprisonment and a fine. Finally, under Penal Code sections 372 and 373, it is illegal to sell or buy a minor for the purposes of prostitution, and violators are subject to up to ten years' imprisonment and a fine. In cases under this statute, the burden of proof is shifted onto the person who allegedly sells or buys a girl knowing that the girl will be forced into prostitution.

India has been a signatory to various international treaties, covenants, and protocols aimed at protecting children in general and to check the human trafficking in particular. Governments both at Centre and State levels have enacted many Acts and proclaimed many laws to control human trafficking. In fact the constitution of India itself has banned trafficking of human beings. Article 23, in the Fundamental Rights section of the constitution, prohibits "traffic in human beings and other similar forms of forced labour". Following is the list of International treaties/covenants and protocols signed by India, constitutional provisions, and the Acts/policies enacted/implemented by the Central Government and State Governments which pledge the safety of children and women against trafficking:

- India ratified the UNCRC a comprehensive document on the rights of children on 12 November 1992. Trafficking in of children violates all the four basic rights of survival, protection, development and participation.
- India has ratified the International Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of others, 1949 which seeks to suppress the trafficking of persons.
- In South Asia, the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution was adopted by the South Asian Association for Regional Cooperation (SAARC) countries, in January, 2002. The significance of this instrument lies in its status as the first-ever regional treaty to deal specifically with trafficking.
- As mentioned earlier Article 23 of the Indian Constitution banned trafficking of human beings.
- Suppression of Immoral Trafficking Act, 1956, later amended in the years 1976 and 1986. In the year 1986 it is rechristened as Immoral Traffic Prevention Act-1986. Pursuant to the

- International Convention for the Suppression of the Traffick in Persons and of the Exploitation of the Prostitution of others, 1949 that was signed by the Indian government in New York on May 9, 1950, the Central Government passed the Immoral Trafficking (Prevention) Act, 1956 (ITPA). This is the principle legislation on commercial sexual exploitation in the country, and all cases of prostitution are registered under it. The Act is waiting for an amendment by the Parliament. Amendments are proposed to widen the purview of act, define trafficking and proposes to punish the sex buyers.
- The Penal Code, 1860. The Indian Penal Code (Penal Code), framed during the time of the British, is the standard code with respect to all criminal offences, and it is the main legislation taught in police training schools. The Penal Code covers all criminal offences, and contains some sections relevant to the prostitution of children, although it does not define prostitution. Penal Code section 366A makes it illegal to procure a minor girl by any means and induce a girl under 18 years of age into prostitution or any form of “illicit sexual intercourse,” and violators are subject to up to ten years’ imprisonment and a fine. Similarly, Penal Code section 367 makes it illegal to bring a girl under 21 years of age into a situation with the intention or awareness that it is likely that the girl may be forced or seduced to have intercourse with another person; punishment for this violation is up to ten years’ imprisonment and a fine. Finally, under Penal Code sections 372 and 373, it is illegal to sell or buy a minor for the purposes of prostitution, and violators are subject to up to ten years’ imprisonment and a fine. In cases under this statute, the burden of proof is shifted onto the person who allegedly sells or buys a girl knowing that the girl will be forced into prostitution.
- Information Technology Act, 2000. Penalizes publication or transmission in electronic form of any material which is lascivious or appeals to prurient interest or if its effect is such as to tend to deprive and corrupt persons to read, see or hear the matter contained or embodied therein. The law has relevance to addressing the problem of pornography.
India has also adopted a code of conduct for Internet Service Providers with the objective to enunciate and maintain high standard of ethical and professional practises in the field of Internet and related services.
- Andhra Pradesh Devadasi (Prohibiting Dedication) Act, 1989: Penalty of imprisonment for three years and fine are stipulated in respect of anyone, who performs, promotes, abets or takes part in Devadasi dedication Ceremony. The project AASARA was also launched in Nalgonda in Andhra Pradesh in April 2005 to combat the trafficking in women.
- Juvenile Justice (Care and Protection of Children) Act, 2000: Enacted in consonance with the Convention on the Rights of the Child (CRC); and Consolidates and amends the law relating to juveniles in conflict with law and to children in need of care and protection.

ⁱ NHRC, 2003. op. cit. 1. Chapter 2, p. 21

ⁱⁱ Already there, in the Indian Penal Code Sections 34, 120A, 120B, 107-120

ⁱⁱⁱ Sanghera, Jyoti. *Trafficking of Women and Children in South Asia: Taking Stock and Moving Ahead, A Broad Assessment of Anti-Trafficking Initiatives in Nepal, Bangladesh, and India.* (Kathmandu, 1999).

^{iv} report on laws and legal procedures concerning the commercial sexual exploitation of children in india

^v FIR No.144 of 2000. *State versus Farida and others.* Judgment by P.S.Teji, Additional Sessions Judge, Delhi. Decided on 13 July 2004.

^{vi} Already there, in the Indian Penal Code Sections 34, 120A, 120B, 107-120

^{vii} The Migrant Resource Center in Kerala counsels potential migrants and the Andhra Pradesh government has a similar initiative supported by IOM. This must be strengthened and greater awareness generated about the potential dangers of unsafe migration.

^{viii} Under Article 370 of the Constitution of India, the State of Jammu and Kashmir has a special autonomous status where central laws do not automatically apply. Jammu and Kashmir may subscribe to any central statutes, and it usually does, with minor modifications. Report on Laws and Legal Procedures Concerning the Commercial Sexual Exploitation of Children in India.

ix The Lok Sabha consists of elected representatives of the people, while the Rajya Sabha consists of persons nominated by the Lok Sabha.

x A non-obstante clause is a clause which overrides other legislations and upholds the application of the law that contains the non-obstante clause. These clauses are normally stated as:

“notwithstanding anything Contrary contained in any other statute the provisions of the current statute shall prevail.”

xi *Solidaire India Limited v. Fairgrowth Financial Services Limited*, 2001 (3) SCC 71. Report on Laws and Legal Procedures Concerning the Commercial Sexual Exploitation of Children in India.

xii Convention on the Rights of the Child (CRC), Article 42.

xiii Optional Protocol, Article 1.

xiv Optional Protocol, Article 2.

xv Optional Protocol, Article 3.

xvi ILO Convention 182, Article 6. Report on Laws and Legal Procedures Concerning the Commercial Sexual Exploitation of Children in India.

xvii ILO Convention 182, Article 7.

xviii Trafficking Protocol, Article 3.

xix Declaration on the Elimination of Violence against Women. Article 2.

xx C138 Minimum Age Convention, 1973. Article 3.

xxi ITPA section 2(f).

xxii ITPA sections 2(aa), cb, and ca.

xxiii ITPA section 2(f). Report on Laws and Legal Procedures Concerning the Commercial Sexual Exploitation of Children in India.

xxiv ITPA sections 7, 8, 2(h) .

xxv ITPA section 3.

xxvi ITPA section 4.

xxvii ITPA section 8.

^{xxviii} Report on Laws and Legal Procedures Concerning the Commercial Sexual Exploitation of Children in India.

Annexure 3

Interaction with the different stakeholders

As a process of an effort in consolidating the status of Andhra Pradesh in combating trafficking, a gap analysis of the interventions and at policy level with recommendations from key partners was done in three stages. One is interactions with key stakeholders; another is group meeting with key resource partners and desk review. The discussions, observations and findings of the effort are as follows

Out Comes with Key Stakeholders during the Interactive Meetings:

Police Department

As part of the interactions an appointment was taken with S. Umamathi (IPS), Special Director Training, Andhra Pradesh Police Academy (APPA, Hyderabad). During the discussion he shared the following points

- Causative factors – Child Marriage prohibition Act, Domestic violence Act, PNMT and Anti Trafficking
- From June 2005 based on NHRC findings the process of Identification , establishing strategies for interventions started on organised crime network
- Collaboration /Public Pvt. Partnership with NGO and Railway Police (Reference G.O.Ms.165)

Empowerment

- Andhra Pradesh Police Academy (APPA), state office has an Empowerment centre for conducting training programmes on trafficking for trainees and officials. The state officials also act as resource persons in the trainings and developing module
- TOTs were conducted at southern region (Ranchi, U.P., Bihar , Jarkhand) for prostitutes as part of Educare of trafficking crime

Enforcement

- Three day module was developed for 380 prosecutors of 394 judicial courts in A.P
- Crime against Women a six day course. In that for one and half day covered on trafficking
- Periodic Video Conference by DGP on human trafficking/bonded labour to review the situation and make necessary modifications
- 8th November, 2012 NGO conference was held at Jubilee Hall where in the need for NGO interphase was discussed.
- 2011 November discussions with CWC by DGP at MCHRD. The meeting was chaired by Principal Secretary and the honourable ministers
- Vertical interactions with Special Juvenile Police Unit (SJPU) at Districts and involve them in the efforts is combating the issue of trafficking
- CWC, JJB, Juvenile Welfare, Probation Officer (home based) and NGOs came together for the first time in 2010
- Basic and Curriculum training for one year was developed involving Judiciary in organizing and validation of workshops
- Out of 1108 mandals, 324 are identified as hotspots. Out of these 324 mandals, 28 are categorized as super-hotspots. Under Rajiv Vidhya Mission these super-hotspots children up to 14 years are registered for compulsory education of girl child in Chittoor, Anantapur, Cuddapah in reference to the 370 ordinance IPS Amendment

By keeping in view of above we are herewith suggesting **few recommendations** to amend the existing laws so as to justify the victims and to strengthen in terms of combating the crime effectively. They are....

- The **trafficker's property should be seized** and the rescued victim should be compensated with the same with rapid proceedings. Because, support by the state is the matter of **years long process** which will no way confines the victim from **re-trafficking**. Otherwise, the trafficker is usually/casually attending court, **getting bail and continuing his/her activities** without any hesitation as he is having property and plenty of money to manipulate in many ways and by all means. Usually there will be 2-3 years time for prosecution and case disposal, meanwhile everything will be manipulated which sets free the trafficker from the clutches of law. Again the things will be same by the so called trafficker and no. of children/women will be drastically affected.
- Every rescued minor from trafficking should be treated not only under ITP Act but also a **victim of rape** and file a case against trafficker under **Sec 376** of IPC so that the victim can get the compensation by the state in such way too along with the **meager delayed provision/support** under ITP Act. Because, the sexual intercourse with a **minor below 18 years** is a **rape** either with her consent or without consent.

Special courts to be established to deal with only ITPA cases that could result in fast proceedings i.e. within **2 – 3 months to dispose** the case. Due to these **fast track proceedings**, the trafficker also may not attempt several sources to manipulate the case at his extent due to time constraint.

Mandatory **in camera hearings**, video-conferencing, or other alternative methods to record evidence/witness

The **assets of the trafficker** must essentially be seized and compensate the victim with the same (the support by the state may or may not reach her later which is a long procedural issue).

The premises where the rescue held shall be **seized till the disposal of the case** and the real owner of the place/premises/property must be arrested who some times directly or indirectly encouraging such notorious offence.

The **victims should not be handover to parents or care givers or relatives etc., /repatriated before the disposal of the case** so that there will be lower chances to get threatened/pressurized by the trafficker or re-trafficked (if she is in a shelter home with due care and protection).

The victim **should be repatriated only after receiving the relief package/compensation** so that she would be equipped with some confidence and parents as well as family members too can show/have more care and concern compared to receiving a victim with empty hands.

Envisaged roles of line departments in addressing the issue of girl Child trafficking

1. Police:

- The Police will register cases under appropriate sections
- They will protect the survivors from the threats and blackmailing of traffickers, brokers and madams.
- protecting the rights of the victims & witness in the rescue operations.
- they will support for the speedy disposal of cases.

2. CWC/Public Prosecutors:

- They will focus on traffic cases and provide care & protection under JJ Act.
- conducting the home investigations through probation officers.
- undertaking appropriate rehabilitations services
- They ensure that the number of adjournments is minimal and that the perpetrators are prosecuted.

3. Women Development & Child Welfare:

- The Department will assist HELP in sheltering the survivors at transit Homes.
- It will not delay in releasing the relief packages for the survivors.
- It will ensure quality counseling services & skill / vocational trainings at the Homes.
- It will extend its every possible support to HELP in rehabilitating survivors.
- protecting the survivors through ICDS at their native places from being re-trafficked

4. NGOs:

- They will conduct home investigations and share with HELP or the NGO concerned.
- They will exchange relevant information with other stakeholders.
- They will extend their support HELP and the police in pre-rescue as well as post rescue operations.
- They will assist HELP in rehabilitating the survivors.

5. Media:

- It will follow and honour the rights of survivors.
- It will not sensationalize the case studies of survivors
- it will build pressure on the govt officials & policy makers at dist level
- It will coordinate between law enforcement agencies and other stakeholders