

HANDBOOK ON
**HUMAN
TRAFFICKING**
FOR LABOUR OFFICIALS
IN TELANGANA



ACKNOWLEDGEMENTS

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Founder, General Secretary, Prajwala

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FOREWORD

Human trafficking is a complex and multi-dimensional organised crime that is victimising millions of girls across the world. The inhuman exploitation of young adolescent girls and women through trafficking is more in underdeveloped and developing countries. The trafficking is taking place in varied forms and is becoming difficult to prevent by the government machinery alone.

The trafficking signifies wide ranging crimes like cheating, kidnapping, abduction, buying, selling, and wrongful confinement thus manifesting in various forms of exploitation.

The human trafficking is also resulting in crimes like child labour, bonded labour, sexual exploitation, rape, organ trade, etc.,

In order to deal with this highly organised crime of human trafficking, it has been recognised and proved that only a concerted and an efficiently organised response system must be put in place in the first instance.

It calls for the united effort from all stakeholders with effective discharging of their individual responsibilities while working in tandem under a common umbrella goal of rooting out human trafficking in all forms.

In this context, I am really glad to know that a definitive response system that encompasses advocacy, prevention, action, rescue, and rehabilitation is being promoted by Prajwala, India, a pioneering anti-trafficking organisation founded by Ms Sunitha Krishnan, the Padma Shri awardee.

I really appreciate the daring initiatives with stupendous conviction, whole hearted dedication, and impeccable integrity of Ms Sunitha Krishnan and her Team Prajwala in carrying out their inspiring fight against human trafficking with special focus on sex trafficking for the past two decades.

In this backdrop, I extend my heartiest congratulations to Prajwala for successfully coming out with the customised Handbooks on Human Trafficking for five different warriors in this fight.

The exhaustive and highly informative Customised-Handbooks, which are replete with numerous case studies, will help the duty bearers in their efforts to obliterate human trafficking which results in a brazen violation of basic human rights of the victims and is robbing of them of their human dignity, protection, and self-determination.

The five specialised and customised handbooks will go a long way in training and empowering Judicial Officers, Prosecuting Officers, Labour Officers, Child Welfare Committees, and Civil Society Organisations in ending trafficking.

The Handbooks, I am sure, will serve as the ready-reckoner, for the duty bearers in preventing and fighting against all forms of human trafficking and to effectively prosecute those who perpetrate such heinous crimes.

The customised handbooks will also help to fight against human trafficking with a noble aim to create a safe and protective environment for victims of this atrocious crime.

I found the customised handbooks, written in lucid style laced with many real-life examples and come up with practical and legal solutions to deal with the complex crime of this nature will immensely be helpful in effective discharge of the duties by the officers concerned.

I deeply appreciate the unique and gigantic initiative of collating and presenting exhaustive information compiled in the customised handbooks.

I am sure the handbooks will serve as the game changers in the functioning of the duty bearers in their respective areas of work while dealing with the inhuman crime of human trafficking.

Legendary Saint Thiruvalluvar, the great philosopher, in his immortal "Thirukkural" has said

**"ஒழுக்கத்தின் ஒல்கார் உரவோர் இழுக்கத்தின்
ஏதம் படுபாக் கறிந்து"**

Which means that....

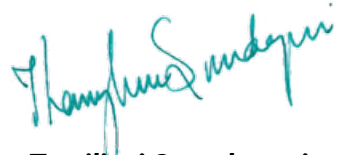
"Those firm in mind will not slacken in their observance of the proprieties of life, knowing, as they do, the misery that flows from the transgression from them."

I hope all the warriors of this maha yagna of eradication of human trafficking from the State of Telangana will keep this in mind while dealing with the cases relating to human trafficking.

I extend my hearty congratulations and heartfelt appreciation to Ms Sunitha Krishnan and her Team Prajwala for the inspiring work done to bring out these handbooks and for their tremendous selfless and daring work with an objective to end human trafficking and in giving a new life to the most vulnerable sections.

I wish your amazing and inspiring work continues to inspire many to be part of this mission to end human trafficking and all forms of exploitation.

Best wishes



Dr. Tamilisai Soundararajan

JUSTICE MADAN B. LOKUR

Former Judge

Supreme Court of India

4th February, 2021

FOREWORD

Trafficking in any form is a curse – whether it is trafficking in animals or in humans. It crushes the spirit and soul of the victim. Unfortunately, this crime does not seem to be going away and being an underground activity, the number of victims mentioned in official records may not necessarily be reflecting the true picture.

The task of obliterating trafficking from the face of the Earth is not the sole responsibility of the government - all of us, as responsible citizens, have an obligation to humanity to ensure that trafficking is abolished. But that is easier said than done. The next best that we can do is to try and wipe the tear from the eye of every victim. The five-volume Handbook on Human Trafficking is, in that sense, an extremely significant publication marking, as it were, a concerted step in that direction.

While each duty holder has his or her role to play in the exercise, it must be appreciated that only a concerted effort will yield results. Therefore, each of the duty holders addressed in these volumes must work in tandem. Parliament may enact excellent laws in relation to trafficking, but if they are not faithfully implemented, they will remain only in the statute and law books. Similarly, the State Government may frame excellent welfare schemes, but the benefits must roll out to those who need them. It is in this exercise that we must work collectively and with a mission.

It is also necessary to appreciate that there are several forms of exploitation that have been haunting adults and children – sexual exploitation is only one of them. There are instances of those who have been victims of a disaster having to take loans at usurious rates of interest and are unable to repay them. They are then victims of bonded labour and some of the more broken souls seek a violent release from bondage and the vicissitudes of life. Women are sometimes driven to prostitution and the girl child is sometimes forced into marriage, as the pandemic has shown us. There have been instances of the sale of children,

illegal adoptions and worse, sale of organs. In each of such cases, the police, prosecution, judges and government officials at various levels have an important role to play. Civil society organizations can independently play a powerful role in changing the societal narrative in favour of the victims and providing them the support that laws and welfare schemes of State Governments seek to give as a matter of their right.

My commendations to all for their excellent work which, I am sure, will go a long way in alleviating the pain and suffering of so many.



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FOREWORD

Human trafficking refers to the exploitation of individuals through threat or use of force, coercion, abduction, fraud, and/or deception. It includes the practices of forced labor, debt bondage, domestic servitude, forced marriage, sex trafficking, child sex trafficking, among others.

*As per the National Crime Records Bureau Report 2016, most of the rescued victims reported being trafficked for the purpose of forced labour (10,509 victims), followed by sexual exploitation for prostitution (4,980 victims) and other forms of sexual exploitation (2,590 cases). Given that the crime of human trafficking involves multiple violations of labour laws, the Labour Department plays a major role in anti-trafficking interventions and is one of the primary responders for cases relating to trafficking, along with other duty bearers. A **labour officer** is responsible for the implementation of the Bonded Labour Act and is connected to the revenue section of the district administration.*

This Handbook is a practical tool to aid Labour Officials to carry out their mandate in labour trafficking cases and is designed in a manner to provide a clear understanding as per the law and also the supportive system available in the form of State Government Policies and other executive orders. Furthermore, the project will be implementing training workshops to build the capacity of district-level officers to apply the skills outlined in the Handbook in Telangana State.

I take this opportunity to place on record my deep appreciation for this unique and much needed initiative taken by Prajwala of collating and presenting this information in the form of a Handbook laying out in the simplest of language the steps to be followed by the Labour Officer in imparting their duties and responsibilities. This is intended to be a practical guide and ready reckoner and it is my sincere hope that it is be utilised as such by all members of the Labour Department.

I wish to place on record my sincere appreciation to the vision of Ms. Sunitha Krishnan in developing this Handbook and for her dedication to the advancement of the cause of the most vulnerable and voiceless.



(Smt. I. Rani Kumudini)



CONSULATE GENERAL OF THE UNITED STATES OF AMERICA

HYDERABAD, INDIA

FOREWORD

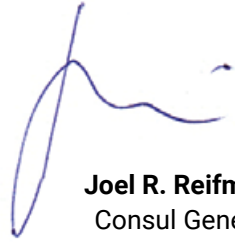
Human trafficking threatens the security of people around the world. Trafficking is an extreme violation of human rights, infringing upon the basic rights to human dignity, self-determination, protection, and integrity of victims who may be women, men, or children.

Countries around the globe are battling this problem, and the United States is no exception. The U.S. government has strived to create comprehensive mechanisms to fight this menace domestically and internationally. Through the Department of State, the U.S. government has created global partnerships to combat human trafficking, bringing all segments of society to a common platform in the fight against modern day slavery.

The Governments of India and Telangana have taken measures to combat human trafficking. However, despite our best intentions the problem of human trafficking continues to grow, making it incumbent on us to strengthen our collective efforts, improve our capabilities, and build on existing momentum in eradicating this abhorrent evil.

Each year, human traffickers deprive millions of victims – through force, fraud, and coercion – of their unalienable rights to life, liberty, and the pursuit of happiness. Given that human trafficking for labor exploitation involves multiple violations of labor laws, the Department of Labour plays a major role in anti-trafficking interventions and is one of the primary responders for cases relating to labor trafficking. This handbook encapsulates various central and state policies and executive orders which can be used for the effective rehabilitation of any person trafficked for labor and also provides a sequential understanding on the various steps involved in dealing with a case of human trafficking for labor. This handbook will act as a practical tool to assist labor officials in carrying out their responsibilities in accordance with local laws.

I would like to thank the Government of Telangana and our partner Prajwala, led by 2009 recipient of the U.S. Department of State TIP Report Hero Acting to End Modern Day Slavery Award Ms. Sunitha Krishnan, for their support in conceiving and implementing this project, which I see as another step towards dismantling human trafficking and ensuring the protection of future generations.

A handwritten signature in blue ink, consisting of a large, stylized 'J' followed by a series of loops and a final horizontal stroke.

Joel R. Reifman
Consul General

Sunitha Krishnan
Padmashree Awardee
Founder, Prajwala



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FOREWORD

The pandemic has had devastating effects both globally and nationally. The report by UNODC “Impact of the Covid-19 Pandemic on Trafficking in Persons (2020)”, clearly indicates how there would be a spike in cases of human trafficking post Covid-19. It also highlighted the danger of the crime going even more underground to avoid detection. The International Labour Organisation, in its Global Report on “COVID-19 impact on child labour and forced labour: The response of the IPEC+ Flagship Programme”, emphasised that with the pandemic and the lockdown, vulnerable workers are now more likely to get tricked and trapped in forced labour. With more workers likely to contract debts to survive, the risk of increasing debt bondage is particularly important. Criminal networks may actively use this global crisis to exploit vulnerabilities to further restrict the freedom of victims and increase the financial profit that forced labour and human trafficking generates.

Since the crime of human trafficking involves multiple violations of labour laws, the Labour Department plays a major role in anti-trafficking interventions. It is one of the primary responders for cases relating to trafficking, along with the District Magistrate and the Police. As one of the primary responders, it has to work in coordination with other government agencies to facilitate rescue and socio-economic rehabilitation of the victims. A primary role of the Labour Department is also to take necessary steps to initiate action for non-compliance with labour laws. The Department has also been tasked with ensuring that preventive measures are undertaken to reduce the incidences of bonded labour and child labour.

The role of the Labour Department is particularly significant in cases of trafficking for child labour (Article 23(1) of Constitution- trafficking in all forms is prohibited). In cases of child labour, it is tasked to take proactive steps to ensure that the child is fully rehabilitated and able to live a dignified life (Article 24 of

Constitution- no child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any hazardous employment).

The Department in order to effectively fulfil its mandate must work in tandem with multiple stakeholders. Only a multi-disciplinary approach will ensure that the response to trafficking is holistic and robust.

This Handbook is a first of its kind attempt to collate and compile all relevant laws and policies related to labour trafficking so as to serve as a comprehensive reference guide to Labour Officials.

I place my humble gratitude to Shri Mahesh Muralidhar Bhagwat, IPS, Commissioner, Rachakonda, Telangana for his support in reviewing this handbook and making it relevant for all Labour Officials in Telangana.

This handbook would not be possible without the support of our valued partner International Justice Mission, India whose practical experience and longstanding efforts in the anti-trafficking mission shaped the content.

The U.S. Consulate General Hyderabad and the U.S. Embassy, New Delhi has been our long-standing partner and collaborator supporting us actively in the anti-trafficking mission. I humbly acknowledge the entire team of Public Affairs, U.S. Consulate General Hyderabad who were actively involved in the development of this handbook.

I do believe this humble initiative will be a ready to use guide for any Labour Official who is dealing with a case of labour trafficking.



Sunitha Krishnan
Padmashree Awardee
Founder, Prajwala

PREFACE

This Handbook has been designed as a practical tool to aid Labour Officials to carry out their mandate in labour trafficking cases. To maintain this objective, a brief needs assessment was conducted with labour officials across the country. The goal was to understand the following:

1. Specific challenges faced by the labour officials while handling labour trafficking cases.
2. Gaps in current resource materials available to labour officials.
3. Recommendations for the development of the Handbook.

The conclusion of the needs assessment is below:

Challenges faced by Labour Officials include:

1. Need for clarity in roles of duty bearers especially in the identification and rescue procedure.
2. Need for conceptual clarity in the definition of human trafficking resulting in cases being registered only under one particular law despite provisions of many laws being attracted. For e.g., Registering a labour trafficking case only under the Bonded Labour System (Abolition) Act 1976 or u/s 374 of the Indian Penal Code and not u/s 370 or 370A of the Indian Penal Code or the Child Labour Prohibition Act, 1986.
3. Lack of institutional mechanism for convergence amongst duty bearers resulting in inordinate delay in providing relief to survivors.

Gaps in Current Resource Materials Available on the Topic:

1. Some resource books are too bulky and wordy to be effective on ground.
2. In the absence of a comprehensive legislation on human trafficking, the Labour Official has to refer to multiple legislations and policies issued by various Ministries to comply with the mandate provided to the Labour Official. Hence a ready reckoner would be most helpful.
3. Most resource materials do not provide templates.

Based on the needs assessment, this handbook has been designed to

be a one stop resource tool and ready reckoner for Labour Officials. The goal is to lend support in providing information on procedures and relevant laws for addressing labour trafficking. Sample templates and formats have been provided in this handbook. Labour officials may use this handbook as a training resource to equip their teams in handling cases of labour trafficking. The knowledge captured in this handbook will hopefully enable smoother functioning and collaboration among various governmental and non-governmental stakeholders.

Unique Features of this Handbook:

1. It's in the format of a ready reckoner that clearly lays down the role of Labour Officials in labour trafficking cases.
2. It includes formats, relevant policies and schemes issued by Central Government and State Government of Telangana.
3. It explains in a clear and simple manner the operating procedures and formalities towards timely case intervention and relief in labour trafficking cases.

LIST OF ABBREVIATIONS

AC	Assistant Commissioner
AHTU	Anti-Human Trafficking Unit
BLSA	Bonded Labour System (Abolition) Act, 1976
CCI	Child Care Institution
CNCP	Child in need of care and protection
CCL	Child in conflict with law
CLA	The Child Labour (Prohibition & Regulation) Act, 1986
CrPC	Code of Criminal Procedure, 1973
CWC	Child Welfare Committee
DLSA	District Legal Services Authority
CSO	Civil Society Organisation
DM	District Magistrate
DOP	Department of Police
FIR	First Information Report
GoI	Government of India
IPC	Indian Penal Code, 1860
JJA	The Juvenile Justice (Care and Protection of Children) Act, 2015
JJB	Juvenile Justice Board
MHA	Ministry of Home Affairs, Government of India

MWA	Minimum Wages Act, 1948
NALSA	National Legal Services Authority
NCLP	National Child Labour Project
NGO	Non-Governmental Organization
PLV	Para legal Volunteer
POCSO	The Protection of Children from Sexual Offences Act, 2012
PP	Public Prosecutor/Prosecuting Officer
PWA	Payment of Wages Act, 1936
RTEA	The Right of Children to Free & Compulsory Education Act, 2009
SJPUs	Special Juvenile Police Units
SLSA	State Legal Services Authority
SOP	Standard Operating Procedures

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HOW TO USE THE HANDBOOK

This Handbook provides an outline of the role that Labour Officials play in a labour trafficking case as one of the primary functionaries in the labour trafficked person's case intervention. The role of the Labour Official has been derived from the BLSA, CLA, Judgements, SOPs and Schemes issued by the MoLE and the Government of Telangana.

This handbook has three segments:

- I. Role of Labour Officials** - This provides the role of the Labour Official sequentially right from the start of the case, to the judgement and final stage of rehabilitation.
- II. Draft Templates** - This provides a suggestive list of template letters that can be used by the Labour Officials to carry out their mandate.
- III. Policies and Schemes** - This provides the relevant policies and schemes of the Government of Telangana in a labour trafficking case.

GUIDELINES FOR THE LABOUR OFFICIAL

Some important pointers for Labour Officials to use this handbook are-

- i. The 'Role of Labour Officials' is a comprehensive chapter that details the "step-by-step process" in a case. Each step has the statutory requirement clearly outlined. It also provides reference to policies and schemes of Government of Telangana which can be used for the welfare of the victim at that stage.
- ii. Victim assistance and support is integrated into the sequential steps. The draft templates are provided as a suggestive document that can be easily used.
- iii. The "Relevant Policies and Schemes" chapter is a ready reference of all the relevant policies and schemes issued by Government of Telangana and the Central Government which if appropriately used can become a great support mechanism for the labour trafficked person.

ROLE OF LABOUR OFFICER IN LABOUR TRAFFICKING CASES

Labour trafficking is one of the most common types of human trafficking in the southern states of India especially in Telangana involving both children and adults. Telangana is home to numerous small-scale industries spread across diverse fields. Unfortunately, incidents of labour trafficking cannot be easily detected or seen but is known to exist in several forms such as bonded labour, child labour etc. Often labourers migrate from states such as Odisha, Bihar, Uttar Pradesh, Madhya Pradesh, Chattisgarh, Jharkhand, West Bengal, Maharashtra, Assam and other States to Telangana. In majority of the cases the labourers are paid exorbitant amount of money as advance which is later considered as debt. The labourer is then forced to work to repay the debt which is constantly manipulated by the traffickers. This paves the way for the vulnerable labourers to be exploited by the trafficker in situation where the labourer fails to repay the debt.

The most common type of exploitive practices includes non-payment of minimum wages, restriction of freedom of movement, restriction of freedom of employment, withholding of important documents, exploitative working hours and labourers being subjected to physical and mental harassment etc. While the Government of Telangana has done a commendable job so far, there still remains a need and scope to do even more.

On 6th July 2020, the Anti-Trafficking Cell, Women Safety Division, Ministry of Home Affairs, Government of India (GoI) issued an Advisory to States on 'Preventing and combating human trafficking especially during the period of COVID-19 pandemic' vide Letter No. 24013/4/2020-ATC (**Refer - Relevant Policy I**). The Advisory also provided for financial resources to establish Anti-Human Trafficking Units (AHTUs) in every district of the country. The said Advisory clearly states, "*Labour Department of States need to play a significant role at the present juncture and needs to pool all its resources to address the situation of exploitation of vulnerable people.*"

In order to understand the role of Labour Officer this section is divided into four sections:

- I. Case Intervention
- II. Prevention
- III. Building and Strengthening Systems to Combat Labour Trafficking

IV. Useful Judgements

I. CASE INTERVENTION

A. Rescue Operation

Derived from:

UNODC and Government of India, SOP on Investigation of Crimes of Trafficking for Forced Labour (2008). **(Refer - Relevant Policy II)**

G.O.M. No. 26 dated 23/05/2018 issued by Labour Employment Training and Factories Department for creation of Rehabilitation Fund. **(Refer - Relevant Policy III)**

SOP for Identification and Rehabilitation of Bonded Labourer and Prosecution of Offender, F.No. S11012/01/2015-BL issued by MoLE, Gol on 17th August 2017. **(Refer - Relevant Policy IV)**

Standard Operating Procedure (SOP) for Enforcement of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 issued by MoLE, Gol. **(Refer - Relevant Policy V)**

a. Intelligence Gathering in Labour Trafficking Cases

Receive information of a person trafficked for labour through any of the following means:

- Labourers, as per Central Scheme F. No. S-11012/01 I 2015-BL issued by Ministry of Labour and Employment, Gol on 18th May 2016 **(Refer - Relevant Policy VI)**
- Surveys conducted under the BLSA and Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016
- Officials in other departments
- Tourist operators
- Immigration agents

- Placement agencies
- Victims and their family members
- Civil Society Organization
- Anganwadi workers
- Runaway victims
- Any person from the public

Source of information could also come from any of the following means: -

- Helplines or helpdesks
- Media Articles
- Information received from periodic inspection under the relevant labour laws

a. On Receipt of Complaint

- Note down full details of the informant.
- Obtain relevant details of the victim(s) including names, addresses, age, identification particulars, and current location.
- Notify the DM and SP/AHTU.
- Assemble rescue team to proceed for rescue.

If the victim is a child –

- Ensure that a member of the Child Welfare Committee/DCPU is part of the rescue team.

b. Composition of the Team

Labour Official shall form the following team to conduct the rescue:

- Adequate number of police officers/AHTU officials
- Two or more women officers
- One police photographer
- One representative from District Administration

- Labour Representative (Inspector/Officer)
- Two independent witnesses (at least one woman)
- The complainant
- Health Department
- Members of civil society organization or social workers
- District Nodal Officer, under NCLP Scheme
- Translator (if victims are from another state)
- DSLA/PLV or any other necessary person

Points to Remember

- While it is best to have a multi-stakeholder rescue team, the Labour Official should ensure that the rescue is conducted within 24 hours.
- The rescue can be done by the Police/AHTU, Labour Officer. The rest of the members can be intimated of the same. This is to avoid tip-off or the victims being subjected to violence or being moved.
- Confidentiality of information to be maintained at every step.

c. Inter-State Rescue

If the worksite where the victims are being exploited is in another state, then the Labour Official must take the following steps:

- Form a rescue team of Labour officers and Police Officials and local CSOs to travel to the destination state to conduct the rescue.
- Coordinate with the 'Destination District' Police/AHTU and Labour Department.
- Inform Labour Commissioner of State for inter-state coordination.

d. Security

Coordinate with police team to secure entry and exit points of the worksite.

e. Segregate, Inquire and Rescue victims

i. Segregate

Separate the victim from the offender, and give adequate protection to the victim. Do not allow the offender or his people to intimidate or communicate with the victims

ii. Identify victims to be rescued

Follow the guidelines mentioned below in identifying the victim. These indicators are not exhaustive and cannot be rigidly followed but should be considered as a suggestive frame work :

- Age becomes immaterial during the identification of the victims.
- Talk to the victim.
- Make the victim comfortable as soon as possible.
- Take immediate efforts to win the confidence of the victim.
- Make sure that the victims are not threatened or intimidated by the employers.
- Appearing malnourished
- Showing signs of physical injuries and abuse
- Avoiding eye contact, social interaction, and authority figures/ law enforcement
- Seeming to adhere to scripted or rehearsed responses
- Lacking official identification documents
- Appearing destitute/lacking personal possessions
- Working excessively long hours
- Living at place of employment
- Poor physical or dental health
- No victim should be left behind.

iii. Inquire

- Always treat victims with dignity and respect.
- Interview victims in the presence of the CSO, DM, Police/AHTU
- Ask the following questions to determine if the victims are being exploited and if it is a case of labour trafficking:
 - Wages –Whether he/she received any amount, what was the frequency of payment, whether received individually or collectively as a family;
 - Freedom of movement – Ask whether they were allowed to leave? If yes, were there any conditions/obligations for the same? Also, whether they were able to visit their homes on festivals or were they called back? Identify reasons for the same.

f. Collection of Evidence

- Ensure collection of all evidences from the place of exploitation/ rescue.
- Coordinate with the rescue team to ensure that team assigned for evidence collection is aware of the structure of the place of rescue beforehand.
- Ensure police seizes the following evidence in the presence of witnesses:
 - Forensic evidence (wage books, registers, agreements)
 - Mobile phones
 - Weapons
 - Documents of vehicles, property owned and all other relevant documents
 - License
 - Registers
 - Travel tickets
 - Documents to ascertain the age of the victims such as birth

certificates/identity cards of each victim or other documents or electronic documents.

- Vehicles and papers of the same used by the offender to transport victims.
- Any other material objects used for or resulting from the commission of any offence, etc.

g. Arrest:

Ensure arrest by police without a warrant as all of the offences under BLSA, SC/ST(POA) Act, and IPC offences related to bonded labour are cognizable. This is because as per Sec. 41 of the CrPC, police is allowed to arrest an offender even without a warrant or order by the magistrate in cases of cognisable offences.

h. Safe Removal:

- Remove and take the victims to a secure location (such as the police station/AHTU or the office of the DM/SDM or Labour Official.)
- Give the victims sometime to gather their belongings such as clothes, livestock, documents, kitchen utensils etc.
- Arrange an adequate number of vehicles so that the victims do not have to travel with the offender.

B. Post Rescue Efforts

1. At Police Station/AHTU

- a. If it is a case of child labour, the victims falls under the category of 'child in need of care and protection' as defined under JJA.
- b. Produce child victims that are not accompanied by their families before CWC who shall then order inquiry which may include medical examination, determination of age, transit care and protection, tracing parents or social investigation report and other procedures as per the JJA.
- c. Do not disclose the identity of children especially to the media. Follow guidelines u/s 74 of JJA.

- d. Ensure medico-legal test is conducted to determine the age of the child and to ascertain physical or sexual abuse of the victim.
- e. Provide food, medical care to the victims.
- f. Record statements of victims along with the police official. Request Investigating Officer to record the statements of victim u/s 164 CrPC before Judicial Magistrates if victims are non-local and are likely to be repatriated/transported to their native places.
- g. Request Police for a copy of muster rolls, wages register etc. seized during filing a claim/notice.
- h. Record detailed statements of each victim in order to file a claim/notice under the MWA/PWA. The statements are to include all the details about wages. **(For Minimum Wages Act (MWA) and Payment of Wages Act (PWA) - Kindly note that at the time of drafting the Handbook, the Wage Code had been passed but the Rules were not formulated. Hence, kindly refer to the corresponding provisions as and when they are passed).** The details about the wages include the following: -
 - a. The amount of wages that the labourers were promised when they came to work at the facility.
 - b. The amount which the owner had said he would provide to the labourers.
 - c. The actual amount which was received in hand when the wages were received by the labourers.
 - d. If there was any deduction from the wages because of debts/advances.
 - e. The number of times such wages were received by the labourers.
- i. Calculate wages paid to the labourer and the amount due as per the MWA and PWA.
 - a. Minimum wages award should be calculated as follows:

$$\text{Minimum Wage for Period of Work} = \text{Minimum Wage as per Notification} \times \text{Duration}$$

- b.
$$\text{Difference Due} = \text{Total Minimum Wage as per Notification} - \text{Actual payment received}$$
- j. Serve notice to the offender for recovery of unpaid wages.
- k. Submit complaint before SP/District AHTU to register FIR u/s 370 IPC and other relevant offences under SC/ ST(POA) Act, BLSA, CLA, JJA and other relevant offences. **[See Draft Template I]**
- l. Recommend DM to immediately conduct inquiry under the Bonded Labour System Abolition Act, 1976 (in a bonded labour case), and Central Sector Scheme for Rehabilitation of Bonded Labourers, 2016, F. No. S-11012/01 I 2015-BL, issued by Ministry of Labour, GoI on 18th May, 2016 and in accordance with SOP for Identification and Rehabilitation of Bonded Labourer and Prosecution of Offender, F.No. S11012/01/2015-BL issued by MoLE, GoI on 17/08/2017. **[See Draft Template II]**
- m. To ensure DM issues a Release Certificate to each victim after inquiry if found to be bonded labourer in accordance with the said documents.
- n. To ensure DM provides immediate cash assistance of Rs. 20,000/- (*or whatever the amount under the updated policy is*) under the said Scheme within 24 hours of the issuance of the Release Certificate Letter from the Bonded Labour Rehabilitation Fund of the District created as per G.O.M. No. 26 dated 23/05/2018 issued by Labour Employment Training & Factories Department.
- o. Ensure inquiry is conducted in the absence of the offender and in the presence of the CSO and that the victim is provided protection at every stage.
- p. Ensure police records statements u/s 161 of the CrPC.
- q. Maintain confidentiality of the victims and ensure their identities is not disclosed before media.

2. Safe Return of Families

- Coordinate with both source and destination police and DM for quick and safe transfer, protection and rehabilitation.

- Send a written request for rehabilitation of the rescued labourer to the local police and all the relevant officials of the District Administration, including the DM of the source/rehabilitation location.
- Ensure that representatives of the Labour Department along with the police accompanies the labourer during such return.
- Do not put the return of labourer on hold only because of the pendency of the investigation or trial in relation to the commission of the offences under BLSA.
- Ensure that the labourer or the witness is given due protection during and post-trial and all his expenses in regard to the matter are met by the District Magistrate.
- Ensure that all the statements u/s 161 CrPC are recorded at the earliest especially prior to the return of the rescued labourer.

3. Victim Protection

Write a letter to the District Collector & CSP/ SP /AHTU where the victims choose to rehabilitate for victim witness protection. Request them to provide protection to the victims in case they are threatened by the offenders and their associates. **[See Draft Template III]**

4. Legal Aid

Write a letter to the District Legal Services Authority for appointment of a Para Legal Volunteer to assist the victims in rehabilitation and a Panel Lawyer to represent them in their court cases under the NALSA (Legal Services to Unorganized Worker) Scheme 2015 and NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme 2015. **[Refer - Relevant Policy VII] [See Draft Template IV]**

C. Recovery of Unpaid Wages

Recovery of unpaid wages is an important step for the recovery and rehabilitation of a person trafficked for labour. The following procedure for filing a claim under MWA and PWA can be used by different officers -

a. As a Labour Inspector: -

1. File a claim before the authority in case of non-payment of the claimed amount by the employer. **[See Draft Template V]**
2. Attach a copy of the FIR, Complaint letter and the release certificate (if it is a case of bonded labour) while filing the claim.
3. Send a copy of the claim filed to the DLSA assigned lawyer and the victim.
4. Follow-up the progress of the case closely before the authority in the best interest of the victim.

As observed by the Supreme Court in the case of ***Bandhua Mukti Morcha v. Union of India [1984 AIR 802]***, "Living one's life with human dignity, free from any exploitation is a Fundamental Right of every person living in India". Additionally, the "Right to life in India also includes Right to Livelihood", as observed by the Supreme Court in ***Delhi Transport Corporation v. DTC Mazdoor Congress [1991 Suppl.(1) SCC 600]***. Thus, every effort must be taken to ensure that all the Minimum wages claims are expedited and none of the labourers are subjected to re-trafficking.

5. Ensure that the notice is served to the defendant/offender. If such defendant/offender is absconding, take support of the jurisdictional Police Station.
6. Take steps to execute the claim once the same is awarded. Inform the victims to make sure that the victims get the claim amount.
7. If the Defendant/offender does not appear on the specified date, the Labour Inspector to submit before the authority to file an ex-parte order.

b. As an Asst. Labour Commissioner: -

1. Ensure immediate payment of the claimed amount by the employer to the labourers.
2. Ensure that the copy of the FIR and Complaint Letter is attached in the claim along with the release certificate in case of a bonded labourer.

3. Ensure that a copy of the claim filed is sent to the DLSA assigned lawyer and the victims.
4. Make sure that the case is closely followed by the Labour Inspector and the best interest of the victims are kept in mind.
5. Direct the Police to serve the notice to the defendant/offender.
6. Inform the judgement to the victims and take steps to execute the claim.
7. Ensure claim proceedings are expedited. Pass ex-parte order if situation so arises, in accordance with the law.

Violations of Other Labour Laws

Initiate proceedings under other labour laws such as Maternity Benefit Act 1961, the Factories Act 1948 etc. that have been violated. (Kindly note that at the time of drafting the Handbook, the Occupational Safety, Health and Working Conditions, 2018 had been passed. However, the Rules were yet to be formulated. Hence, kindly refer to the corresponding provisions as and when they are passed).

D. Rehabilitation

- Provide benefits under various labour laws such as Maternity Benefit Act 1961, the Factories Act 1948 etc;
- Enroll/Register victims under Building and Other Construction Workers Act and other relevant labour laws;
- Ensure that the release and rehabilitation be a single composite step with long- term sustainable arrangements finalized within three months, as far as possible;
- Consult the rescued labourer on the method of rehabilitation, considering his or her background, and specific needs and talents;
- As a part of the Vigilance Committee, ensure consumption loan or monthly sustenance of a reasonable amount is provided promptly in the interregnum between release and rehabilitation or until suitable employment is found;

- Arrange alternative wage-employment through preferential treatment to the released individual;
- Arrange or extend skill training or other adult education schemes utilizing the help of private or voluntary sector;
- Assist the rescued labourer in obtaining financial assistance, subsidies through state funds or from nationalized banks;
- Endeavor to rehabilitate the individual in the same occupation. Co-operatives or collectives, wherever feasible should be encouraged for groups of rescued bonded labourers on a preferential basis and all the complementary assistance such as training, managerial and marketing support should be provided.

In cases of Trafficking for Child Labour *(derived from Standard Operating Procedure for the Enforcement of Child and Adolescent (Prohibition and Regulation) Act, 1986 issued by the Ministry of Labour and Employment, Government of India in September 2017):*

- o Create a bank account for each child and adolescent.
- o In cases of child labour, ensure that Rs. 20,000 (or whatever the amount under the updated policy is) per child is recovered from the employer and deposited to the Child Labour Rehabilitation-cum-Welfare Fund. Ensure that the government deposits an additional Rs. 15,000 (or whatever the amount in the updated policy is) for each child in such fund.
- o Ensure that the Government provides employment to an adult member of the child or contributes Rs. 5,000 (or whatever the amount in the updated policy is) per child to this fund.
- o Ensure enrolment of the child into the National Child Labour Project program.
- o Ensure enrolment of the adolescent in the skill development program.
- o Create and issue Index Card for each child and adolescent to monitor educational rehabilitation. Prepare and upload the Second Action Report on the PENCIL portal.

- o Ensure transfer of principle amount and interest to the child's bank account when such child or adolescent attains the age of 18.
- o Follow up with the child regarding receipt of monetary compensation and non-cash rehabilitation benefits.
- o Follow up on the progress of legal trial. Upload and update the Legal Action Report on the PENCIL portal accordingly.

In cases of bonded labour where the inquiry and rehabilitation hasn't been provided, write a letter to the District Magistrate requesting for aforementioned benefits to be provided under the Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016 and for the following measures for long-term rehabilitation of the victims: -

1. In accordance with Sec.10 of the said SOP, coordinate with relevant authorities for issuance of the following documents to the victims to ensure holistic rehabilitation: Aadhar Card, Ration Card, Caste Certificates, Voter ID, MNREGA Card, Land Patta, Government health insurance and other relevant documents.
2. Coordinate with departments to provide the non-cash rehabilitation benefits to be provided to the victims in accordance with Sec. 5(v) of the said Scheme:
 - Allotment of house-site and agricultural land;
 - Land development;
 - Provision of low-cost dwelling units;
 - Animal husbandry, dairy, poultry, piggery etc.;
 - Wage employment, enforcement of minimum wages etc.
3. To provide compensation to victims under SC/ST(POA) Act, if FIR has charges under SC/ST (POA)Act.
4. To provide final cash assistance after the legal case is concluded as per the Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016

E. Inter Departmental Convergence

a. For Rehabilitation

Write a letter to other line departments to provide and expedite rehabilitation to the victims as provided below :-

(A brief summary of the various Programs and the concerned Departments is given below)

Services	Program	Concerned Dept.
Counselling	1.Psycho-social counselling 2.G.O.Ms.No.30: Establishment of youth counselling center "YUVA"	Department of Women and Child Welfare
	3.Family Counselling Center To arrange for suitable rehabilitation services for the victims and their dependents.	Central Social Welfare Board
	Sakhi Centre a) Legal aid b) Police assistance c) Short Stay d) Vocational Training e) Employment/Financial aid f) Drug de-addiction/Rehabilitation Centre g) Medical Aid	Ministry of Women and Child Welfare
Economic empowerment	1. PDS (ration card) 2. Antyodaya Anna Yojana (BPL) 3. Village Grain Bank Scheme	Dept. of Food and Public Distribution
	4. National Rural Employment Guarantee Act (Employment)	Department of Rural Development
	5. National Rural Livelihood Mission (Self-employment)	Department of Rural Development

	6. National Social Assistance Program (Pension – old age, widow & differently abled)	Department of Rural Development
	7. G.O.Ms.No.14: Reservation of trafficked victims in Polytechnic courses	Department of Women and Child Welfare
	8. G.O.Ms.No.1: Policy for Combating Trafficking of Women and Children for Commercial Sexual Exploitation	Department of Women and Child Welfare
	9. G.O.Ms.No.47: Reservation of child victim in Govt. run residential Institutions	Department of Women and Child Welfare
	10. G.O.Ms.No.27: Appointment of Prajwala as State Nodal Agency for Economic Empowerment of Survivors	Department of Women and Child Welfare
Education	1. Child Development, Anganwadi (nutrition, vaccination, elementary education)	DWCD
	2. Sarva Shiksha Abhiyan (Mid-day meal, bridge schools, residential Schools)	Education Dept. Social Welfare Dept. Tribal Welfare Dept.
	3. Scholarship	Social Welfare Dept.
	4. Skill Development	National Skill Development Corporation
	5. Girl Child Protection Scheme Education support for Children	Department of Women and Child Welfare
	6. National Child Labour Project Scheme Mainstream through Formal Education Special Training Centres	Ministry of Labour & Employment (ML&E) NCLP

Housing	1. Land & Patta	Land Revenue & Settlement Department
	2. Pradhan Mantri Awaas Yojana (G)	Rural Housing – H&UDC
Health	1. National Health Mission (Janani Suraskhya Yojana, Health Insurance)	Health Department
	2. Pradhan Mantri Matru Vandana Yojana	DWCD
	3. Arogyashree	Health Department
Financial Assistance	1. Central Sector Scheme	DM
	2. SC/ST Compensation, POA (Rules)	DM
	3. Victim Compensation u/s 357A CrPC under the Telangana Victim Compensation Scheme	DLSA
	4.G.O.Ms.No.13: Immediate Relief fund of Rs.20,000/- for sex trafficked victim	Department of Women and Child Welfare
	5. G.O.Ms.No.28: Relief and Compensation for Minor Victim of Sex Trafficking	Department of Women and Child Welfare
	6. Telangana Aasara Pension Scheme 2021	Department of Rural Development
Universal Entitlements	1. Bank Account 2. Aadhar 3. Voter ID 4. PAN Card	DM
Shelter Homes	1. G.O.Ms.No.16: Minimum Standards of Care for Homes for Victim of Sex Trafficking	Department of Women and Child Welfare

	2. G.O.Ms.No.17: Appointment of Additional staff for government run home for sex trafficked victims.	Department of Women and Child Welfare
	3. Ujjwala : Rescue, Rehabilitation, Re-integration	Ministry of Women and Child Welfare
	4. Swadhar: Shelter, food, clothing, counselling, skill development training program and rehabilitation	Ministry of Women and Child Welfare
Protection	1. G.O.Ms.No.165: Setting up of Anti Human Trafficking Units (AHTUs) & Victim Compensation	Home Department
Immediate intervention/ First Response Centers	Sakhi Centres - Help Line-181 Shelter Legal Aid Counselling Medical aid	Ministry of Women and Child Welfare
Legal Aid	NALSA (Victims of Trafficking and CSE) Scheme, 2015 Telangana Victim Compensation Scheme, 2015 Legal Assistance Victim Compensation Fund Government Schemes	Telangana State Legal Services Authority
Legal Documents	1. Caste Certificate 2. Residential Certificate 3. Birth Certificate 4. Death Certificate 5. Income Certificate 6. Residency Certificate 7. Disability Certificate	DM

b. For Investigation and Prosecution

1. If not already done, notify AHTU, SP and State Nodal Officer of Human Trafficking the case details:
 - a. Request for further investigation, if incomplete charges are filed.
 - b. Request for expedited investigation if delay in charge sheet.
 - c. Request to be informed of progress of case in court so pending rehabilitation amounts may be processed.
2. Write a letter to D.O.P and the assigned DLSA lawyer requesting for case to be expedited if victim's evidence delayed.
3. Write a letter to D.O.P and the assigned DLSA lawyer with case documents requesting for victim's evidence to be recorded in child friendly manner and via video conferencing.
4. Assist prosecutor and DLSA in ensuring victims evidence conducted via video conferencing.
5. Follow up the legal case in court through the assigned DLSA lawyer.
6. Testify in court when summoned as a prosecution witness.

F. Committees to be notified for monitoring, accountability and rehabilitation:

- Bonded Labour:

- i. Notify case details to the District Vigilance Committee formed u/s 13 BLSA and G.O.M 20 dated 04/04/2018 issued by Department of Labour Employment Training and Factories (Labour) Department, Government of Telangana for further action and relief. **[Refer - Relevant Policy VIII]**
- ii. Notify case details to the State Level Monitoring Committee for Bonded Labour formed vide G.O.M No.19 dated 04/04/18 issued by Department of Labour Employment Training and Factories (Labour) Department, Government of Telangana for further action and relief. **[Refer - Relevant Policy IX]**

- **Child Labour:**

- i. Notify case details to the State Level Monitoring Committee for Child Labour formed vide G.O.M No. 25 dated 23/06/17 issued by Department of Labour Employment Training and Factories (Labour) Department, Government of Telangana for further action and relief.
[Refer - Relevant Policy X]
- ii. Notify State Resource Centre for Child Labour for further action and relief.

II. Prevention

1. Awareness Generation:

- Spread awareness through campaigns and surveys as per Letter No. 24013/4/2020 dated 06/07/2020 issued by Ministry of Home Affairs, to fight human trafficking and exploitation of women and children.
- Ensure translation of audio-visualization communication materials and other information into languages and formats commonly spoken as per Sec.2A of The Child Labour (Prohibition & Regulation) Amendment Act, 2016.
- Display of child helpline numbers, emergency response number 112 must be displayed on public places as per Sec.3.1 of Standard Operating Procedure for the Enforcement of Child and Adolescent (Prohibition & Regulation) Act, 1986 issued by the Ministry of Labour and Employment, Government of India in September 2017.
- Conduct regular meetings with Employers' Associations, Workers organizations to prevent and eliminate child and adolescent labour including in the supply chains and outsourcing units.
- Integrate child and adolescent labour prevention and elimination into Corporate Social Responsibility (CSR) programmes of employers, activities of CSOs.
- Coordinate with concerned departments such as Education, Women and Child Development, Factories, Police, Youth Welfare, Panchayat Raj etc. and establish protocols for collaborative action to design and implement awareness programs to prevent and eliminate child labour.

- As a member of the Vigilance Committee, as per G.O.M. No. 19 dated 4th April 2018 issued by the Labour Employment Training and Factories (Labour) Department, Government of Telangana, the Labour Officer must:-
 1. Take all steps to prevent and pre-empt entrapment into bondage, through enforcement of the Bonded Labour System (Abolition) Act, 1976;
 2. Critically assess the socio-economic condition creating bondage and devise means of curbing them;
 3. Review the functioning of Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 and the Contract Labour (Regulation and Abolition) Act, 1970 to prevent its abuse for employing bonded labour.

2. Identification/Inspections:

- The District Task Force shall meet once a month and shall identify areas in the district vulnerable to child labour (NCLP survey, survey as per the Bonded Labour Rehabilitation Scheme and/ or information from the local CWC etc. may be used). Refer Sec. 3.2 of Standard Operating Procedure for the Enforcement of Child and Adolescent (Prohibition & Regulation) Act, 1986 issued by the Ministry of Labour and Employment, Government of India in September 2017.
- Conduct regular inspections as per Rule 17 D of the Child and Adolescent Labour (Prohibition and Regulation) Rules. Refer to Sec. 10A of Standard Operating Procedure for the Enforcement of Child and Adolescent (Prohibition & Regulation) Act, 1986 issued by the Ministry of Labour and Employment, Government of India in September 2017.

III. Building and Strengthening Systems to Combat Labour Trafficking

1. Committees/ Cells to be Formed at State/District/Sub-Divisional Level:

- Form Vigilance Committee at District and Sub-Divisional level in accordance with Sec. 13 of BLSA and G.O.M No. 20 dated 04/04/2018 issued by Department of Labour Employment Training and Factories (Labour) Department, Government of Telangana.
- Form a District Task Force (DTF) in every district with the District Magistrate as its chairperson, with members as prescribed under Rule 17 C (iii) of the Child and Adolescent Labour (Prohibition and Regulation) Rules, 1988.
- Provide support for making AHTUs functional in districts as per Letter No. 24013/4/2020 dated 06/07/2020 issued by Ministry of Home Affairs.
- Coordinate with DWCD for establishing functional Mahila Shakti Kendras and Anganwadi centres in the district for purposes of rehabilitation.
- Coordinate with DLSA for setting up of Special Cells under NALSA (Legal Services to the Workers in the Unorganized Sector) Scheme, 2015 as provided here.

*"SLSAs to set-up special cells for assisting **unorganized workers** (including Labour law experts, PLVs, NGO representative etc.), under Member Secretary/ State authority.*

- o *to organize Legal Literacy programmes and training programmes for UWs,*
- o *to co-ordinate with Government agencies for **registration and extension of benefits,***
- o *to enable UWs to claim/process and avail all benefits of applicable government schemes"*
- Regular meetings of such committees/cells shall be conducted to ensure accountability.

2. Training and Development:

- Facilitate institutionalization of training on laws and procedures related

to bonded labour, child labour and human trafficking for labour officials and DMs/SDMs.

- Regularly conduct inter-departmental multi-stakeholder workshops for duty bearers on labour trafficking.
- Undertake capacity development programs for staff of labour and other key departments, CSOs on child and adolescent labour issues as per G.O.M. 25 dated 23/06/2017 issued by Labour Employment Training & Factories (Labour) Department.

3. ***Financial Mechanisms:***

- Ensure that the District Magistrate has created a Bonded Labour Rehabilitation Fund with a permanent corpus of Rs. 10 lakhs as per G.O.M No. 26 dated 23/05/2018.
- Process proposals for cash component of the Central Sector Scheme for Rehabilitation of Bonded Labourer 2016.
- Create and activate Child Labour Welfare and Rehabilitation Fund as per Child Labour Act in all the districts under the Office of the Labour Commissioner for collection and disbursement of fund to the rescued children as per G.O.M No. 25 dated 23/6/2017 issued by Department of Labour Employment Training and Factories (Labour) Department, Government of Telangana.

IV. Useful Judgements

- States obliged to create plans for rehabilitation of bonded labourers – ***Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161.***
- Release Certificate issued under Standard Operating Procedure for Identification and Rescue of Bonded Labourer and Prosecution of Offender, 2017 is proof of identity – ***Roscann Rajan v. Taluk Supply Officer, W.P. No. 992 of 2015*** decided by the Madras High Court.
- State Government to deposit in the Child Labour Rehabilitation-cum-Welfare Fund a sum of Rs. 5,000/- for each child employed in a factory or mine or in any other hazardous employment - ***MC Mehta vs. State of Tamil Nadu, AIR 1997 SCC 699.***

- Payment of wages less than the minimum wages fixed by the State Government amounts to forced labour – ***People's Union for Democratic Rights v. Union of India, (1982) 3 SCC 235.***
- Whenever it is shown that a labourer is made to provide forced labour, the Court would raise a presumption that he is required to do so in consideration of an advance or other economic consideration received by him and he is therefore a bonded labourer - ***Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161.***
- If a contractor fails to make payment of wages and allowances, employer must pay the workers - ***People's Union for Democratic Rights v. Union of India, (1982) 3 SCC 235.***

DRAFT TEMPLATES

INDEX

Draft Template I

Template Complaint Letter from Labour Official to Police/AHTU requesting for filing of FIR Post-rescue in a labour trafficking case.

Draft Template II

Template Letter to District Magistrate in Cases of Trafficking for Bonded Labour requesting for Release Certificates and Immediate Cash Assistance

Draft Template III

Template Letter to the District SP where the victim chooses to be rehabilitated.

Draft Template IV

Template Letter to District Legal Services Authority for benefits to be provided under the NALSA (Legal Services to Unorganised Worker) Scheme 2015 and NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme 2015.

Draft Template V

Claim filed by Labour Inspector u/s 21(1) of the Minimum Wages Act.

TEMPLATE COMPLAINT LETTER FROM LABOUR OFFICIAL TO POLICE/AHTU REQUESTING FOR FILING OF FIR POST-RESCUE IN A LABOUR TRAFFICKING CASE

[Date]

By Hand Delivery

SHO of [name] Police Station/AHTU

[Location] Taluk

[Location] District

Re: Complaint Letter for registering FIR u/s 370 IPC, 16/17/18 of The Bonded Labour System (Abolition) Act, 1976 and other laws

Dear [Sir/Madam]:

On (Date), the undersigned received information (facts of the case). Prima facie it appeared to be case of trafficking of persons for the purpose of labour exploitation. Accordingly, I immediately informed the District Magistrate and the Superintendent of Police/Head of AHTU. Further to such intimation, the Learned DM and SP formed a rescue team comprising of officials from various departments including the undersigned. On [date of rescue], government officers and police physically entered the (worksite at) and rescued the Victims still present in the facility. The government officials participating in this rescue and the subsequent enquiry included [names and titles of officials]. The rescue was conducted in the presence of following witnesses [include names of witnesses]:

The rescued Victims were given a complete and comprehensive enquiry on [date of enquiry] at [location of enquiry, e.g., official's offices]. The enquiry indicated facts and circumstances sufficient for charges to be filed pursuant to IPC s. 370 & 374, the BLA, and [any other important acts, e.g., JJA or SC/ST], as well as other criminal statutes.

The Victims enquired included the following, each of whom worked at the

[facility], as well as their dependents, not identified below. Each of the Victims—including [number] children—has also been issued an official release certificate by the [location] [title of official who signed RCs]:

I urge you to consider this as a complaint letter and file an FIR u/s 370 IPC, 16/17/18 BLSA, with respect to the trafficking for forced labour crimes and other related criminal activity at the (worksite) against the owners and operators, including, but not limited to, individuals known as Sri [name] (the “Accused”). The worksite is credibly believed to be owned and operated by the offenders. The [facility] is located in [location] Village, [location] Taluk. The offenders illegally recruited, received, and exploited the victims as bonded labourers.

The enquiry showed that the offenders recruited the workers, deceiving them with the promise of good work, good wages, a good place to stay and regular working hours.

(c) The families have received an advance from the owner of _____ and Rs. _____, respectively. They are forced to work on account of the advance and under violent conditions, suffering both verbal and physical abuse. The owner has threatened them that if they try to leave the operation, they will be tracked down and will suffer extreme physical violence, even death, by the owner. _

(d) The labourers have been under these conditions for _____. The pay is far below the required minimum wage of _____ per person/per day. In fact, the individuals are paid only Rs. _____ per person/per day and are employed for _____ days of work. They are not free to go outside of the facility and cannot go to the market as a family and under strict vigilance. One family member must always stay behind. The workers are not allowed to take any days off for any reason other than if they are sick. Even then, they must return to work the next day or risk being abused by the owner. They are also restricted from working anywhere else. (Sample facts of case)

The undersigned has initiated proceedings under the Minimum Wages Act, Payment of Wages Act and other labour laws that were violated. Please find herewith and attached statements of the victims recorded by the undersigned.

Kindly register the FIR immediately and ensure protection to the victims rescued.

Sincerely,

[Title], [Location] District

Enclosures:

- i. Copy of statements
- ii. Copy of any documents provided by the DM/SDM

TEMPLATE LETTER TO DISTRICT MAGISTRATE IN CASES OF TRAFFICKING FOR BONDED LABOUR REQUESTING FOR RELEASE CERTIFICATES AND IMMEDIATE CASH ASSISTANCE

Date:

To,

District Magistrate/Sub-Divisional Magistrate

District

Sub: Request for Issue of Release Certificate and Immediate Cash Assistance and Rehabilitation under the Central Sector Scheme for Rehabilitation of Bonded Labourer-2016 by the Ministry of Labour and Employment, Government of India

Sir,

On Date, on complaint by _____ the undersigned was part of a rescue team led by the _____ police station/ AHTU to rescue victims of trafficking for bonded labour at _____ worksite run by _____ at (address). The names of the victims rescued along with their ages, addresses and gender is mentioned below:

After the rescue operation, during the policy inquiry, statements of the victims were recorded. The inquiry revealed commission of offences under The Bonded Labour System (Abolition) Act 1976 and Sec. 370, 374 Indian Penal Code. Accordingly, an FIR ___ PS ___/year u/s _____ was registered on (date).

In accordance with Sec. 10, 11 and 12 of the BLSA and Sec. 3.3 and 3.4 of the 'Standard Operating Procedure for Identification and Rescue of Bonded Labourer and Prosecution of Offended' 2017 issued by the Ministry of Labour and Employment, Government of India, it is requested that an inquiry be conducted and Release Certificates be issued to each of the victims who were trafficked for bonded labour. It is requested that a copy of the filled inquiry form as per Annexure I of the Central Sector Scheme for Rehabilitation of Bonded Labour 2016 issued by the Ministry of Labour and Employment, Government of India provides for the Inquiry Form and Release Certificate as per Annexure

II of the said Scheme be provided to the undersigned for purposes of ongoing proceedings against the offenders for violations of various labour laws including but not limited to the Minimum Wages Act, Payment of Wages Act.

In order to initiate the process of rehabilitation it is also requested that the immediate cash assistance of Rs. 20,000/- (*or whatever the amount under the updated policy is*) as provided u/s 3.5 of the said SOP and u/s 5 (xiv) of the said Scheme immediately. Additionally, in accordance with Sec. 10 of the said SOP, kindly coordinate with relevant authorities for issuance of the following documents to the above-mentioned victims to ensure holistic rehabilitation:

- a. Aadhar Card
- b. Ration Card
- c. Caste Certificates
- d. Voter ID
- e. MNREGA Card
- f. Land Patta
- g. Government health insurance
- h. Any other relevant documents

Sec. 5(v) of the said Scheme mentions the non-cash rehabilitation benefits to be provided to the victims:

- (1) Allotment of house-site and agricultural land;
- (2) Land development;
- (3) Provision of low cost dwelling units;
- (4) Animal husbandry, dairy, poultry, piggery etc.;
- (5) Wage employment, enforcement of minimum wages etc

It is requested that the same may kindly be provided.

Sincerely,

TEMPLATE PROTECTION LETTER TO THE DISTRICT SP WHERE THE VICTIM CHOOSES TO BE REHABILITATED.

Date:

Subject: Provision to Protect Bonded Labourers

Sub-Inspector of Police Station

Police Station

District

Sir,

On the basis of the complaint given by **[insert name of Informant]**, it was found that the following persons were treated as bonded labourers by **[insert names of offenders]**, the operators/owners of the **[insert location details]**.

[Insert names of Victims] are released from the bonded labour system by **[insert name of Executive Magistrate who issued release certificates]** and are going to stay in their native village at **[insert Village details]**.

We apprehend that there may be threat and harassment from either **[insert names of offenders]** or their associates. We request you to provide the victims with appropriate protection in accordance with Witness Protection Scheme, 2018 thereby enabling them to live in their village without any fear. If **[insert names of Victims]** come to any harm or become missing, **[insert names of offenders]** or their associates are responsible.

Yours faithfully,

[Insert Signature]

COPIES OF RELEASE CERTIFICATES AND FIR ATTACHED

[Attach a copy of the FIR and the Release Certificates issued to the Victims]

Copy, for information and action as necessary, to AHTU.

TEMPLATE LETTER TO DISTRICT LEGAL SERVICES AUTHORITY FOR BENEFITS TO BE PROVIDED UNDER THE NALSA (LEGAL SERVICES TO UNORGANISED WORKER) SCHEME 2015 AND NALSA (VICTIMS OF TRAFFICKING AND COMMERCIAL SEXUAL EXPLOITATION) SCHEME 2015.

Date:

To,

Secretary,

DLSA

District

Sub: Request for for benefits to be provided under the NALSA (Legal Services to Unorganised Worker) Scheme 2015 and NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme 2015.

Sir,

On Date ____, on complaint by _____ the undersigned was part of a rescue team led by the ____ police station/ AHTU to rescue victims of trafficking for bonded labour at _____ worksite run by _____ at (address). The names of the victims rescued along with their ages, addresses and gender is mentioned below:

After the rescue operation, during the policy inquiry, statements of the victims were recorded. The inquiry revealed commission of offences under The Bonded Labour System (Abolition) Act 1976 and Sec. 370, 374 Indian Penal Code. Accordingly, an FIR __ PS __/year u/s _____ was registered on (date). Release Certificates were issued by the SDM on _____.

I write to request the District Legal Services Authority to appoint a Para Legal Volunteer for each of the above-mentioned victims to assist them in follow up of their applications for rehabilitation benefits such as issuance of the following documents and benefits provided for under the Central Sector Scheme for Rehabilitation of Bonded Labour 2016 and SOP for Indentation and Rescue of

Bonded Labourer and Prosecution of Offender 2017 issued by the Ministry of Labour and Employment, Government of India.

Documents:

1. Aadhar Card
- b. Ration Card
- c. Caste Certificates
- d. Voter ID
- e. MNREGA Card
- f. Land Patta
- g. Government health insurance
- h. Any other relevant documents

Benefits:

Cash:

Immediate Cash Assistance

Release Certificate

Non- Cash

- (1) Allotment of house-site and agricultural land;
- (2) Land development;
- (3) Provision of low cost dwelling units;
- (4) Animal husbandry, dairy, poultry, piggery etc.;
- (5) Wage employment, enforcement of minimum wages etc.

And other rehabilitation benefits.

It is also requested that a panel lawyer be assigned to the victims to represent them individually or collectively, as per their wish, in their court cases. That the said lawyer be tasked with ensuring that appropriate claims are filed before the Labour Court for violation of labour laws and also follow up criminal proceedings.

CLAIM FILED BY LABOUR INSPECTOR u/s 21(1) OF THE MINIMUM WAGES ACT

Before the Assistant Labour Commissioner,

In the matter of:

Mr./ Ms.Complainant

Versus

M/sRespondent(s)

Claim u/s 21(1) of the Minimum Wages Act against non- payment of minimum wages to the workers.

It is hereby stated that:

1. The worker is/was working for the above- mentioned employer(s) from_____. His last drawn monthly wages was_____.
2. That the employer(s) has not paid to the worker his wages for _____, which amounts to a total of Rs._____.
3. That the employer(s) has also not paid to the worker his overtime for_____ hours which comes to a total of Rs._____. That even otherwise the employer(s) was paying overtime at single rate and the escaped amount for the rest of the hours of overtime which the employer(s) was paying at single rate, should also be determined by this Authority and, paid to the worker.
4. The employer(s) has also not paid for the earned paid leaves of _____ days to the worker and this amount comes to a total of Rs._____.
5. That the worker has severally requested the employer(s) to pay him his legally due, earned wages, but the employer(s) did not comply.

6. The non- payment of wages is causing undue financial hardships to the worker.

It is therefore requested that:

1. The above- mentioned employer(s) be ordered the legally due minimum wages, overtime and paid leaves which come to a cumulative total of Rs. _____. The employer(s) should also be ordered to make up and pay the difference for all the overtime hours for which it was paying at single rate.
2. This authority should also impose a penalty of up to 10 times the claim amount to be paid to the worker as compensation, by the employer(s) for the delay in payment of minimum wages, as per Sec. 20 (3)(i).
3. This authority may grant any other relief that it feels necessary and practicable in the present circumstances.

It is prayed accordingly.

Place:

Date:

Labour Inspector

RELEVANT POLICIES AND SCHEMES

INDEX

RELEVANT POLICY I

Advisory No. 24013/4/2020-ATC dated 6th July 2020, issued by the Ministry of Home Affairs, Government of India to States on preventing and combating human trafficking especially during the period of COVID-19 pandemic.

RELEVANT POLICY II

SOP on Investigation of Crimes of Trafficking for Forced Labor (2008), released by the UNODC and Government of India.

RELEVANT POLICY III

G.O.M. No. 26 dated 23rd May, 2018 issued by Labour Employment Training and Factories Department for creation of Rehabilitation Fund.

RELEVANT POLICY IV

SOP for Identification and Rescue of Bonded Labourer and Prosecution of Offender, F. No. S-11012/01/2015-BL issued by Ministry of Labour and Employment, Government of India on 17th August, 2017.

RELEVANT POLICY V

Standard Operating Procedure for the Enforcement of Child and Adolescent (Prohibition & Regulation) Act, 1986 issued by the Ministry of Labour and Employment, Government of India in September 2017.

RELEVANT POLICY VI

Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016, F. No. S-11012/01/2015-BL, issued by the Ministry of Labour and Employment, Government of India on 18th May, 2016.

RELEVANT POLICY VII

NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015 and NALSA (Legal Services to the Workers in the Unorganized Sector) Scheme, 2015.

RELEVANT POLICY VIII

G.O.M No. 20 dated 4th April, 2018 issued by Department of Labour Employment Training and Factories (Labour) Department, Government of Telangana.

RELEVANT POLICY IX

G.O.M No.19 dated 4th April, 2018 issued by Department of Labour Employment Training and Factories (Labour) Department, Government of Telangana.

RELEVANT POLICY X

G.O.M No. 25 dated 23rd May,2017 issued by Department of Labour Employment Training and Factories (Labour) Department, Government of Telangana.

By Speed Post

No. 24013/4/2020-ATC
Government of India
Ministry of Home Affairs

Women Safety Division, 2nd Floor,
Major Dhyan Chand National Stadium,
India Gate, New Delhi-110002

July 6, 2020

To

**The Chief Secretaries of all States and UTs
The Director General of Police of all States and UTs**

Sub: Advisory on preventing and combating human trafficking especially during the period of COVID-19 pandemic.

Sir/Madam,

Trafficking in Persons is a serious crime affecting a large number of people across the globe. Human trafficking not only affects women and children but also men. Trafficking in persons can be both cross-border as well as within the country, from one State to another. Traffickers often exploit the vulnerabilities of people by making false promises of a new job, better income, better living conditions and support to their families etc. While such promises of perpetrators appear legitimate to people, unfortunately it makes many men, women, and children easy prey for exploitation.

2. Domestic violence, psychological or emotional abuse, neglect and other forms of trauma and violence makes a person vulnerable to human trafficking, who may be looking for a release from his present situation. Children and youth are more likely to be persuaded or tricked by criminals who take advantage of their emotional instability and missing support system. Once trafficked, the victims fall prey to many forms of unfair treatment such as forced prostitution, forced labour, forced begging, forced marriages etc.

3. The outbreak of COVID-19, starting about mid-March, has put the world under enormous strain and continues to affect the lives of a large number of people. The Government of India has taken various measures to flatten the infection curve. In close consultation and coordination with State/UT Governments, the Central Government has continuously endeavoured to provide guidance to States and UTs on a range of issues through various advisories issued from time to time.

4. For strengthening the law enforcement response against trafficking in persons, the Ministry of Home Affairs has released funds to State Governments from time to time for setting up Anti Human Trafficking Units

(AHTUs) in 50% Police Districts of States. An amount of Rs. 25.16 crore was released to States during the period 2010 to 2019 for setting up AHTUs in 332 Districts. **Recently, a decision was taken to establish AHTUs in all Districts of States and UTs** and also establish AHTUs under the border guarding forces such as BSF and SSB in border areas to check and curb transnational trafficking. Rs. 100 crore were allocated from Nirbhaya Fund for setting up new AHTUs and for strengthening existing AHTUs, covering all districts of States/UTs. Funds have been released to States and UTs in March, 2020. Guidelines for setting up new AHTUs and upgrading the existing AHTUs were also issued to all States and UTs. **It is expected that the States/UTs would have initiated necessary action to set up and upgrade AHTUs in all Districts of States/UTs.**

5. To recapitulate the scheme of AHTUs, it may be noted that AHTUs are integrated task forces to prevent and combat trafficking in persons and comprise of a group of trained sensitive officials of Police, Women and Child Welfare Department and other relevant Departments of the State. AHTUs function as coherent units to prevent and combat trafficking. The objectives and responsibilities of AHTUs include, taking up the crusade against all criminal aspects of the crime of human trafficking; ensuring focused attention in dealing with offences of human trafficking; conducting rescue operations whenever they receive information about trafficking activities either from police sources, NGOs or civil society; ensuring a victim-centric approach; functioning as the grass root unit for collection and development of an exhaustive database on all law enforcement aspects of the crime, including information on traffickers and trafficking gangs etc. While the Central Government has provided financial assistance for setting up physical infrastructure in these Units, it is the responsibility of States to depute suitable manpower to manage these Units.

6. **States/UTs are advised to immediately set up new AHTUs and upgrade the infrastructure of existing AHTUs** in all Districts of their State/UT with the financial assistance provided by the Central Government and **make these Units functional on most urgent basis.** Suitable officers of Police and other Departments of the State/UT, especially from Women and Child Welfare Department, Labour Department, Social Welfare Department, Health and any other Department or agency of the State, considered appropriate by the State/UT, may be nominated without delay. Immediate instructions are required to be issued to these AHTUs to take proactive action in preventing human trafficking. **Labour Department of States** need to play a significant role at the present juncture and needs to pool all its resources to address the situation of exploitation of vulnerable people.

7. The following measures may be followed in all States and UTs, in close coordination and cooperation with neighbouring State authorities as well, where considered necessary:

(i) **State Governments should immediately evolve a coordination mechanism** among various departments in the States and UTs (Home Department, Police, Labour Department Social Welfare Department, Women and Child Welfare Department, Juvenile Justice Boards, Child Welfare Committees, Health Department, Railways and border guarding agencies like BSF, SSB, etc.) to handle issues of human trafficking. **This mechanism may be monitored at the highest level in the State/UT.** Periodic reviews should be held with all stakeholders and appropriate guidelines may be issued to them.

(ii) **Generation of Awareness at all levels** is considered a very potent and effective weapon to fight the crime of human trafficking and exploitation of women and children. Therefore, special awareness generation campaigns may be organised by the District Administration to spread awareness at all levels, Panchayat, Taluka, Districts, every nook and corner of the State to protect vulnerable sections of society. **Making the community aware** of the perils of falling in the hands of unscrupulous persons who try to dupe them with promises of better life is of vital importance. Media plays a critical role in the spread of information. States and UTs may strengthen their digital and online channels and **generate awareness by all means of communication** viz. radio, television, newspapers, mobile phones and other publicity mediums. Ensure translation and audio-visualization of messaging and communication materials and other information into languages and formats commonly spoken and easily understood by all children and youth on the move.

(iii) **Community awareness programmes** on the issue of missing children and its links with human trafficking should be undertaken by the District Administration. Periodic interface should be organised with Public and Safety Awareness Campaign should be conducted in vulnerable areas, jointly by the district administration.

(iv) The law enforcement agencies may **engage with representatives of local Panchayats, community leaders, Village Watch and Ward, Municipal Committees/Neighbourhood Committees/ Resident Welfare Associations etc.** This will enable the community to get involved with the administration/police in identification, tracing and recovery of missing and trafficked persons.

(v) Because children can be transported on a large scale for wage labour, prostitution and trafficking, **Panchayats may be asked to maintain a register** of complete information about the persons living in the village and keep track of their movement.

(vi) Specific 'intelligence' and 'surveillance' mechanism to identify gangs, gather information about its history, affiliations, modus operandi to deceive people, activities of gang members, links with others, etc should be worked out by the Police Department. They may be appropriately sensitised about

this. Local police should keep a close watch on known criminals and traffickers.

(vii) Police Officers should be advised to undertake preventive steps such as identification of children in distress, watching out for suspicious persons, keeping special vigil at transit points, viz. Railway Stations, Bus Depots, Airports, Seaports, Border areas etc., and identify vulnerable population and susceptible pockets in the State etc.

(viii) Police personnel in outposts on borders should be trained to look-out for trafficked children on the borders. They should be sensitized to question and detect unaccompanied minors/children or accompanying adults with suspicious behaviours during checking of vehicles/public transport. Railway and Transport Department personnel may be associated with the crime meetings conducted by AHTUs from time to time as **keeping a watch on suspicious movement of people from one place to another can play a crucial role in checking this crime.**

(ix) Child helpline numbers, emergency response number 112 etc. should be displayed in public places to keep a check on human trafficking. Use of 112 Emergency Response Support System may be widely publicised to provide quick response.

(x) Police force should **make full use of CCTNS and CriMAC application** launched by the National Crime Records Bureau in March this year, which facilitates dissemination of information about significant crimes including human trafficking cases across the country on real time basis. These portals can help in locating and identifying the trafficked victims as also in prevention, detection and investigation of crimes. **Police officers at all levels may be sensitised about this.**

(xi) Police officers, especially those handling cases of human trafficking, **should be trained and sensitized at regular intervals.** It should focus on imparting knowledge of the substantial and procedural laws, court rulings, administrative procedures, skills in child friendly investigation, including interviewing, interrogation, scientific data collection, presentation in the court of law, networking with the prosecutors, facilitating victims/witness protection programmes etc.

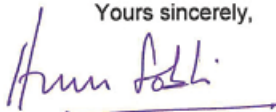
(xii) It may be ensured that **shelters for destitute women and children in need remain open and additional facilities are made available** for women and girls; virtual and/or telephone counselling services should be provided and appropriate measures should be taken to ensure privacy for women and girls.

8. The aforementioned measures are indicative and illustrative in nature. States and UTs may devise, develop and implement further strategies to counter and curb the crime of trafficking in their jurisdictions and provide relief to such victims on top priority basis. Officials at all levels may be suitably

briefed and provided guidelines in their regional/local language for better understanding and implementation of the instructions. This Ministry may be kept informed of the measures introduced in respective jurisdictions which can be emulated and adopted by other States as well.

9. **States and UTs are requested to issue suitable instructions** to all concerned in the State and sensitise officers at all levels to combat this serious and deplorable crime of human trafficking and prevent victimisation of vulnerable persons, especially women, children and youth.

Yours sincerely,



(Arun Sobti)
Deputy Secretary (PR & ATC)
Tele: 2307 5297
Email: dspr.atc@mha.gov.in

Copy, for information and action as necessary, to:

1. Secretary, Ministry of Women and Child Development, Shastri Bhawan, New Delhi.
2. Secretary, Ministry of Labour & Employment, Shram Shakti Bhawan, New Delhi.
3. Ministry of External Affairs, Protector of Emigrants, Akbar Bhawan, New Delhi.
4. Director General, Border Security Force, BSF HQR, Block No. 10, CGO Complex, Lodhi Road, New Delhi.
5. Director General, SSB, Force Head Quarters, East Block-V, R.K. Puram, New Delhi-110066.
6. Chairman, Railway Board, Rail Bhawan, New Delhi.
7. Principal Secretary/Secretary (Home) of all State Governments and UTs.
8. Nodal Officers for Anti Human Trafficking Units in all States and UTs.



UNITED NATIONS
Office on Drugs and Crime

Government of India



Standard Operating Procedures (SOP)

On Investigating Crimes of Trafficking for Commercial Sexual Exploitation

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PREFACE

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

Successful conviction of offenders, redressal of grievances of victims and consequent prevention of crimes of human trafficking is possible when the first responders, i.e., the police agencies, perform their tasks diligently. In this process, investigation of crimes assumes an important role. The task includes collection of intelligence about crimes, registering crimes in the police station, prompt action in investigation and prosecution and also ensuring all legal and administrative follow-up measures.

Appropriate tools, no doubt, are essential to empower the officials to carry out these tasks in the best professional manner. In this context this SOP is a tool for the law enforcement agencies to address the crimes of commercial sexual exploitation (UNODC has developed another SOP exclusively for addressing issues of investigation of crimes of trafficking for forced labour). This SOP has been developed based on the regular feedback from the police officers and prosecutors who have undergone training facilitated by UNODC, the prosecutors and judicial officers who have conducted the trial of these crimes as well as the feedback from the civil society partners and the victims of trafficking. The available literature on trafficking has also been taken into consideration in the various segments. The SOP has been prepared in a user-friendly and simple style with Do's and Don'ts and checklists.

1. INTRODUCTION

Irrefutable is the fact that trafficking in human beings is one of the largest organized crimes across the world, along with trafficking in drugs and arms. And, undoubtedly, it is as much a commercial activity as an organized crime.

The Constitution of India vide Article 23, prohibits both trafficking in human beings and forced labour. Substantive laws like the Indian Penal Code 1860, special legislations like the Immoral Traffic (Prevention) Act 1956, the Bonded Labour System (Abolition) Act 1976, etc. and local laws like the Goa Children's Act 2003, provide the legal regime to combat and prevent Human Trafficking (HT). In addition, judgments by the Supreme Court and various High Courts have provided further legal strength to the law enforcement agencies. However, research¹ shows that the existing response to human trafficking is uneven and requires immediate attention especially in areas of Knowledge, Skills, Attitude and Resources (KSAR). In this context, the *Standard Operating Procedures (SOP) on Investigation* is a powerful tool for investigators, support and supervisory officials who handle trafficking crimes of various dimensions in India.

Based on a human rights paradigm, the SOP underscores the following principles in the response to HT:

- **Human rights approach**

Trafficking in human beings is a grave violation of human rights, one that deprives and demolishes the dignity of the trafficked person. Therefore, it is critical that response systems are rights-based and human rights oriented. The officials who deal with the victims should be empathetic and understand the concerns from the victim's perspective. Decision making about the victim should emanate from and be based on the 'best interest of the victim'. Victims have a right to be protected, consulted and informed of all actions being taken on their behalf.

- **Victim friendly procedures**

Any action initiated by the law enforcement agencies should ensure that the victim is the pivotal/focal point. This requires that the victim of trafficking is:

- Not treated as an offender
- Not 're-victimised'
- Not branded 'as a soliciting person'
- Not arrested
- Not stigmatized
- Extended all help and assistance as a matter of right.

A victim-friendly procedure ensures that harm to the victim is validated.

- **Multi-disciplinary approach**

A comprehensive knowledge of trafficking requires it to be understood from a process-centric perspective. HT entails several acts of commission and/ or omission involving multiple offenders. Accordingly, the response to trafficking requires simultaneous attention by various agencies mandated to carry out different tasks, viz. police agencies, other government departments (like welfare, women and child development, etc.) prosecutors, counselors, NGOs, etc. all of whom perform several functions in the process of Anti Human Trafficking (AHT). Therefore, the law enforcement agencies need to coordinate with these stakeholders to develop a synergy and partnership with them.

- **Gender issues**

Though the victim could be any person, research² shows that the majority of victims of commercial sexual exploitation (CSE) are females. An inadequate response to the trafficked victim by various

¹ *Trafficking in Women and Children in India*, National Human Rights Commission, Orient Longman, 2005

² NHRC, 2005. op. cit 1

agencies, further exacerbates gender discriminations and gender violations that already exist in society. Hence, gender sensitivity is an essential requirement in addressing HT. The procedures and steps undertaken by the responders should conform to gender rights.

- **Child rights issues**

Research³ has shown that there exists a high demand for children for purposes of CSE. Being more vulnerable, children are subjected to extreme violations during and after trafficking and an improper response aggravates the harm already inflicted on them. Therefore, the law enforcement response has to be specifically oriented to their specific rights.

- **Organized crime approach**

Trafficking is an organized crime extending beyond national and state boundaries. It is multi-dimensional because:

- It involves the elements of several crimes, like selling, buying, sexual abuse and exploitation, criminal confinement, abduction, etc.
- The scenes of crime extend from the Source area through the Transit area to the Destination area.
- It entails multiple abuses and abusers, who are networked and organized.
- It is a 'continuing offence', starting with recruitment/ procurement and continues till the victim is rescued.
- By 'trading' in human beings, offenders make 'profits' at various levels of their activity.



³ Ibid

2. OBJECTIVE AND STRUCTURE OF SOP

2.1 Objective

The SOP is designed to help the investigator conduct a professional investigation that strives towards:

- Expeditious and effective law enforcement
- Conviction of the offenders
- Initiating post-conviction steps against the offenders
- Non-victimization of victims
- Ensuring that appropriate protection/ care/ attention is provided to victims/ witnesses
- Taking appropriate steps for prevention of trafficking and re-trafficking.

2.2 Who is SOP for?

The SOP aims to empower investigators in responding to and preventing crimes of human trafficking for commercial sexual exploitation. It helps to ensure that supervisory officials take appropriate and prompt action when dealing with trafficking crimes. As a comprehensive resource book for all stakeholders including government agencies, NGOs, media and members of civil society, it helps to clarify and list out the legal procedures and practices that support and strengthen the process of AHT. In addition, it is a useful tool to inform and empower victims about their specific rights.

2.3 Structure of SOP

SOP provides a step-by-step approach in investigating crimes of human trafficking. References have been made to legal provisions and court rulings wherever appropriate⁴.

This important resource document has been developed on the bench mark that investigating officials have a basic knowledge and experience in the application of the provisions of substantive and procedural laws, like IPC, Cr. PC, the Evidence Act, etc., and are also aware of the procedures used in the investigation of crimes. Therefore, the SOP does not go into a detailed discussion of these laws and procedures but is confined to specific areas of professional work. It has been divided under the following segments for complete clarity and ease of communication:

- Concepts of Trafficking
- Activities before Registration of First Information Report (FIR)
- Pre Rescue Planning
- Rescue before Registration of FIR
- Registering FIR on HT Crimes
- Investigation
- Rescue after Registration of FIR
- Post Rescue Activities
- Charge Sheet
- Prosecuting Crimes
- Referral Mechanisms
- Post Conviction Steps in AHT
- Prevention
- Role of Supervisory officers

⁴ For detailed discussions on the law, the reader is advised to refer to the document on Legal Framework by UNODC. Procedures relating to Inter-State Rescue and Post-Rescue Activities have been addressed in another Protocol exclusively on this subject.

3. CONCEPTS OF TRAFFICKING

3.1 Demystifying myths

Several myths shroud the understanding of human trafficking; for instance, terms like 'human smuggling' or 'voluntary illegal migration' are, often, wrongly perceived to be similar to 'human trafficking'. Another common myth that human trafficking takes place only for prostitution, is completely false, as trafficking is perpetrated for several purposes beyond prostitution, such as forced labour, marriage, etc. The following pages clarify the concepts from a human rights perspective, so that the law enforcement official is rightly informed about the general, legal and procedural issues related to trafficking crimes. For a detailed chart on myths versus realities see Appendix 1⁵.

3.2 What is trafficking?

The Constitution of India vide Article 23 prohibits trafficking in human beings for any type of exploitation. The UN Protocol, 2000⁶ and the Goa Children's Act, 2003 define trafficking, clearly. The Immoral Traffic (Prevention) Act (ITPA), 1956 mentions the activities which constitute a working definition of trafficking for the purpose of prostitution. All these are detailed below.

A) The UN Protocol, 2000⁷ defines trafficking on the basis of the following constituents:

TABLE 1		
ACTIVITIES (any of these)	MEANS/METHODS (any of these)	PURPOSE/INTENTION (any of these)
Recruitment	Threat	For the purpose of exploitation ⁸ -
Transportation	Force	Prostitution of others
Transfer	Other forms of coercion	Other forms of sexual exploitation
Harbouring	Abduction	Forced labour or services
Receipt ... of persons	Fraud	Slavery or practices similar to slavery
	Deception	Servitude
	Abuse of: Power Position of vulnerability	Removal of organs
	Giving or receiving of payments or benefits	
The 'consent' of a victim of trafficking shall be irrelevant where any of the means set forth above have been used. 'Consent' is irrelevant in case of children even if this does not involve any of the means set forth above.		

Note, that in cases of adult victims all three elements have to be present to establish an offence of trafficking. If one of the elements is missing, it is not trafficking, although it may be another offence.

In cases of child trafficking, only the elements of act and purpose have to be present to establish an offence of trafficking. In other words, the 'means' are irrelevant if the victim is a person under the age of 18 years.

⁵ Page 45

⁶ United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime, 2000

⁷ For definition see Appendix 2 at Page 47

⁸ The Annotated Guide (2002) to the Complete UN Trafficking Protocol consisting of The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children provides a definition of "exploitation". See Appendix 2 at Page 47

B) The Constitution of India - The Constitution under Article 23⁹ -

- Guarantees rights against exploitation, and
- Prohibits traffic in human beings,
- For any purpose whatsoever (which includes trafficking for CSE, exploitative labour or any other form of exploitation)

C) The Immoral Traffic (Prevention) Act, 1956 defines 'prostitution' u/s. 2 (f) and provides a working definition of trafficking for CSE u/s. 5¹⁰.

As per S. 5, ITPA trafficking for CSE is –

- Procuring a person for prostitution, or
- Inducing a person to go from any place to become an inmate of a brothel for prostitution, or
- Inducing a person to go from any place to frequent a brothel, or
- Taking a person from one place to another for prostitution, or
- Causing a person to be taken for prostitution, or
- Causing or inducing a person to carry on prostitution, or
- Attempting to procure or induce or take a person for prostitution

D) The Goa Children's Act, 2003, vide S. 2 (z) defines "child trafficking"¹¹.

TABLE 2

ACTIVITIES (any of these)	MEANS/METHODS (any of these)	PURPOSE/INTENTION (any of these)
Procurement	Threat	To achieve the consent of a person having control over another person
Recruitment	Force	
Transportation	Other forms of coercion	
Transfer	Abduction	
Harbouring	Fraud	For monetary gain or otherwise
Receipt ...of persons	Deception	
	Abuse of: Power Position of vulnerability	
	Giving or receiving of payments or benefits	

3.3 Who is a 'victim' of trafficking for CSE?

- Any trafficked person.
- Persons above the age of 18 who through force or threat of force, coercion, abuse of power, etc. were/ are required to perform sexual acts without their consent, by any person(s).
- "Children" who have not completed the age of 16 years and "minors" who have completed the age of 16 years but have not completed the age of 18 years, who are found in places of CSE [u/s. 2 (aa) and (cb) ITPA] .

Any trafficked person, irrespective of nationality, age, sex is a victim.

⁹ See full text of Article 23 in Appendix 2 at Page 47

¹⁰ See Appendix 2 at Page 47

¹¹ See Appendix 2 at Page 47



Victims of CSE

- Any child likely to be trafficked is a "child in need of care and protection" under S. 2 (d) of the JJ Act and is therefore, a victim who should be rescued.
- Anybody who has been recruited, harboured, transported, detained, obtained, or procured for CSE.
- Any person who has been detained in a brothel, with or without consent [S. 6 (1) (a) ITPA].
- Any person who has been detained in any premises with the intent of CSE [S. 6 (1) (b) ITPA].
- Any person found in a brothel, or any place of CSE, whose jewellery, wearing apparel, money, property, etc. has been withheld [S. 6 (3) (a) ITPA].
- Any person who has been seduced for prostitution by any person having custody/ charge/ care of/ or a position of authority over that person [S. 9 ITPA].
- A person whose trafficking has been attempted by someone [S. 5 ITPA].

NOTE: The list above is illustrative and not exhaustive. There may be other similar situations wherein a person becomes a victim of trafficking. For example, the child of a victim of CSE living with the mother in a brothel, could be lured/ deceived/ coerced by the brothel owner for CSE. In such a situation, trafficking, though not apparent, has been committed¹².

REMEMBER

- All children and minors are victims.
- All trafficked persons are victims, irrespective of proclaimed/ apparent voluntariness.
- Any person who is made to have sex with another person for profit/ gain of a third person is a victim.

NOTE

- In borderline cases, where there is doubt regarding age, presume that the person is a child or a minor.
- When persons are rescued from any place of CSE, there is a high probability that such persons may have been trafficked.

¹² For detailed discussion see Nair, P.M. (Dr.), *Trafficking Women and Children for Sexual Exploitation, Handbook for Law Enforcement Agencies in India*. Second Edition, UNODC, 2007. P. 2

3.4 How to identify victims of trafficking

Since trafficking in persons is usually an “underground” crime, law enforcement personnel may find it difficult to readily identify a trafficked victim and/or a trafficking scenario. Trafficking crimes may come to notice when:

- Victims manage to escape and report their situation directly to the police or NGO. This happens very rarely.
- When, during a routine police activity not directly related to trafficking, people are stopped and vehicles checked for documents at border crossings, etc.
- Proactive action is taken by the police on receiving intelligence and source information, or by surveillance or conducting targeted raids on suspected places, etc.
- Proactive action is taken by NGOs or any other agency/ person leading to identification of victims.

The police can also identify victims of trafficking for purposes of CSE using the following indicators:

- Age – the young age of the person increases vulnerability to trafficking for CSE
- Gender – women and young girls are more susceptible than men to trafficking for CSE
- Source – persons from vulnerable places are more prone to trafficking due to a combination of factors such as, economic deprivation, discrimination, lack of opportunity to pursue viable economic options, etc.
- Prevalence of extreme security precautions at the place of exploitation (especially brothels), such as barred windows, locked doors, etc.
- Indication of abuse – signs of rape/ sexual abuse, presence of sexually transmitted diseases, marks of physical injury, etc.
- Psychological trauma – demolition of the individual, acceptance of destiny, demotivation, distressed look, lack of trust for others, etc.
- Suspicious activities in establishments operating under the guise of massage parlours, escort services, friendship clubs, placement agencies, etc.
- Poor living conditions, lack of hygiene, health care, etc.
- Retention of earnings by someone else.

3.5 Who is a trafficker/ offender in crimes of trafficking?

This includes all persons:

- Involved in any act in the process of trafficking
- Who gain/ make profit/ exploit:
 - as the trafficked person passes through a chain,
 - from the point of source area through the transit area to the point of final destination, and
 - from any act involved in the process of exploitation of the trafficked persons.

According to Article 1 (4) of the SAARC Convention¹³ “Trafficker” means persons, agencies or institutions engaged in any form of trafficking.

The persons, who constitute the “offenders list” in a crime of HT, are mentioned below. This list is illustrative and not exhaustive; the Investigating Officer (IO) has to scrutinize the process of trafficking to understand who else may have been involved, such as:

- Recruiter
- Agents of recruiter
- Seller of trafficked person
- Buyer of trafficked person
- Transporter
- Conspirator
- Abettor
- ‘Customer’/ clientele

13 SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002

- Pimp
- Brothel madam
- Brothel managers
- Financier
- Parent (s)/ Guardian (s) who knowingly sell/ cause to sell/ traffic their children/ ward
- Any other person who is knowingly involved in any act of commission and/ or willful omission in the process of human trafficking

3.6 What is a brothel/ place of CSE?

"Brothel" u/s. 2 (a) ITPA includes:

- House,
- Room,
- Conveyance (vehicle)/ place/ portion of any house or room, which is used for sexual exploitation or abuse, and for the gain of another person.

Even if it is a private property, it is sufficient that the place is accessible to the public¹⁴.

U/s. 2 (h) ITPA, "Public place" means any place intended for use by, accessible to, the public and includes any public conveyance.

3.7 Where is the 'Scene of Crime' in trafficking for CSE?

Scenes of crime are not restricted to the brothel or places of exploitation, but also include:

- The source point
- The transit point, including places of halt, transfer, etc.
- The destination point
- The vehicles used for transfer at any place (Source – Transit – Destination, or thereafter)
- Place where the trafficked person is sexually exploited under the façade of other business/ vocations (such as massage parlours, friendship clubs, placement agencies, escort services, etc.)
- Place where the victim has been sent by the offender for making or recording pornography, etc. and the place where pornographic material has been transported, stored, sold, purchased, used, etc¹⁵.

¹⁴ Gaurav Jain v/s Union of India & Ors - AIR 1997 SC 3021

¹⁵ Nair, 2007. op.cit. 12 p. 30

4. ACTIVITIES BEFORE REGISTRATION OF FIR

4.1 Intelligence collection and sharing

Being an organized crime, intelligence on victims and offenders is the sumum bonum of professional investigation and an essential attribute for combating and preventing human trafficking.

TABLE 3

STEPS TO BE TAKEN	POINTS TO NOTE
1. Collect intelligence on traffickers and other offenders. Interrogation of suspects needs to be thorough.	Trafficking in persons is an organized crime with multiple abusers and offenders. Hence, intelligence on one can lead to intelligence on another.
2. Collect intelligence on the process of HT. Thorough interrogation of suspects and interview of victims/ sources can provide this intelligence.	HT is an organized crime involving several acts. Follow up on one can lead to information on another.
3. Collect intelligence about the victims. Interview of the rescued persons, follow up of missing persons, interrogation of suspects, watch on transit places, decoy operations, follow up of phone calls of suspects, analysis of advertisements on sexual services, etc. are some important steps.	Police and NGOs often use decoy operations. NGOs can be a good source of intelligence.
4. Collect intelligence about the likely victim: interviewing a rescued victim and interrogating suspects can lead to victims who are likely to fall into the trap. Keeping watch on vulnerable places and communities can provide intelligence on likely victims.	Preventing vulnerable victims from being trafficked is as important as rescuing trafficked persons.
5. Intelligence collection from source areas: Interview of victims/ survivors/ source persons, interrogation of suspects, monitoring telephone calls of suspects, identifying vulnerable areas where HT crimes have been reported and missing persons are reported etc. are some of the steps.	Intelligence at the source area is the best tool to prevent crimes. Once the sources are identified, steps can be taken to address vulnerability by involving other government agencies (eg. departments of women and child development, health etc., NGOs working on empowerment programmes.)
6. Intelligence collection from transit areas: depute spotter/ watcher/ spy/ source, etc. at these places to look for both victims and offenders in transit.	Intervention at transit points also facilitates rescue before the victim is exploited, though it is possible that the victim could have already been sexually assaulted.
7. Intelligence collection from destination areas: study demand patterns, trends, keep watch on those who demand (clientele, etc.), those who perpetuate demand (sex tourism operators/ hoteliers/ transporters etc.), and places where CSE is committed under the garb of massage parlours, etc.	Demand control is a major activity in combating and preventing HT.
8. Develop database on traffickers (including recruiters, financiers, 'customers', etc.), and vulnerable communities and share it with all stakeholders.	This database should be updated and disseminated without delay so that concerned agencies can use it at the right time. Though it may be data for one person, it could be critical intelligence for another.

4.2 Source information

Source information is a major area of intelligence collection in India, in discovering crimes of trafficking and rescuing victims. Hence, efforts in this direction need to be streamlined for best results.

Remember:

- To *involve* NGOs, crime stoppers, help lines, police control rooms, etc, as the source could be **anybody**. Take the informed consent of survivors before using them as sources.
- To *develop* partnerships with NGOs as they are important sources of information.
- To *obtain* full details of the information, names, phone numbers, place, etc. before operations.
- To *cross check / verify* information before any rescue operation takes place.
- To *take steps* to prevent leakage of information. Share it with only those who need to know.
- To *maintain* confidentiality of the source at all costs.

CASE STUDY

INFORMATION FROM AN ANONYMOUS SOURCE

Based on information from an anonymous letter, a 30 minute late-night operation, followed by a raid, helped the sleuths of Integrated Anti Human Trafficking Unit (IAHTU), Hyderabad, to bust a sex racket at Krishna Nagar, in Banjara Hills, in March 2007. A 24-year-old 'mistress' was arrested and six victims were rescued. Six mobile phones and two motorcycles were seized from the premises. Five persons found negotiating with the 'mistress' were also taken into custody.

This is an example of the involvement of civil society in the fight against human trafficking. An important source of information could, thus, be anybody from the public at large.

CASE STUDY

WEBSITE AS SOURCE OF INFORMATION*

During early 2007, while conducting an enquiry about trafficking and soliciting via the internet, IAHTU Hyderabad came across this web site: www.hyderabadnight.com. The site displayed semi nude photographs of young women and mobile phone numbers of the contact person, i.e., the organizer (a lady, which later turned out to be a fake name). On a tip off given by IAHTU Hyderabad to the Task Force of the Hyderabad city police, a Delhi based girl, who was trapped and was being exploited, was rescued and two exploiters (middle men) were arrested. The investigation revealed that the organizers were sending young women to premium hotels under the guise of "escorts". They were highly organized and were running the business in several places, in all the metros, and were also linked to international web sites, quoting minimum charges of \$100 per hour. Most of the "escort service" web sites had their servers in foreign countries. The investigation showed that such advertisements could be a good source of intelligence collection on trafficking.

*Source: Mr. Mahesh Bhagwat

Sources from where/ whom information can be obtained and intelligence collected, are listed below. (This list is illustrative, not exhaustive.)

- | | |
|--|---|
| <ul style="list-style-type: none"> • Travel agents, authorized and unauthorized • Tour operators • Immigration agents • Marriage bureaus • Hotels • Beauty parlours • Massage parlours • Escort services | <ul style="list-style-type: none"> • Emails, SMS, MMS, etc. • Illegal drug dealers • Dealers in legal/ illegal liquor trade • Destination/ transit points like: <ul style="list-style-type: none"> * Bus stops * Railway stations * Airports * Tourist spots * Pilgrimage surroundings * Immigration offices at borders * Custom offices at borders |
|--|---|

- Friendship clubs
- Social networking advertisements
- Websites
- Illegal abortion clinics
- Help lines/ help desks run by government/ NGOs
- Media reports:
 - * Print and electronic
 - * Advertisement
- Internet sites

4.3 Decoy Operations

STEPS TO BE TAKEN

- Conduct decoy operations, wherever possible, to collect intelligence.
- Take precautions for the personal safety of the decoy.
- Decoy can operate as a 'customer', 'trafficker', 'pimp', etc.
- Brief the decoy, especially about the vulnerability of the trafficked person so that the victim is not traumatized further.
- Decoy operations for intelligence collection may end as rescue operations. Hence, all personnel/ organisations concerned should be fully prepared and geared up for rescue.

POINTS TO NOTE

- Maintain confidentiality of the source and information.
- Exercise care and caution in selecting the decoy.
- Avoid involving people with malafide intention. Decoy could be:
 - Police official
 - NGO representative
 - Any person willing to be a decoy
- The decoy should be sensitized regarding the helplessness of the victim and the risks involved for the victim in conducting such operations.

5. PRE-RESCUE PLANNING

The steps¹⁶ involved at this stage have to be carefully planned as they have a bearing on all the activities that follow.

Do's and Dont's:

- Take prompt action on the information.
- Do discuss with the informant in detail, to verify the genuineness of the information. Cross check with other sources, wherever possible. Beware of malafide, vested and motivated sources.
- Understand all dimensions of operations to be conducted: when, where and how, the persons to be associated including from the police department, other departments, civil society, etc; how many are likely to be rescued, what would be the configuration of gender and age, and how many are likely to be arrested, etc.
- Ensure appropriate legal and administrative sanction wherever required.
- Think about logistics including transport, food, clothes, medicines, money, etc. that may be required.
- Be aware of the challenges and threats, including physical threats, legal and administrative issues and the possible responses.
- Think about a contingency plan in case of unforeseen challenges. For instance, if the rescue gets delayed till late at night and there are no Shelter Homes available, check if there are any appropriate hotels, in the vicinity, where the victims can be lodged.
- Consider how the confidentiality of the operations and persons involved can be maintained.

16 See Check List for Pre Rescue Planning at Appendix 3

6. RESCUE BEFORE REGISTRATION OF FIR

(Note: Rescue is possible anytime and anywhere. It can also be conducted without registration of the FIR. This segment discusses steps in a rescue before the FIR is lodged and Segment 9 discusses the steps, in a rescue, undertaken after a crime is registered in a police station.)

Rescue should NEVER wait or be delayed on any count - even for filing of the FIR.

As an FIR is *not* a pre-requisite for rescue, whenever the police receives information regarding victims/ activities relating to CSE and/ or trafficking, the rescue should be carried out **IMMEDIATELY**.

Two sections of ITPA, s. 15 and s. 16 authorize rescue of victims/ search of premises where CSE is perpetrated.

Rescue and preventive action is possible even before FIR is registered:

- u/s. 15 ITPA
- u/s. 16 ITPA
- u/s. 149 & 150 Cr. PC

(A) Under s. 15 ITPA

If a Special Police Officer (SPO) who is notified by the State government, or Central (Anti) Trafficking Police Officer (CTPO) who is notified by the Central government...

- has reasonable grounds for believing that an offence u/ITPA has or is being committed,
- in respect of any person living in any premises, and
- search of the premises with a warrant cannot be made without undue delay,
- the officer *can* enter and search such premises **without a warrant**,
- and remove from there all persons found therein (this includes rescue of victims and arrest of suspects).

(B) Under s. 16 ITPA

When a Magistrate¹⁷ (Metropolitan Magistrate, Judicial Magistrate of the First Class, District Magistrate or Sub-Divisional Magistrate)...

- receives information from the police/ any other person (could be anyone authorized by State government or an NGO or any private person),
- about any person being exploited for CSE in a brothel,
- he may direct a police officer of, or above, the rank of SI to rescue the person and any other similar persons,
- the police officer can/ shall rescue all victims and also take into custody all suspects and produce them before the Magistrate who issued the order.

WHO IS AN AUTHORIZED POLICE OFFICER?

A. Police officers authorized to investigate crimes under ITPA, 1956 are:

- Notified police officers u/s. 13 (1), (2) ITPA, or
- Subordinate police officers, authorized by the State Government u/s. 13 (3) (a)¹⁸, or
- Central (Anti) Trafficking Police Officers u/s. 13 (4)

B. Police officers authorized to arrest offenders:

- u/s. 14 (i) arrest without warrant can be done by a special police officer or anybody acting under his direction or guidance, or
- u/s. 14 (ii) arrest without warrant can be done by subordinate officer when authorized in writing by a special police officer
- u/s. 14 (iii) arrest even without a written order by the SPO can be done by any police official, provided he/ she:
 - a) is of the rank of SI or above
 - b) believes delay will lead to destruction/ concealment of evidence, or

¹⁷ According to S. 2(c) read with Schedule appended to ITPA, 1956.

¹⁸ In AP under G.O.Rt. No. 475 of 1991 issued by the Home Department, Andhra Pradesh, all Sub-Inspectors, ASI, Head Constables have been notified under S. 13 (3) (a) of ITPA

- c) the offender is likely to escape, or
- d) suspects that the person is stating a false name/ address, etc.

C. Police officers who can undertake rescue are:

- Any notified police officer as stated at (A) above.
- Any police officer authorized to arrest an offender as stated in (B) above, can rescue any victim while undertaking arrest of suspect.
- Any police officer of the rank of SI, and above, specially authorized by any competent Magistrate (MM, JM 1st class, DM or SDM) u/s. 16 ITPA.

Step-by-step Rescue Procedure:

- 1: Enter source information in the General Diary (GD) of the Police Station (PS) in such a way that anonymity of the source/ victim/ location is not compromised.
- 2: Carry out a recce of the place to be searched. An official conversant with the local language should be sent incognito, to the place. Take the help of local officers/ NGOs and empowered survivors who are willing to co-operate.
- 3: Draw a sketch map of the area which can be used for briefing and assigning specific duties to both officials and witnesses involved in the rescue. This includes duties like cordoning, guarding entry and exit points, locating hide-outs, identifying a safe place to keep rescued persons till the rescue operation is completed, etc.
- 4: Wherever possible, obtain a search warrant from the jurisdictional Magistrate u/s. 166 Cr. PC and/ or u/s. 15/ 16 ITPA.
- 5: Ensure adequate composition of the rescue team:
 - The team should have two women officials of any rank (S. 15 (6 A) ITPA).
 - If rescued persons are to be interviewed, it **shall** be done by a woman police officer, if no woman police officer is available the interview should be done only in the presence of a lady member of a recognized welfare institution/ organization (NGO) (S. 15 (6 A) ITPA). Hence, do co-opt a lady police official or a female representative of an NGO.
 - Secure the help of NGOs to act as *panchas*/ mediators/ witnesses. Rescue activities require two witnesses; one of them shall be a woman (S. 15 (2) ITPA).
 - The team should have at least one police officer who is legally empowered to conduct a rescue [i.e. a SPO notified u/s. 13 (1) ITPA, or CTPO notified u/s. 13 (4) ITPA or any police officer above the rank of SI duly authorized by the Magistrate u/s. 16 (1) ITPA].
- 6: Arrange an adequate number of vehicles and escort for rescued persons so that victims are always kept segregated from the offenders.
- 7: Arrange materials and equipment required for documentation and evidence collection such as a writing pad, white paper, pen, pencil, box for transporting the exhibits, box for safe-keep of the

Did you know that a male police official, alone, *cannot* interview a rescued female victim. Interviewing has to be done by a female police official or conducted in the presence of a female representative of an NGO

Maintain a list of NGOs working on AHT in the area.

The woman witness does not necessarily have to be from the locality where the rescue is to be conducted [Proviso to S. 15 (2)].



- belongings of the rescued persons, camera, video and audio recording equipment, first aid kit, torch, hammers, cutters, rope for cordoning etc.
- 8: Inform appropriate authorities (including the Police Nodal Officer¹⁹) regarding the proposed activities including the places to be visited and time of operation, keeping in mind the need for confidentiality.
 - 9: Alert the authorities of the government or recognized Homes run by NGOs in the vicinity, regarding the approximate number of persons likely to be rescued and the time when they are likely to be brought there.
 - 10: Conduct the rescue promptly. If the situation demands that more places need to be searched without delay, go ahead and do it. The grounds for taking this step should be clearly recorded in the report.
 - 11: Inform rescued persons about the authority and purpose of the search and rescue. Assure them of the care and attention they will get.
 - 12: Identify children (those below 18) among the rescued, as they have to be produced before Child Welfare Committee (CWC).
 13. Ensure safety of all rescued persons.
 14. Do arrest the offenders if they are present. Keep them segregated from the victims.
 - 15: Collect documents and exhibits from the place of rescue. Do not postpone this task.
 - 16: Allow rescued persons to take their belongings with them.

19 For role of Police Nodal Officer, see Protocol on Inter State Rescue and Post Rescue Activities, UNODC, 2007

- 17: If the rescued persons have children with them, ensure they are also rescued.
- 18: If the rescued persons belong to another state(s), inform the Police Nodal Officer of the concerned states.
- 19: If the rescued person belongs to a foreign country, inform the Police Nodal Officer of the state and network with appropriate NGOs for necessary follow up.

REMEMBER

Identifying the victims of trafficking of CSE is a difficult task during rescue and at the 'Scene of Crime' of HT. The guidelines for identification of the victims have been listed out in segment 3 (para 3.3 and 3.4).

6.1 Crime scene photography/ videography²⁰

After thoroughly looking at the scene of crime, the IO should:

- Brief the photographer/ videographer to record the minutest details.
- Ensure photography/ videography both inside and outside the premises.
- Get some pictures of the witnesses while recording the scene.
- Ensure that long distance, intermediate distance and close-up photographs of the scene of crime, are taken.
- Document the photographs/ videos with the date, place, etc. for the record and for use as evidence.

6.2 Working with victims (Pre FIR stage)

A) First response to victims²¹

The first response to the victim of a crime of trafficking is a psycho-social response that helps the victim cope with the traumatic impact of the crime. It treats the victim-survivor as a person, and with dignity. It ensures they are safe and not harmed further. It informs them about what is going to happen next. It provides for their immediate needs of food, shelter, clothing and any medical complaints. It is the duty of all those who come in contact with victims of trafficking, during the time of rescue, to coordinate and integrate all their activities so that none of their needs and concerns remain unaddressed. This kind of a well-coordinated first response ensures that the 'best interest' of the victim-survivor is protected.

INTERVIEWING VICTIMS²²

The challenges that law enforcement officials confront:

- Victims come from different social, cultural and ethnic backgrounds, which may be different from those of the investigating officers.
- There may be a language barrier between the victim and the investigating officers.
- Victims may be completely unaware of their rights or may have been intentionally misinformed about them.
- The victims may fear not only for their own safety but also for that of their families.
- Since the victims are under trauma, they may not state the correct facts, which could even be misleading (eg. child victim stating her age to be above 18 years).
- Victims may not trust the police and may be unwilling to talk to them.
- Victim may be under the influence of drugs/ drinks (inflicted on them by the exploiters) and may display violent behaviour.

[The possible responses to such challenges have been discussed in subsequent paragraphs].

20 *Human Trafficking – Handbook for Investigators*, Bureau of Police Research & Development (Directorate of Training) Ministry of Home Affairs, Government of India, March 2007, p. 20

21 See Manual on Psychosocial Intervention, UNODC, 2007

22 *Toolkit to Combat Trafficking in Persons*, Global Programme Against Trafficking in Human Beings, United Nations Office on Drugs and Crime, 2006

B) The statement of the victim is recorded u/s. 161, Cr. PC, by the IO, after the FIR is registered. Therefore, in a pre-FIR rescue situation, the police officer could make his own notes about all relevant aspects, including:

- List of victims with details of names, address, age, identification particulars, etc.
- Details of the scene of crime, which have to be recorded in the Case Diary.
- List of witnesses whose statements are to be recorded.
- Any other relevant observations which can be of use, later.
- Since victims under threat/ trauma often give incorrect information at this stage, any statements they make, including those u/s. 161 Cr. PC, should be recorded only when they are willing, comfortable and fit to make their statement correctly.

6.3 Working with witnesses

- Statement of witness is recorded by the IO u/s. 161 Cr. PC after the FIR is registered. Therefore, in situations where pre-FIR rescue is undertaken, the police officer (PO) should take notes in his note book on the relevant aspects (as discussed in the para before) which will be useful for recording witnesses' statement. Further, the statements of the witnesses, in brief, should be incorporated in the 'mediators' report/ *panchnama* [S. 100 (4) (5) Cr. PC].
- The witnesses to be protected from unwanted exposure, threat, intimidation or harassment by the exploiter.
- The witnesses to be provided transportation, residential facilities, where ever possible and required.
- Since the detailed statements of the witnesses will be required u/s. 161 Cr. PC after the FIR is registered, ensure that the witnesses are informed about the time, place and requirement of their presence.
- Ensure the rights of witnesses are protected. Do not detain them if not required. Do thank them once the work is over.

Do's and Don'ts in the rescue process

DO'S	DON'TS
<ul style="list-style-type: none"> • Assurance Policing - inform the victims that they are not accused. • Treat victims with dignity. • Use the services of translator for victims speaking different languages. • Take complete precaution to ensure that the identity of the victim is not revealed and that anonymity is maintained. • Keep victims away from accused. Ensure compliance of provisions of S. 21 JJ Act and S. 228 A of IPC. • Do keep the victims informed of the various stages of the investigation. • Do remember that the victim's children/ wards are also rescued along with the victim. • Do remember that the victim's belongings are also taken along with the victim. 	<ul style="list-style-type: none"> • NEVER treat any victim as an accused (calls for control on the abuse/ misuse of S. 8, ITPA). • Do not get offended if the victims, who are in trauma, use abusive language or do not cooperate. • Avoid insulting and humiliating language/ demeanour/ gestures, etc. • Do not allow media publicity of victims such that it reveals their identity. Do not allow media to take pictures of the rescued persons. • Do not keep the victims and offenders together after rescue. • Do not let the accused/ offender intimidate, threaten/ harm the victims. • Exploiters may try to hide the children of victims as a bait to ensure that the victim returns to the brothel – Do not allow this. • Exploiters may hide and/ or hold back victim's belongings – Do not allow this.

7. REGISTERING FIR ON HT CRIMES

7.1 Where to register the FIR

Trafficking is an organized crime and a continuing offence. The provisions of IPC with reference to offences of abduction/ kidnapping provide for registration of FIR **at any place from the source to the destination area**. Similarly, as provided u/s. 5 (3) ITPA, the FIR could be registered at the place of demand/ destination area (mostly the place of rescue), or the place of transit, or at the place where the person was trafficked from (source area). However, in case of an emergency, vide S. 149 & 150 Cr. PC, the FIR can also be lodged after the rescue is carried out. (Pre FIR rescue u/s. 15 & 16 has been discussed earlier).

CASE STUDY

BHIWANDI OPERATION*

On 05 Jan 2007, AP police officials visited Bhiwandi, in Maharashtra, to carry out a rescue operation and apprehend traffickers, in pursuance of the investigations in two crimes registered in AP, viz. Cr. No. 208/2006 U/s 366 – 'A' 372, 373, 376 (A) r/w 34 IPC and Sec 3, 4, 5 & 6 of I.T.P.A of Kadiri town P.S. of Anantpur District and in Cr. No. 34/2006 U/s 363,373 of IPC Sec. 3, 4, 5 & 6 of I.T.P.A. of Patnam P.S. of Anantpur District.

With the active involvement of the Bhiwandi police, ably assisted by the NGO Rescue Foundation of Mumbai, this interstate rescue operation was carried out by three teams at six places in Bhiwandi. Each of the teams included police officials of Maharashtra and AP as well as representatives of the local NGO.

These teams rescued 28 young women including five children and arrested four traffickers from Karnataka and Nepal. The Bhiwandi police also registered the crime in the city police station against the traffickers and arrested them u/s 372, 373 of I.P.C. & 3, 4, 5, 6 & 7 of I.T.P.A.

This case study shows that the AP police registered the FIR for the criminal acts of the offenders committed at the source area and the Bhiwandi police registered the FIR against the traffickers and other exploiters for the criminal acts committed in their jurisdiction.

*Source: Mr. Mahesh Bhagwat

7.2 Who can be a complainant in registering FIR of a crime of HT

Anybody can be a complainant including:

- A police officer
- NGO
- CWC
- Parents/ relatives of victim/ primary care givers
- Any other person who has knowledge of the crime
- Victim

Of the total number of crimes registered by AP police during the first two quarters of 2007, 75% crimes were registered on the statements of the police officers.

7.3 Drafting the FIR

- Appropriate sections of ITPA to be used in the FIR. Note that most often S. 8 has been misused against the victim. **Hence, care be taken to avoid misuse of S. 8 ITPA to prevent victimization of victims.**
- In addition to the provisions of ITPA, wherever possible, IPC provisions (such as, S. 366 A, 366 B, 372, 373, 375, 376, 377, 120 A, 120 B, 416, 417, 339, 340, 341, 342, etc.) to be invoked.
- Other special legislations like JJ Act 2000, IT Act 2000 (S. 67), PMLA 2002, etc. to be invoked wherever appropriate.
- Local legislations like Goa Children's Act, 2003, the Maharashtra Control of Organized Crime Act, 1999 (MCOCA) be applied where ever applicable.

While investigating, it is important to keep in mind that the primary care givers may possibly be the accused, themselves.

Who can be a complainant in registering FIR of a crime of HT

- The FIR should be self contained, brief and should substantiate the offence of trafficking and the provisions of law under which it is registered. It is appropriate to include details of place of origin, transit and destination and the trafficking process involved in the crime.
- If additional offences are revealed during investigation, the IO can add the appropriate provisions and file additional Memos in court, thereby enhancing the scope of the case to include all possible laws and sections.

Trafficking is an organized crime. Maharashtra Control of Organized Crime Act, 1999 (MCOCA) may be invoked wherever it is applicable. Sections 3, 4, 18, 20, and 24 of MCOCA can be considered in dealing with crimes of HT for CSE.

Checklist of information that an FIR on HT crime can/ may contain:

- Essential ingredients of sections of the law referred to (ITPA, IPC, JJA, etc.) based on the facts of the case to support the offences.
- Details of source, transit, and destination.
- Telephone numbers, cell numbers, internet sites, 'cover addresses', etc. of the suspects.
- Brief description of 'Scene of Crime' and the 'Material Objects' seized.
- Authority of the police officer who conducts the operations or activities of rescue, and/ or investigation.
- Names of officers, NGOs, witnesses who accompanied the police party for the rescue (avoid abbreviations, use full names).
- Details of the physical injuries and trauma noticed on the victims.

NOTE:

- Do take care while mentioning the apparent age of the victim, as age is a crucial factor in deciding the course of action to be followed.
- If the rescued person is an adult, and she says that she was trafficked when she was a child, use the sections of law which would apply to child trafficking, such as S. 366A, 372, 373, and 376 of IPC (because trafficking is a continuing offence and had commenced when the person was a child).
- Designation and the name of the IO/ Registering Officer should be clearly written (they will be called in as a witness and illegible entries will create problems in deciphering the persons).
- Name of the Magistrate, designation and the date of the order, be recorded in the FIR.

Victim complaint:

If the IO records the FIR based on the statement of the victim, the following points must be kept in mind:

- 'Best interest of victim' is paramount in cases of trafficking. Don't force/ compel the victim to disclose painful details of the offences, in the first instance.
- Interview should be non-traumatic and non-threatening.
- Respect the dignity of the victim. Avoid unwarranted and lewd comments, an insulting demeanour, etc.
- Interview should be in the victim's own language. Use translator if required.
- Record statement in the language that the victim speaks. Translation, if required, can be done later. A police officer who knows the victim's language may record the FIR. If this is not possible, seek assistance from an NGO to help draft FIR in the victim's language.
- The IO and assisting persons should NOT be judgmental, biased or prejudiced against the victim.
- Any point that has been missed out by the victim can be recorded later u/s. 161 Cr. PC. Do not force the victim to narrate the complete story at the stage of the FIR, itself. Record statements whenever the victim is willing and prepared to speak.
- At this stage, do not put pressure on the victim to give details of the sexual trauma/ violence that she may have faced. Focus more on the process of trafficking and the role of the traffickers/ exploiters.

8. INVESTIGATION

8.1 Collection of 'Material Objects' (MO) from the scene of crime

A) What to Collect

Since trafficking is an organized and a continuing offence, collecting all MOs from the scene of crime and linking them through investigation to the offence of trafficking, should be prioritized. Some examples of MOs and their relevance for investigation are given below. These are only illustrative²³.

TABLE 4

What to Collect	Relevance for Investigation
Diaries, notebooks, account books, registers, etc. in the brothel.	To prove existence of brothel, name of victims (already trafficked, likely to be trafficked), number of victims, details of payments, earnings, names of 'customers', accomplices, conspirators, abettors, traffickers and others.
Travel documents ²⁴ like bus/ train/ air tickets, papers of travel agents, visiting cards of travel agents, etc.	To prove movement of persons during trafficking, to link source-transit-destination areas and to link the offenders in the process of the crime.
Rent agreements, rent receipts, house tax receipts, ration cards, passports, electricity/ telephone/ water/ mobile phone bills, voter IDs, driving licenses, registration papers of vehicles, insurance policies, investment details, bank pass books, money order receipts, etc.	To prove the existence and address of the brothel, the people who are managing it and their income and earnings.
Receipts and registers reflecting expenditure on medicines (including contraceptives, doctor's prescriptions, hospital records indicating termination of pregnancy of victims), cosmetics, pornography, etc.	To prove sexual exploitation of victims.
Photographs, albums, video cassettes, DVDs, CDs, letters, pornographic material, computers, hard discs, brochures, advertisements in media.	To prove the sexual exploitation of victims and the existence of an organized network of criminals.
Vehicles used for transporting victims.	To prove the transportation of victims from one place to another, linking up places of exploitation and thereby the exploiter's networks.
Visitor's list, 'tokens' issued to visitors/ clients, documents regarding clients, their classifications (as 'regulars', 'newcomers', etc.)	To investigate the 'demand' aspect and level of exploitation.
Documents relating to the income/ expenditure/ assets of inmates of the place, including the personal belongings, etc. of the victims concealed by the exploiters/ abusers.	To establish aspects of illegal detention, level of exploitation of the victims, the debt bondage of the victims and also to assess the illegal assets acquired by the exploiters.

²³ Nair, 2007. op. cit. 12. p. 65 - 69

²⁴ Bureau of Police Research and Development. op.cit. 20. p. 20

B) When to collect MOs?

MOs should be collected at the scene of crime, during rescue/ or immediately thereafter, under the *panchnama*. No time should be lost in collection and seizure, as the exploiter will try to destroy/ conceal them.

C) Where to collect MOs from?

- Search the accused person for documents and material exhibits (such as cell phones, travel documents, notebooks, etc. relevant to the crime).
- Look for documents/ materials/ exhibits at the scene of crime in the source- transit-destination areas.
- Search the vehicles of transportation.
- Search the places/ hotels/ *dhabas* etc. where the offenders/ victims may have halted, anytime, during the process of trafficking.
- Search the hideouts/ residence/ place of stay of the offenders and suspects.
- Search the bank lockers, bank accounts and other places/ agencies where the offenders may have made investments.
- Search the customers/ clientele whose names figure as exploiters and any other person whose name figures in the trafficking nexus.
- Search places where the data/ information is stored/ collated/ maintained regarding any activity relevant to HT. This would include "virtual storage areas", like electronic gadgets, e-mails, SMS, etc. and also other places where physical evidence may be available (for eg. a video library with pornographic material developed from the exploitation of the trafficked person).
- Any other relevant place.

DOCUMENT HANDLING AND ANALYSIS: POINTS TO REMEMBER

- Deposit the MOs with the Magistrate as per the State Rules.²⁵
- A detailed scrutiny of MOs is required. Do prepare scrutiny reports and keep them in the Case Diary.
- Study the scrutiny report. Utilize the clues for further investigation/ and evidence.
- Ensure proper chain of custody (this may involve different police agencies, both inter and intra country).
- Connect crime to criminal (source and the destination may be in different places).
- Share intelligence derived from the document analysis with other police agencies, as it can help in preventing and combating trafficking.

8.2 Interrogation of the suspects/ accused

This is an essential requirement in prosecuting any crime. In HT crimes, the interrogator needs to focus on all aspects of the trafficking process and all activities of the offenders for the following purposes:

1. To uncover the entire organized linkage of trafficking (source-transit-destination).
2. To understand the entire process of HT: the dimensions, demand-supply patterns, 'push and pull factors', etc. which will not only help in locating evidence against the offenders but also provide intelligence in prevention of crimes of HT.
3. To explore contacts, sources and witnesses in the source-transit-destination areas.
4. To locate the means, routes and methods used for transportation of victims.
5. To discover the communication channels (cell phones, internet, etc.) used by traffickers.
6. To investigate the modus operandi of traffickers (all operational ways and means, strategies and tactics, such as, false marriage; promise of jobs; work in cinemas; industry, etc.; customary practices such as *devadasi*, *jogin*, *bhogini*; etc).
7. To ascertain the criminal antecedents of the offenders which can be used to investigate the various dimensions of organized crime, the nexus etc., for enhanced punishment after conviction and to locate and rescue victims trafficked earlier by the same offenders.

25 For e.g. - Form 66 of AP Police Manual - gives details of the procedure to be followed for depositing MOs before Magistrate

8. To get details of victims who have been trafficked earlier including their present destination, where they were sent/ sold (so they can be rescued).
9. To locate details of persons likely to be trafficked (vulnerable people) so it can be prevented.
10. To understand the motives/ intentions/ incentives of the traffickers.
11. To ascertain the financial transactions between the offenders.
12. To locate illegal assets and take steps accordingly.

Note: The offenders may include children. If so, they should be treated as "juvenile in conflict with law" under the JJ Act and referred to the Juvenile Justice Board (JJB). Care should be taken to provide all care and attention as required under the JJ Act.

NOTE: If during interrogation of an arrested person it transpires that the person is a victim, do accord this person the status of a victim and not that of an accused. Consider utilizing their services as witnesses. NEVER VICTIMIZE ANY VICTIM.

8.3 Interrogation strategies for suspects and accused

Considering the organized crime linkages in HT, it is advisable that simultaneous investigation is carried out on all the linkages of offenders. Therefore, the IO should consider:

1. Associating other agencies for interrogation:
 - Income tax department and other financial institutions where huge assets are disclosed/ likely to be disclosed.
 - Immigration department, when any of the accused are foreigners.
 - Different police agencies if the crime involves people/ places in different jurisdictions.
 - Labour department, if any issue of exploitative labour is noticed.
2. Use of scientific techniques/ methods which are useful in the process of interrogation (eg. polygraph).
3. Carrying out scientific interrogations.
4. Interviewing the accused before interrogation, to elicit themes/ ideas for interrogation. This is an essential requirement for scientific interrogation.
5. Using flow charts to show the movement of trafficked persons, mode of transportation and financial transactions. Use them as tools for interrogation as well as to present them in the Case Diaries.
6. Team interviews which have been found successful in the interrogation of organized criminals.
7. Using translators, if required, as interpreters not as interrogators.

Remember the art of interrogation: 1st degree = interrogation & 2nd degree = confrontation

8.4 Arrest of accused persons

1. Being an organized crime, the arrest of the accused should take place at an appropriate time without delay.
2. Follow up on communications, especially the cell phones used by the accused before and after arrest, as it can lead to intelligence of trafficking links and maybe more arrests.
3. If a woman offender is to be arrested do not fail to utilize:
 - the provisions of s. 46 (4) Cr. PC (no woman should be arrested after sunset and before sunrise, but in exceptional circumstances, the woman police officer shall obtain prior permission from the jurisdictional Judicial Magistrate First Class), and

NOTE- The arrested female offender should be searched only by a female police official u/S. 51 (2) and 100 (3) Cr. PC



Arrest of Offenders

- provision of s. 50 - A, Cr. PC (obligation of person making arrest to inform a nominated person about the arrest etc.).
4. Medical examination of an accused should be done as required under s. 53, 53 A and 54 of Cr. PC.

8.5 Collating evidence from other places:

- If it is an intra district trafficking crime, do collect evidence from the PS by visiting the concerned places.
- Inter district linkages can also be followed up by the same IO after getting administrative approval from the controlling official.
- When inter state crime linkages are discovered during investigation, follow up immediately with the concerned SHO as well as the SP/ DCP in the other states, so that simultaneous investigations can be carried out. This will also help in sharing further intelligence and data on crime and criminals. It would be better if the IO, after taking administrative clearance, visits the other concerned states and conducts investigation along with the local police agency²⁶. Do keep the PNO informed during all interstate operations. Prompt action will help investigation into the entire trafficking linkages, at all sites, and build up a database of the offenders.

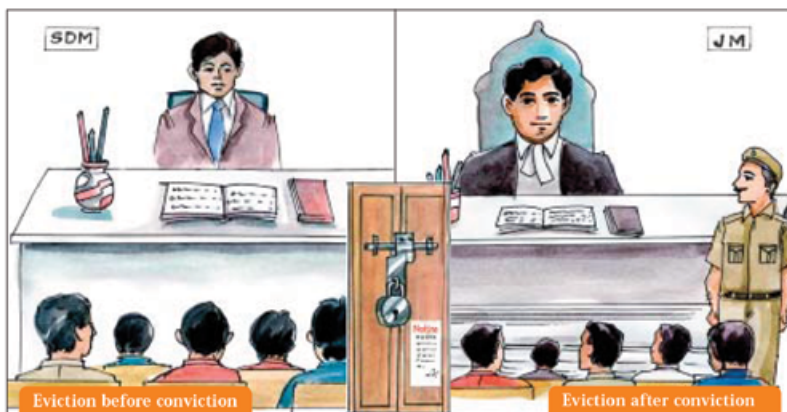
CASE STUDY

During the arrest of an accused in Guntur dist. of Andhra Pradesh in May 2007, a phone call was received on the cell phone of the accused. The investigator attended to the call pretending to be the offender. The information given by the caller led to the trafficker's linkages in another state. Prompt action by the investigator led to more arrests and rescue.

8.6 Eviction of offenders and closure of brothels/ place of exploitation:

A. Eviction before conviction

- U/s. 18 (1) ITPA power lies with a Magistrate (District Magistrate or Sub-Divisional Magistrate) to order eviction of places of CSE. This process can be initiated by the DM or SDM on receipt of information from the police, any other persons or otherwise. This eviction u/s. 18 (1) ITPA is possible even before conviction in the case and even without an FIR. Therefore, police officers must initiate reports and send them to the DM/ SDM even if case investigation is pending.



26 For further details see the Inter State Protocol on Rescue and Post-Rescue Activities Relating to Trafficked Persons by UNODC, 2007

Who can move the Magistrate for eviction of offenders vide s. 18 (1) ITPA?

- Anybody
- Could be a police official of any rank. Even a constable can take such action.
- Could be an NGO

Note 1: Even before the offender is convicted, eviction u/s. 18 (1) is possible. Note 2: Even before FIR is registered eviction can be done.

Which Magistrate has powers to evict even before the FIR is registered by the police?

- The District Magistrate
- The Sub Divisional Magistrate
- Any official entrusted with the powers of SDM/ DM, eg. a notified DCP

Note: This is a quasi-judicial order which cannot be stayed, set aside or appealed

- **No appeal – a stringent provision in law:** Orders passed by the Magistrate/ court u/s. 18 (1) ITPA, for eviction of places of CSE shall not be subject to appeal and shall not be stayed or set aside by the order of any civil or criminal court (vide s. 18 (3) ITPA).
- **Preventive action:** U/s. 133 (1) (b) Cr. PC the District Magistrate/ SDM/ or any other Executive Magistrate has the power to pass a conditional order on any person who conducts any occupation which is injurious to the health or physical comfort of the community, to desist from carrying on such trade.

B. Eviction after conviction

U/s. 18 (2) ITPA, a court which convicts a person of an offence u/s. 3 (keeping a brothel or allowing premises to be used as a brothel) or u/s. 7 (prostitution in or in the vicinity of public places) of ITPA may pass orders to close the brothel and/ or evict offenders **without any notice** to any convicted person. Therefore, upon conviction of a person u/s. 3 or 7 ITPA, the IO should immediately move the court for an order of closure/ eviction u/s. 18 ITPA.

Note: The order passed by a judicial authority u/s. 18 (2) ITPA cannot be stayed or set aside or appealed against, vide s. 18 (3) ITPA.

C. Suspension/ cancellation of hotel licence

U/s. 7 (2) ITPA licence for carrying on business of a hotel (where CSE is being conducted) may be **suspended** for a period of 3 months to 1 year. If offences under this provision are committed against a 'child' or 'minor', licence of such hotel may also be **cancelled**.

8.7 Organized crime approach for investigation

Human trafficking is a "basket of crimes"²⁷. Multiple abuses are committed by multiple abusers/ offenders located at different points of time and place. All these together constitute the organized crime of trafficking. Whilst investigating a crime of trafficking the following points need to be considered at all stages:

- Linkage of source-transit-destination must be made during investigation.
- Conspiracy angle to be investigated, since there are multiple offenders. Deciphering the communication linkages can prove meeting of minds.
- Sharing criminal intelligence with other police agencies (different police stations, districts, states, etc.) on traffickers and all other accomplices.
- Sharing crime data with other police agencies regarding vulnerable places and vulnerable people.
- Mapping the exploiters profit and follow up:
 - Confiscation of assets is possible under Criminal Law Amendment Ordinance 1944 when IPC Sections are invoked. Therefore, in such cases IO may invoke relevant IPC provisions along with ITPA.
 - Confiscation is possible under s. 105 A – L Cr. PC with respect to assets acquired by virtue of all crimes including ITPA.

²⁷ Nair, 2007. op. cit. 12. p. 3.

In a case of trafficking registered by the Social Services Branch of Mumbai police in December 2003, the investigation unearthed several cars used by the trafficker, in addition to 2 flats in Mumbai city where the trafficked women were kept confined. Utilizing the provisions of s. 105 C – 105 L of Cr. PC the investigating agency moved the court and ensured seizure, attachment and forfeiture of the movable and immovable properties arising out of the proceeds of the crime. Though the defence had contested the prosecution, they were unable to explain any other source of income for purchasing these assets.

- Collect intelligence on income, expenditure and assets (movable, immovable properties) from source-transit-destination and other areas.
- Link the assets with the crime (by assessment of brothel income, number of customers per day, expenditure, savings, etc.).
- Evaluation of the assets by Public Works Department (PWD)/ other competent agencies (eg. land survey department).
- Invoke provisions of all relevant laws which can be used to establish the organized crime perspective [eg. ITPA along with IPC, ITPA with MCOCA (wherever in force), ITPA with Goa Children's Act, 2003 (applicable in Goa) etc.]
- Action be initiated under the provisions of the Prevention of Money Laundering Act, 2002 for offences committed u/s. 5, 6, 8 and 9 of ITPA provided the total value involved in such offences is thirty lakh rupees or more²⁸.

9. RESCUE AFTER REGISTRATION OF FIR

All principles discussed in segment 6, rescue before registration of FIR, will also be applicable here. Further, the following steps also need to be carried out:

- The IO needs to record the events in the Case Diary.
- Statements are to be recorded u/s. 161 Cr. PC.
- All Memos should bear the FIR number and date.
- Copies of the Memos have to be given to the court. In many states copies are also to be sent to supervisory officials. Hence, adequate copies must be made depending on the procedures in practice.
- If copies are to be given to CWC, adequate number of copies to be made accordingly.

²⁸ S. 2 (y) (ii) of Prevention of Money Laundering Act, 2002

10. POST RESCUE ACTIVITIES²⁹

Post rescue care and attention of victims has been discussed in segment 6 dealing with rescue before FIR. All those principles also apply here. Besides these, the following aspects also need to be considered.

10.1 Recording statement u/s. 161 Cr. PC

While recording the statement of the victim in the Case Diary u/s. 161 Cr. PC the IO should consider:

- **Who will record:** Whenever a rescued girl/ woman needs to be interviewed, it shall be done by a woman police official, and if no woman police official is available the interview shall be done **only** in the presence of a female member of an NGO. This is a mandatory requirement u/s. 15(6A) ITPA.



- **When to record:** Record statements when the victim is fit (ready and able) to make a statement. If the victim is not ready, make an entry to this effect in the Case Diary and do not compel the victim to give her statement.
- **Where to record:** Record the statement of the victim wherever she is comfortable. There is no need to take the victim to a PS for this purpose or to record subsequent statements. This can be accomplished at the Shelter/ Protective Home where she is lodged or any other place of safety where she is comfortable (u/s. 160 (1) of Cr. PC)
- **Counseling:** Remember that the victim usually becomes capable of giving a cogent statement after counseling by a mental health professional or a trained counselor. Utilize the services of appropriate counselors with government agencies or NGOs³⁰.

²⁹ See Check List for Post Rescue Planning at Appendix 4

³⁰ See Manual on Psycho Social Intervention by UNODC

- **Additional statements:** Remember, that there can be more than one statement by the victim, as and when she is fit to speak. Any contradiction from the previous statement may be explained in the subsequent statement. (**Note:** Contradictions are possible because the victim is traumatized and may not be able to recall events properly).
- Record the statement in the **language** of the victim (use a trained/ appropriate translator to translate the statement into the court language, as and when required).

- **Counselor:** When recording the statement of a highly traumatized adult or child victim, it is advisable to use the continued services of a trained counselor to communicate with the person.

- If the victim is **unable to speak** (hearing and speech impaired or due to a traumatic and depressed state of mind) use alternative materials/ methods for communication (eg. a traumatized child may draw a picture suggestive of the violation on her).



Services of a counselor to communicate with victim

- **Repeated interviews** with rescued persons should be avoided as far as possible. If senior/ supervisory officials, who may be from different investigating agencies, want to interview the victim, they should consult the main IO and work as a team, so that multiple interviews can be avoided.
- **Mapping the harm done to the victim:** The IO records his observations in Part 1 of the CD (u/s. 172 Cr. PC). Though Part 1 is not shared with the accused, the court peruses this during trial. Therefore, the IO should record his observations of the physical, emotional and psychosocial harm to the victim in Part 1. The 'harm factor' can be aptly recorded u/s. 161 Cr. PC statement also, to the extent required. Further, in order to make it admissible as evidence (u/s. 14 of IEA) during trial, the victim has to be examined by an appropriate health professional, whose report will be attached to the CD and a copy made available to the defence, if cited as evidence.
- **Exclusion of parts of statement from public disclosure:** Many IOs do not record the 'harm factor' in the statement u/s. 161 Cr. PC, in case it is called in for perusal by the defence. Often, such a perusal by the defence, and subsequent questioning of the victim, can further traumatize the victim. In this context, the provisions of s. 173 (6) Cr. PC can be utilized. According to this provision, certain parts of the victim's statement can be excluded while furnishing copies to the accused. Therefore, statements recorded u/s. 161 Cr. PC can also incorporate the 'harm factor'.

Ensure that the victim is not called upon to relive the trauma, again and again. Avoid multiple interviews.

10.2 Recording statement u/s. 164 Cr. PC

This is a preferred option because of several reasons:

- a) Victims are likely to be restored/ repatriated to their place of origin and may not be available as and when required.
- b) Victims may be reluctant to come during recording of evidence because they may not want to relive the trauma.
- c) Some victims may be suffering from serious ailments, like AIDS, and health conditions may not permit them to come to courts located in distant places, for evidence.

The decision to record the statement u/s. 164 Cr. PC is to be taken as early as possible depending on the

victim's knowledge of the crime and readiness to speak. In this context the following aspects should be kept in mind:

- Provide counseling to the victim by a trained counselor, so that the victim is ready and willing to speak.
- The reflection period depends on the intensity of the trauma to the victim. Therefore, the IO should not be in a hurry to record her statement u/s.164 Cr. PC. Ensure that the victim gets adequate time before she is called to record her statement.
- If the victim's statement is required in more than one FIR, registered elsewhere for different offences which may be part of the same continuing transaction, it would be appropriate that her statement is recorded once and a certified copy is utilized for the other court.
- If the victim speaks a different language, do get her statement u/s. 164, Cr. PC recorded by a Magistrate who speaks her language. If it is not possible, the services of an appropriate translator (not in collusion with the accused) may be utilized. The IO should ensure and take the initiative in identifying the translator.
- Care may be taken to record the statement *in camera* and in a non-intimidating environment. The IO may make a prayer u/s. 327 (2) Cr. PC (read along with Supreme Court judgment in Sakshi v/s UOI³¹) to this effect.

10.3 Age assessment

Rescued victims mostly include women and children. It is important for the IO to do an on-the-spot preliminary age assessment of the persons to segregate child victims from adult victims. There may be persons looking like children and yet professing to be above 18 years of age. Such children may be under duress/ coercion/ compulsion by vested interests to declare themselves adults so that the offenders can get them released easily, citing their willingness for the same, and subsequently traffic them back to brothels/ other places of exploitation. The IO needs to exercise caution against such deceptions. Moreover, u/s. 15 (5A) ITPA, the IO may also move the Magistrate to have the victim examined by a registered medical practitioner to determine the age.

TABLE 5

S. 2 (aa) ITPA, "child" means a person who has not completed the age of sixteen years.	S. 2 (ca) ITPA, "major" means a person who has completed the age of eighteen years.	S. 2 (cb) ITPA, "minor" means a person who has completed the age of sixteen years but has not completed the age of eighteen years.
S. 2 (k) JJ Act, "child" means a person who has not completed eighteenth year of age.		

The process of investigation with regard to the victim's age, should consider that:

- The IO must try and obtain the date of birth certificate, school certificate, ration card, or any other relevant document which would be useful to determine the victim's age.
- The IO must send the victim for an age determination test, preferably to a forensic medicine department.
- The IO must also collect all possible circumstantial evidence regarding the age of the victim from the neighbours, locality, other rescued persons, etc.
- In case of doubt or dispute with respect to the age of the victim, the IO must refer the case to a Medical Board.

10.4 Production of the rescued person before the Magistrate/ CWC

- (a) A person rescued u/s.15 is to be produced before the appropriate Magistrate, vide s. 15 (5) ITPA. This means that adult victims be produced before a Judicial Magistrate and child victims before CWC (under JJ Act).

31 (2001) 10 SCC 732

How to decide whether the person is an adult or a child?

The police officer is called upon to take a decision on the spot whether to produce the rescued person before the Magistrate (under ITPA) or the CWC (under JJ Act) and therefore, this decision is crucial. The decision may be taken based on the following principles:

- Apparent look of the person.
- Consulting the rescued person, making him/ her understand the implications.
- Consulting the NGO partner participating in the rescue operation.
- Consulting a counselor if available.
- Checking available documents, if any.

When in doubt, treat the rescued person as a minor.

- (b) A person rescued u/s. 16 be produced before the Magistrate issuing the order (vide s. 16 (2) ITPA).
- (c) If the police officer is unable to produce the victim in front of the authority mentioned in (a) and (b) above, for whatever reasons, such persons be produced before the nearest Judicial Magistrate of any class (vide s. 17 ITPA).

In this context the following points be considered:

- Produce adult victims before magistrate u/s. 15 (5) or 16 (2) ITPA.
- Produce child victims before CWC u/s. 32 of JJ Act.
- If the rescue is held at night, the night duty Magistrate may be approached.
- If nobody is available (Magistrate/ CWC), send the rescued persons to a Government run or NGO run Home (notified under u/s. 21 ITPA or u/s. 37 of JJ Act).
- If a notified Home is not available in the vicinity, send the rescued persons to any reputed NGO Home.
- If none of the above are available, the police officer should take the initiative to arrange a place of safety such as a bona fide hotel, guest house, circuit house, etc. for the victims. In such situations, a female representative of the NGO and a lady police official should accompany the victims.
- **The rescued victims should never be:**
 - SENT BACK TO THE BROTHEL
 - DETAINED IN THE POLICE STATION
 - EXPOSED TO SITUATIONS OF FURTHER RISK

CASE STUDY

In 2007, a raid and rescue operation was conducted by the Delhi police along with the AP police in a certain brothel in Delhi. The rescued women and children were brought to the police station by late evening. The Delhi police official, citing non-availability of a safe place to stay sent the rescued persons back to the brothel. The rescued persons could not be traced the following morning, as the exploiters had got them removed and concealed.

10.5 Medical care of victim and follow up

- IO should ensure that appropriate medical care be extended to the victim immediately after rescue and without delay. Informed consent of the victim is mandatory before a medical examination.
- A lady police official should escort victim.
- The presence of a known NGO during the medical examination and medical care will provide relief and comfort to the victim.
- The IO should move the Magistrate through the Prosecutor, to have the victim examined by a registered medical practitioner to detect injuries resulting from sexual abuse or the presence of sexually transmitted diseases vide provisions of s. 15(5A) ITPA.
- According to s. 164A Cr. PC the IO may get the victim examined by a registered medical practitioner within 24 hours from the time he receives information of the commission of offence of rape or attempt to rape. Note that the victims of CSE can be safely presumed to be victims of rape as well,



as this presumption will be in the 'best interest' of the rescued person. If any rescued person is under 16 years of age, vide s. 375 Clause Sixthly, IPC, the offence of rape should be included in the FIR.

- Since the victims may be addicted to drugs, drinks, smoking, etc. the IO should take steps to refer them to appropriate de-addiction counseling services.

Respecting the dignity of the victim during the medical examination:

- If possible, the medical examination should be conducted by a female doctor u/s. 53 (2) Cr. PC.
- If no female doctor is available, the medical examination should be conducted in the presence of a female medical attendant, or a female representative of an NGO.
- The IO should inform the doctor to take all steps to respect the dignity of the victim.
- Any HIV test/ other medical test should be organized by the IO only after the informed consent of the victim³².

10.6 Shelter Homes/ CWC

IO should make interim arrangements to send the victim to a **place of safety** such as a Shelter Home (government/ NGO run)/ CWC/ drop-in-centre, etc. Avoid detaining the victim in the PS or other police outposts. PS should keep a list of agencies running such Homes, including their contact numbers and other details and network with them.

10.7 Home verification

- The police should make a report to the Magistrate requesting for Home Verification as provided u/s. 17 (2) ITPA. The IO may submit to the court that u/s. 17 (5) ITPA, the Magistrate has the power to summon a panel of five respectable persons, three of whom shall be women (wherever practicable) to assist him. A list of NGOs working on AHT be kept ready in the PS and provided to the Magistrate, if called for.
- U/s. 33 JJ Act, when a 'child in need of care and protection' is produced before the CWC, it may pass an order to send the child to the Children's Home for speedy inquiry by a social worker/child welfare officer. Such inquiry is to be completed within 4 months of the receipt of the order.
- The IO should move the Prosecutor to oppose any release of the rescued person (adult or child) to anybody before the Home Verification Report is received, to prevent re-trafficking of the victim.
- In the meantime, the IO should request the Magistrate/ CWC to send the victim (adult or child) to the appropriate Home for interim care u/s. 17 (4) ITPA and u/s. 33 (4) of JJ Act, respectively.
- Before the Magistrate/ CWC hands over the rescued person to the care of parents or guardians, the Magistrate/ CWC needs to be convinced of the capability and genuineness of the person u/s. 17 A ITPA. The IO should move the Magistrate through the Prosecutor to address this issue.

In case of children who are born in brothels, the report required to facilitate Home Verification should be prepared with care so that it does not violate their dignity. The IO should remember not to insist on writing the father's name in the report.

10.8 Restoration of victim

Considering the 'best interest' of the victim, police can play a proactive role in the victim's restoration by taking the initiative on several counts:

- Ensuring that victims are released to the appropriate person after receipt of the Home Verification report, by moving the Magistrate with a request to this effect u/s. 17 (2) & (4) ITPA.
- Moving the court not to release the victim to fake, 'self styled' or abusive parents/ guardians.

³² http://www.nacoonline.org/guidelines/guideline_10.pdf

- Liaising, supporting and facilitating the NGOs who are carrying out the Home Verification u/s. 17 (5) ITPA.
- Providing security to the victim/ accompanying person/ NGO during the transfer of the victim.
- Facilitating genuine and supportive parents/ guardians to take custody of the rescued victim by networking with the concerned authorities u/s. 17 A ITPA.

10.9 Interim relief to the victim

Some states have issued government orders/ circulars providing interim relief to the rescued person. According to WCD G.O. MS. 13 dated 21-04-06 of Andhra Pradesh, the victim is entitled to an interim relief of Rs. 10,000/- immediately after rescue. The rescued victim, irrespective of her native place, can be extended this relief. Similarly, the Government of Tamil Nadu has made provisions for victim support from the Social Defence Fund. The IO should send proposals to the concerned authority immediately after rescue, requesting that such benefits are extended to the rescued person, wherever applicable.

11. CHARGE SHEET

A correct and proper charge sheet is a sine-qua-non, an essential prerequisite, in securing conviction in any crime. IOs should be fully aware of this while preparing charge sheets for HT crimes.

- Present the CD with a Crime Map of the entire scene of the crime from source through transit to destination areas including other places of exploitation.
- As HT is an organized crime, there will be multiple crimes and multiple offenders. All these have to be included in the documents. Prepare a matrix of **crime-offender-evidence** and present it in the CD.
- **Legal opinion** of prosecutor to be utilized for drafting the charge sheet.
- Use provisions of s. 173 (6) Cr. PC wherever necessary, for ensuring **confidentiality** of the victim's statement.
- Collect all **expert opinions and reports** that are admissible u/s. 45 IEA. In a trafficking crime these reports and opinions include:
 1. Medical report of physical injury to the victim.
 2. Medical report of sexual abuse perpetrated on the victim.
 3. Medical report of sexually transmitted diseases.
 4. Relevant medical history of victim (eg. medical termination of pregnancies, miscarriages, etc) to prove earlier violations on her.
 5. Report of age verification/ determination.
 6. Expert opinion on psychosocial trauma ('the harm factor').
 7. Medical report of the accused in case of rape/ sexual assault.
 8. Report of DNA finger printing if there is any issue of establishing identity of the persons.
 9. Any other relevant forensic reports to prove/ substantiate the crime or the role of the offenders (eg. viscera report in a case where the victim was drugged before she was abused).
 10. Copies of statements recorded u/s. 164, Cr. PC in the same case, or in any other case, which are relevant to this case.

11. Copies of statements of accused recorded u/s. 25 IEA (extra judicial confessional statements of the accused), if any.
12. Test Identification Parade report, if any, u/s. 54 (A) of Cr. PC.
13. Reports and prosecution sanctions, if any, under NDPS Act, Excise Act, Immigration Act, Prevention of Corruption Act, etc.

11.1 Additional Case Diary for CWC/ JJB

When the rescued persons include adults and children, the simultaneous role of the competent court and the CWC come into operation. Normally, the CD prepared by the IO is meant for the court and extra diaries are prepared only for supervisory officials, depending on the Police Manuals/ regulations. Sometimes CWC also calls for the CD. Therefore, it would be appropriate that whenever the rescued persons include children, the IO prepares an additional copy of the CD and sends it to CWC.

Similarly, when the list of offenders includes any children, JJB plays an important part. JJB would also require a copy of the CD. Therefore, in such situations additional CD be prepared.

11.2 Further investigation after the charge sheet

Being a borderless crime with ramifications in different places, it is possible that new linkages of the crime emerge long after the charge sheet is filed.

In such situations, after filing the charge sheet, it would be appropriate to carry out further investigation to expose the entire linkages of the crime. The IO, on receipt of any further information and fresh material, can initiate further investigation u/s. 173 (8) Cr. PC and file a supplementary charge sheet.

For example, rescue in one case led to intelligence on another crime which had already been disposed off from the police records. This intelligence showed the involvement of some traffickers who had not been charged or investigated earlier.

12. PROSECUTING CRIMES

Police can play an important role even at the stage of prosecution. Therefore, the IO should:

- Brief the Prosecutor not only on the facts of the case, but also on its special features, viz. the victim's trauma, organized crime linkages, the need to provide care and attention to the victims, how decisions can be taken in the 'best interest of the victim', etc.
- Prepare the victim for testimony in court, with the assistance of counselors or NGOs.
- Prepare the witnesses (getting witnesses on time, briefing and debriefing them, thanking them promptly, etc.).

Ensure that victims are NEVER convicted u/ s. 8 of ITPA.



Prosecuting crimes

CASE STUDY

In a case of rescue in Mumbai, in 2002, the rescued children were released from the court by the same lawyer who had earlier appeared for the accused and had got them bailed out. Later, it transpired that the rescued children were re-trafficked by the same person. The matter came to the notice of the High Court and the court referred it to the Bar Council of Maharashtra. (Prerana v/s State of Maharashtra)

- Ensure victim/ witness protection³³ during the trial and in post-trial situations³⁴.
- Keep watch on the bailers and sureties. Since the bailers could also be offenders it is critical to ensure that they are not allowed to re-traffic the victims under the garb of taking care of them after release.

Ensure that the provisions of s. 437 (3) Cr. PC are invoked against the accused who violates the provisions of the bail. The IO should move this application to the court through the Prosecutor.

- Through the Prosecutor, the IO should ensure that the surety who stands for the accused furnishes a declaration, to the court, regarding the number of persons for whom he has earlier stood surety, including traffickers (s. 441 A Cr. PC).
 - In case the IO comes to know that the accused trafficker or other exploiters have threatened a victim/ witness, he should file an FIR u/s. 195 A IPC and take up investigation. This will have a detrimental effect on traffickers.
- Fast track mechanisms for expeditious trial of HT crimes to be invoked u/s. 22A and 22AA ITPA. This will facilitate justice delivery with celerity.
 - If the case is discharged/ acquitted and it is observed that there is merit in appeal, the IO, after observing the existing administrative and procedural requirements, should move the prosecutor to file an appeal in the appropriate court.

³³ See Standard Operating Procedure on Prosecution of Crimes of Trafficking

³⁴ For further guidelines, see Nair, 2007. op. cit. 12. p. 43

13. REFERRAL MECHANISMS

The 'referral mechanism approach' recognizes that all stakeholders, including law enforcement agencies must co-operate and work in synergy to develop a truly effective and comprehensive protection structure for trafficked persons. The objective is to rehabilitate trafficked persons and implement sustainable structures that will provide them with support. The police can play an active role as facilitators in several ways:



Legal Counselling



NGO Counselling



Medical Care

- **Referral to a counselor:** Rescued trafficked persons to be referred to an appropriate NGO for holistic counseling, especially for relief and rehabilitation.
- **Referral for health care:** When the victim needs immediate medical attention it should be attended to on priority. Suggest a lady medical officer/ medical attendant if the victim is a female. If the service providers are males, ensure that female representatives of an NGO are present. The District Medical Officer/ Civil Surgeon to be contacted.
- **Referral for psychosocial intervention:** The rescued person is often extremely traumatized and needs to be handled sensitively and in a humane manner. The police must make all efforts to facilitate psychosocial help and intervention through the services of a skilled counselor to reduce the person's trauma and distress. Assistance should be taken from the staff of the government/ NGO run Shelter/ Children's Home.
- **Referral for legal representation:** Though the state is duty bound to take up the legal representation of the victim, private lawyers are often required to intervene, particularly when the victim knows and has trust in the lawyer. Police officials should promote such legal representation. The District Legal Services Authority should be consulted for any assistance required.
- **Referral for compensation:** Children/ women who are rescued from CSE require immediate sustenance for their survival. The IO should contact the concerned district administration officials for incidental expenses such as travel, clothing, medicine and other immediate necessities. The District Collector and the District Social Welfare Officer to be consulted.
- **Referral for rehabilitation:** Though this appears to be a *non-police* job, it is clear that a victim who is not properly rehabilitated can, and more often is, re-trafficked. Preventing re-trafficking is a police mandate; therefore, the police officer should deem it essential to take all steps for proper rehabilitation of the victim. Refer the victim to the government/ NGO run Homes; link up with appropriate rehabilitative agencies, including corporates and other bodies who could provide support.

14. POST CONVICTION STEPS IN AHT

Even after the conviction of the accused, the police have a significant function to perform. There are many provisions in the ITPA dealing with post conviction. The IO should liaise with the prosecutor to pray to the court for:

- **Enhanced punishment** in cases of subsequent conviction and offences committed against children. Refer to the table below for details.

TABLE 6

Sections of ITPA, 1956	Offence	Punishment upon First Conviction	Punishment upon Subsequent Conviction	Punishment when the offences are committed in respect of a child/ minor
Sec. 3	Punishment for keeping a brothel or allowing premises to be used as a brothel	RI for not less than 1 year and not more than 3 years AND fine which may extend to two thousand rupees	Rigorous imprisonment (RI) for not less than two years and not more than five years AND with a fine which may extend to two thousand rupees	
Sec. 4	Punishment for living on the earnings of prostitution	Imprisonment for a term which may extend to two years OR with a fine which may extend to one thousand rupees or both		Imprisonment for not less than seven years and not more than 10 years
Sec. 5	Procuring, inducing or taking a person for the sake of prostitution	RI for not less than three years and not more than seven years AND with a fine which may extend to two thousand rupees		Child - RI for not less than seven years but may extend to life. Minor - RI for not less than seven years and not more than 14 years
Sec. 6	Detaining a person in premises where prostitution is carried on	Imprisonment for not less than seven years but which may be for life OR imprisonment up to 10 years AND fine		
Sec. 7	Prostitution in or in the vicinity of public places	Imprisonment which may extend to three months		Imprisonment for not less than seven years but which may be for life OR imprisonment up to 10 years AND fine
Sec. 9	Seduction of a person in custody	Imprisonment for not less than seven years but which may be for life OR imprisonment up to 10 years AND fine		

- **Mandatory fine:** ITPA demands **mandatory** fine for various offences, eg. u/s. 3 (1) ITPA for keeping a brothel or allowing premises to be used as a brothel. Other provisions where mandatory fine is awarded, are listed in Table 5.
- **Eviction from the place of exploitation after conviction** u/s. 18 (2), ITPA (see details in para 8.6).
- **Suspension/ Cancellation of licence of hotels** u/s. 7 ITPA – refer to para 8.6.
- **Notifying the residence/ absence of offenders:** According to s. 11 ITPA, any person who has been convicted earlier, under ITPA, or relevant sections of IPC (s. 363, 365, 366, 366 A, 366 B, 367, 368, 370, 371, 372, or 373), and who is again convicted under ITPA for a period of two years or more, may be subjected by the court to notify - according to the rules made by the State Government in this regard - any change of his residence or any absence from such residence after release, for a period up to five years. This is a potent weapon for law enforcement agencies to keep surveillance on the movement/ activity of the convicted person, so they can prevent the commission of any such crime in the future.
- **Externment:** To prevent convicted traffickers from indulging in further crime, externment proceedings, under the relevant State laws, may be utilized; eg. MCOCA, 1999 in Maharashtra and Delhi, AP Goonda Act, Crime Control Act in Bihar etc.
- **History sheets/ suspect sheets:** Police should prepare dossiers and keep watch on the activities of convicted persons/ suspects, as per the rules and procedures in the state.
- **Naming and shaming:** It would be advisable to give wide publicity to convicted traffickers, so that:
 - a) It creates adequate impact on the convicted person and on other offenders
 - b) The public gets alerted to the activities of such offenders
 - c) Vulnerable persons are forewarned against such persons and, thereby, trafficking is curtailed.

15. PREVENTION³⁵

Prevention is the sine-qua-non of any anti crime activity and police officers have an important role in the prevention of trafficking crimes. IOs can actively involve themselves in:

- Prevention through aggressive law enforcement. If the convicted offender is behind bars, the trafficking crimes, which he would have otherwise committed, are curtailed.
- Prevention through proper rehabilitation prevents re-trafficking.

Prevention of 2nd Generation Prostitution: In Yadgirgutta district of Andhra Pradesh, culturally sanctioned practices were pushing new children into prostitution. A Bridge School supported by the Indian Red Cross society and the local government was established, where 21 children of CSE victims, who had never attended school, were enrolled along with 43 children from other families. The local panchayat also helped to facilitate the enrollment. After spending a year in this residential school, the children of CSE victims were successfully integrated into regular schools for further education. This police initiative resulted in breaking the outdated culturally sanctioned practices.

Source: Mr. Mahesh Bhagwat

- Prevention at the source area by identifying vulnerable victims, empowering them through public awareness campaigns, involving concerned agencies to undertake empowerment programs, etc.
- Prevention at the transit area, such as railway junctions, bus stops, etc. by appropriate intervention.
- Empowering survivors by facilitating them to be watchdogs and whistle blowers against crimes and criminals, and facilitating survivor networks to work with crime stoppers, etc.

Manav Seva Sansthan, Gorakhpur, started an innovative experiment in 2002, by opening a 'Human Rights Awareness Centre' at Sanauli nearing the Indo Nepal border. The NGO counseled the migrants coming from Nepal to India with awareness of trafficking issues, safe migration, human rights, women and child rights with the help of brochures etc. The counseling done during a period of 9 months witnessed some revealing facts. Out of 3535 persons counseled, 65 turned out to be victims of trafficking and 35 were suspected to be traffickers. The former were rehabilitated through an NGO Maiti Nepal and the suspected offenders were handed over to the police. This initiative showed that intervention at the transit places can prevent HT.

- Prevention in the demand area by understanding/ addressing new forms of demand (eg. sex tourism, CSE under the facade of massage parlours, cyber pornography, etc.)
- Keeping vigil at locations prone to trafficking and monitoring the movements of strangers in these places.
- Ensuring effective patrolling, especially at highways, *dhabas*, railway stations and bus stations where a special 'vigil' needs to be maintained to check movement of traffickers accompanied with victims.

A study of truck drivers on the highway showed that in certain places trafficking of women and children for CSE, was well organized. Victims were picked up at selected places, violated inside the truck while the truck was moving and then dropped at another spot to be picked up by another truck. It was clear that exploitation in moving vehicles was well organized. Intervention at select places successfully curtailed exploitation and trafficking.

- Ensuring close checks on transporters to prevent physical transportation of trafficked persons.
- Informing adolescents and "vulnerable" persons, who can be lured/ misled/ or go astray to become "customers and clientele", on principles of human rights, gender rights, child rights, HIV etc.

35 For details see the Standard Operating Procedures on Prevention of Human Trafficking by UNODC

16. ROLE OF SUPERVISORY OFFICERS

Existing response systems, in India, provide a prominent role for supervisory officials in addressing HT through Prevention, Protection and Prosecution. Some tasks for police managers are listed here:

- Networking with officials in other districts and other states: The Director General of Police (DGP) has nominated Police Nodal Officers (PNOs) in all states, for this purpose. Since trafficking is a borderless crime it requires borderless policing that can be facilitated through *police manager networks*.
- Developing and sharing a comprehensive database of traffickers/ exploiters. This has to originate from the police station, move to the district and then to the state database, and eventually be amalgamated into a master database just like the national database of the National Crime Record Bureau. Data has to be updated on a monthly basis, at all levels, and disseminated to all concerned without delay.
- Developing and sharing intelligence regularly, on traffickers/ exploiters/ victims.
- According adequate priority to law enforcement on AHT. There are several activities that can be undertaken, eg. the crime data board displayed in all PS does not show HT data separately. This should be added as a separate head and updated regularly.
- Regular review of AHT activities in the monthly crime meetings with the SP/ DCP and other officers, to ensure that HT crimes are investigated thoroughly and professionally and progress of work is reviewed constantly.
- Taking law enforcement activity beyond the realm of rescue and looking at it from an organized crime perspective.
- Providing NGO networks to police officers by developing partnerships with NGOs.
- Developing synergy of police with other government departments, thereby ensuring and facilitating appropriate responses by these departments.
- Liaising with the District Level Monitoring Committee or any such body/ lobby to ensure expeditious disposal of HT crimes. Providing adequate support to ensure speedy trial.
- Taking all steps for prevention of HT (details in the segment 15).
- Ensuring a victim-centric approach and perspective in law enforcement.
- Shortlisting and mapping target/ vulnerable/ geographic areas and situations to ensure concerted action.
- Empowering police officers of all ranks with proper training focussed on Knowledge, Skills, Attitude, and Resources.
- Providing stability of tenure to trained and functional officers handling AHT activities.
- Ensuring accountability of officers with respect to the 3 Ps - Prevention, Protection and Prosecution - in their jurisdiction.
- Rewarding and commending officers doing good work on AHT.
- Documenting and disseminating good practices and providing a forum for wider discussion and emulation.

APPENDIX 1

MYTHS VERSUS REALITY OF TRAFFICKING

SR. NO.	MYTHS	REALITY/ TRUTHS
1.	Trafficking in human beings is only done for prostitution.	Prostitution is only one of the reasons for trafficking. Trafficking is done for various purposes, such as begging, forced labour, debt bondage, illicit adoption, marriage, organ transplant, camel jockeying, for performance in circus, for child sex – tourism, and for use of adults and children in pornography.
2.	'Human smuggling' or 'voluntary illegal migration' is the same as trafficking in human beings.	Human smuggling - is the facilitation, transportation, attempted transportation or illegal entry of a person(s) across an international border, in violation of one or more countries' laws, either clandestinely or through deception, such as the use of fraudulent documents. Human trafficking - unlike smuggling, which is often a criminal commercial transaction between two willing parties who go their separate ways once their business is complete, trafficking specifically targets the trafficked person as an object of criminal exploitation. The purpose from the beginning of the trafficking enterprise is to profit from the exploitation of the victim. It follows that fraud, force or coercion all play a major role in trafficking.
3.	In trafficking for prostitution, the brothel manager / madam is the main accused in a trafficking crime.	Brothel manager / madam is only the visible face of the exploiter and trafficker is the main culprit.
4.	Brothel is the only scene of crime in trafficking.	The scene of crime in trafficking involves all places in Source, Transit and Destination. It includes places where exploitation takes place under the facade of other enterprises, such as beauty and massage parlours, friendship clubs, small hotels, exclusive clubs, under the guise of call centres, friendship clubs, and along national highways, etc.
5.	The law to address trafficking is only ITPA.	Trafficking for CSE has to be addressed by invoking not only ITPA but relevant provisions of IPC (ex. 366 A, 366 B, 372, 373, 375, 376, etc.).
6.	All women seen to be soliciting are accused persons under ITPA.	Case studies and research shows that most of these women are made to solicit by the exploiters; there is no <i>mens rea</i> and these women are victims.
7.	Customer is not an accused under ITPA.	Customer is culpable under S. 5 (1) (d) and 7 (1) ITPA and related IPC offences.

SR. NO.	MYTHS	REALITY/ TRUTHS
8.	Only a Special Police Officer can arrest a trafficking accused.	Any officer of the rank of SI and above can be authorized under ITPA by a Special Police officer, in writing (S. 14 (ii)) or otherwise (S. 14 (iii)). However, any person committing or likely to commit a cognizable offence can be arrested by any police officer, including a constable. (S. 41 Cr. PC)
9.	Without FIR no arrest or rescue is possible.	Trafficking being a cognizable offence, any police officer can cause arrest or rescue even without FIR to prevent crime (S. 41 Cr. PC). Moreover a Magistrate can authorize any police officer of the rank of SI and above for carrying out rescue (S. 16 (1) of ITPA)
10.	A PO can register a case of trafficking only after rescue.	Rescue normally takes place at the point of final destination, whereas trafficking offences commence at the source itself and continues through transit to the destination point and even thereafter. If PO gets information about any person having been transferred from source point or being trafficked through transit place, the PO of those areas should register FIR for the offence of trafficking u/S. 5 (3) of ITPA.

APPENDIX 2

Definitions on Trafficking

1. Article 3 of the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime, 2000, states:

For the purposes of this Protocol:

- (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.
2. The Annotated Guide (2002) to the Complete UN Trafficking Protocol consisting of The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children –

"Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by any means, for forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

"Sexual exploitation" means the participation by a person in prostitution, sexual servitude, or the production of pornographic materials as a result of being subjected to a threat, coercion, abduction, force, abuse of authority, debt bondage or fraud.

"Exploitation of the prostitution of others" means the obtaining by a person of any financial or other benefit from the sexual exploitation of another person.

3. Constitution of India - Article 23(1). Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
4. Article 1 (3), SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002, states:

"Trafficking means the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking."

5. Section 2 (f) ITPA – “prostitution” – means the sexual exploitation or abuse of persons for commercial purposes, and the expression “prostitute” shall be construed accordingly.

Section 5, ITPA – Procuring, inducing or taking person for the sake of prostitution –

(1) Any person who –

- (a) procures or attempts to procure a person, whether with or without his consent, for the purpose of prostitution; or
 - (b) induces a person to go from any place, with the intent that he may for the purpose of prostitution become the inmate of, or frequent, a brothel; or
 - (c) takes or attempts to take a person, or causes a person to be taken, from one place to another with a view to his carrying on, or being brought up to carry on prostitution; or
 - (d) causes or induces a person to carry on prostitution;
- shall be punishable on conviction with rigorous imprisonment for a term of not less than three years and not more than seven years and also with fine which may extend to two thousand rupees, and if any offence under this sub-section is committed against the will of any person, the punishment of imprisonment for a term of seven years shall extend to imprisonment for a term of fourteen years:

Provided that if the person in respect of whom an offence committed under this sub-section, –

(i) is a child, the punishment provided under this sub-section shall extend to rigorous imprisonment for a term of not less than seven years but may extend to life; and

(ii) is a minor; the punishment provided under this sub-section shall extend to rigorous imprisonment for a term of not less than seven years and not more than fourteen years.

(2) ***** deleted

(3) An offence under, this section shall be triable, –

(a) in the place from which a person is procured, induced to go, taken or caused to be taken or from which an attempt to procure or taken such persons made; or

(b) in the place to which he may have gone as a result of the inducement or to which he is taken or caused to be taken or an attempt to take him is made.

6. Section 2 (z) Goa Children's Act, 2003 –

‘Child trafficking’ means the procurement, recruitment, transportation, transfer, harbouring or receipt of persons, legally or illegally, within or across borders, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving payments or benefits to achieve the consent of a person having control over another person, for monetary gain or otherwise.

7. Article 1 (4) of the SAARC Convention defines “Traffickers” as:

“Traffickers” means persons, agencies or institutions engaged in any form of trafficking.

APPENDIX 3

CHECK LIST FOR PRE-RESCUE PLANNING

Sr. No.	Check Points	Done
1.	Are you legally empowered to conduct rescue under the ITPA? • Notified under Section 13 ITPA • Authorized under Section 16 ITPA • Obtained warrant under Cr. PC	
2.	If not, do you have at least a police officer legally empowered under ITPA to conduct rescue?	
3.	Have you obtained a search warrant from the jurisdictional Magistrate?	
4.	Have you verified source information?	
5.	Have you entered source information and the steps taken therein, in the GD?	
6.	Have you carried out recce of the place to be searched for rescue?	
7.	Have you informed the Police Nodal Officer?	
8.	Do you have at least two women police officers in the rescue team?	
9.	Have you got at least two witnesses to be present during rescue?	
10.	Have you got at least one woman witness to be present during rescue?	
11.	Have you involved the local NGO in the rescue operation?	
12.	If a decoy has been involved in the rescue, has he been briefed properly about his expected role and the safety of the victim?	
13.	Have you taken a photographer/ videographer in the team?	
14.	Have you briefed every team member of their respective functions during the rescue operations?	
15.	Have you made adequate logistical arrangements such as vehicles, food, clothes, medicine kit, etc for the rescued persons?	
16.	Have you taken things required for documentation and evidence collection?	
17.	Have you notified the government or NGO run Shelter Homes of the expected number of rescued persons and the expected time of arrival?	
18.	Have you taken steps to ensure confidentiality of the rescue operation?	
19.	Have you taken steps to ensure confidentiality of the rescued persons?	

APPENDIX 4

CHECK LIST FOR POST-RESCUE PLANNING

Sr. No.	Check Points	Done
1	Have you segregated the rescued persons from the suspects/ accused?	
2	Have you ensured that the rescued person is immediately provided food, clothing, medical care, etc.?	
3	Have you ensured that the rescued person is counseled by a mental health professional/ trained counselor?	
4	Have you conducted an age assessment of the rescued persons so as to separate the children from the adults?	
5	Have you ensured that the interview of the rescued woman/ girl is done only by a woman police official/ only in the presence of a female member of an NGO?	
6	Have you ensured that the statement of the rescued person is recorded only when she is ready and able to make a statement?	
7	Have you ensured that the statement of the victim is recorded in her own language, with the help of a translator, if required?	
8	Have you recorded the harm (physical, emotional, mental, etc.) done to the victim?	
9	Have you ensured proper collection of all Material Objects from the scene of crime?	
10	Have you ensured proper recording of the statement of the witnesses?	
11	Have you produced the adult rescued persons before the appropriate jurisdictional Magistrate?	
12	Have you sent the rescued children/ minors to the Child Welfare Committee?	
13	If the Magistrate/ CWC are not available, have you ensured that the rescued persons are sent to a place of safety, such as government/ NGO run Shelter Homes?	
14	If Shelter Homes are not available in the vicinity have you arranged for sending rescued persons to some other places of safety, such as a hotel, guest house, circuit house, etc.?	
15	Have you ensured that the rescued persons avail of the interim compensation provided by your state orders?	

ACRONYMS

AHT	Anti Human Trafficking
AP	Andhra Pradesh
CD	Case Diary
Cr. PC	Criminal Procedure Code/ Code of Criminal Procedure, 1973
CSE	Commercial Sexual Exploitation
CWC	Child Welfare Committee
DCP	Deputy Commissioner of Police
DGP	Director General of Police
DM	District Magistrate
DWCD	Department of Women and Child Development
FIR	First Information Report
GD	General Diary
HT	Human Trafficking
IAHTU	Integrated Anti Human Trafficking Unit
IEA	Indian Evidence Act, 1872
IO	Investigating Officer
IPC	Indian Penal Code, 1860
ITPA	Immoral Traffic (Prevention) Act, 1956
JJ Act	Juvenile Justice (Care and Protection of Children) Act, 2000
JJB	Juvenile Justice Board
JM	Judicial Magistrate
MCOCA	Maharashtra Control of Organized Crime Act, 1999
MM	Metropolitan Magistrate
MWCD	Ministry of Women and Child Development
NCRB	National Crime Records Bureau
NDPS Act	Narcotic Drugs and Psychotropic Substances Act, 1985
PMLA	Prevention of Money Laundering Act, 2002
PNO	Police Nodal Officer
PO	Police Officer
PS	Police Station
PWD	Public Works Department
RI	Rigorous Imprisonment
S	Section
SDM	Sub Divisional Magistrate
SI	Sub Inspector
SOP	Standard Operating Procedure
SP	Superintendent of Police
SPO	Special Police Officer
u/s	Under section
UNODC	United Nations Office on Drugs and Crime

GOVERNMENT OF TELANGANA ABSTRACT

Labour, Employment, Training and Factories Department – the Bonded Labour System (Abolition) Act, 1976 – Creation of the Bonded Labour Rehabilitation Fund at the District level with a permanent corpus of at least Rs.10 Lakhs at the disposal of the District Magistrate in all (31) Districts of the Telangana State as per the provision 5 (xiii) of the Central Sector Scheme of Rehabilitation of Bonded Labour, 2016 – Orders – Issued.

LABOUR EMPLOYMENT TRAINING & FACTORIES (LABOUR) DEPARTMENT

G.O.Ms.No. 26

Dated: 23-05-2018
Read the following:-

1. From the Deputy Secretary to the Government of India, Ministry of Labour & Employment, New Delhi, O.M.F.No.S-11012/01/2015-BL, Dated: 18.05.2016.
2. From the Deputy Secretary to the Government of India, Ministry of Labour & Employment, New Delhi, Lr.No.M-13011/10/2016-BL, Dated: 08.02.2017.
3. From the Commissioner of Labour, Telangana, Hyderabad, Lr.No.J4/6793/2017-1, Dated: 20.11.2017.

ORDER:

In the letter 1st read above, the Deputy Secretary to the Government of India, Ministry of Labour & Employment, New Delhi has communicated the Central Sector Scheme for Rehabilitation of Bonded Labour, 2016 and requested all the State Governments / UT Administrations to implement the said Scheme through their District Magistrates / Collectors / Sub-Divisional Magistrates.

2. In the letter 2nd read above, the Deputy Secretary to the Government of India, Ministry of Labour & Employment, New Delhi has requested all the State Governments / UT Administrations to provide corpus fund to all Districts of the State where NCLP Societies have been established as per the provision 5 (xiii) of the Central Sector Scheme of Rehabilitation of Bonded Labour, 2016.

3. In the letter 3rd read above, the Commissioner of Labour, Telangana, Hyderabad has furnished proposals to create "Bonded Labour Rehabilitation Fund" at District Level with a permanent corpus of Rs.10 Lakhs at the disposal of District Magistrate in all (31) Districts of the Telangana State as per the provision 5 (xiii) of the Central Sector Scheme of Rehabilitation of Bonded Labour, 2016 and also to provide Budget for an amount of Rs.3.10 Crores to the Labour Department as State plan scheme under the "Head of Account- GH25 State Sector Schemes" for the financial year 2017-18 which will help the Labour Department seeking funds under Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016 to cover vulnerable groups such as Bonded Labourer, Transgenders, Children including Orphans, Women rescued from ostensible sexual exploitation such as brothels, massage parlours, placement agencies trafficking etc.

4. Government, after careful examination of the matter hereby creates the Bonded Labour Rehabilitation Fund at the District level with a permanent corpus of Rs.10 Lakhs at the disposal of the District Magistrate in all (31) Districts of the Telangana State as per the provision 5 (xiii) of the Central Sector Scheme of Rehabilitation of Bonded Labour, 2016.

Contd.....2

:: 2 ::

5. All the Collectors / District Magistrates and the Commissioner of Labour, Telangana, Hyderabad shall take further action in the matter accordingly.
6. This order issues with the concurrence of the Finance (EBS.X) Department vide their U.O.No.046/56/A2/EBS.X/2018, dated: 21.05.2018.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. SHASHANK GOEL,
PRINCIPAL SECRETARY TO GOVERNMENT

To
All the Collectors / District Magistrates in the State.
The Commissioner of Labour, Telangana, Hyderabad.
Copy to:
The P.S. to Spl. Secretary to Chief Minister.
The P.S. to Minister (Home & Labour).
The Deputy Secretary to the Government of India,
Ministry of Labour & Employment, Jaisalmer House,
26 Man Singh Road, New Delhi-110011.
The Finance (EBS.X) Department.
SC

// FORWARDED :: BY ORDER //

SECTION OFFICER

F.No. S-11012/01/2015-BL (Pt.)
GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT
DIRECTOR GENERAL LABOUR WELFARE

Jaisalmer House, 26, Mansingh Road

NEW DELHI,

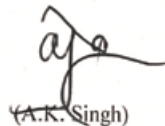
Dated the 17th Aug, 2017

Office Memorandum

Sub: Standard Operating Procedure for Identification and Rescue of Bonded Labourer and Prosecution of Offender

The undersigned is directed to forward herewith a brief handout containing Standard Operating Procedures (SOP) for Identification and Rescue of Bonded Labourer and Prosecution of Offenders which has been developed to help implementing agencies in implementation of the BLSA Act and the Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016.

It is requested to kindly ensure that SOP may be made available to all District Magistrates/Collectors/Sub-Divisional Magistrates in the State/Union Territory.



Under Secretary to the Govt. of India

Chief Secretary (all State Governments)

Administrator (all UT Administrations)

Copy to:

Ministries of Home Affairs, Law & Justice, SJ&E, W&CD, Finance, External Affairs,
Comptroller & Auditor General of India, National Human Rights Commission.

STANDARD OPERATING PROCEDURES

1. Complaint

- 1.1 The DM, SDM or police on receipt of a complaint, whether oral or written, by any person or facts constituting the commission of an offence under the Act, shall reduce it to writing and record, in writing, the time and date of receipt of such a complaint.
- 1.2 The DM, SDM or police shall issue a receipt to the complainant acknowledging that the complaint was recorded.
- 1.3 The DM, SDM or police shall ensure that there is no tip-off or leak of information regarding the rescue, informant or complainant at any stage.

2. Rescue

- 2.1 The DM, SDM or police shall rescue the labourer as soon as possible within 24 hours from the time of complaint received.
- 2.2 The DM, SDM or police shall ensure that the Rescue Team shall be multi-disciplinary and shall be comprised of the following members,
 - a) one representative of the District Magistrate (DM) having jurisdiction not below the rank of Tehsildar to enable such representative to fulfil such duties as provided under BLSA and Central Sector Scheme for Rehabilitation of Bonded Labour – 2016;
 - b) one police officer nominated by the Superintendent of Police;
 - c) the Labour Officer(LO) having jurisdiction to inquire into, enforce and compensate under various labour laws including Minimum Wages;
 - d) adequate number of police officers to secure the premises;
 - e) two or more women officers;
 - f) one police photographer;
 - g) two independent witnesses, at least one of whom should be a woman;
 - h) the complainant;
 - i) members of a civil society organisation or social workers for rescued labourer support including counselling and other roles; and
 - j) any other necessary person.
- 2.3 If the DM, SDM or police has reason to believe that it is necessary to conduct the search and rescue operation without delay for any reason, including danger to the rescued labourer and likelihood of interference with potential evidence, notwithstanding that any member of the rescue team may be unavailable, the DM or SDM shall carry out the search and rescue operation, and intimate any missing member without delay.
- 2.4 The DM or SDM in coordination with the police shall ensure that the rescue location is secured, and separate and protect the labourer from the offender and his associates.
- 2.5 The DM or SDM shall ask brief questions to the labourer in the absence of the offender and in the presence of a member of a civil society organisation or a social

worker to determine whether there are indications of bonded labour. Such brief questions should include questions regarding nature of the advance or other obligation, wage payments and ability of the labourer to leave or work elsewhere.

- 2.6 The DM or SDM shall ensure that the all relevant evidence, such as phone books (directories with the numbers of other traffickers or accomplices), mobile phones, travel tickets and documents, accommodation receipts, bank statements, wage receipts slips and registers, muster rolls, ledger books, bond agreements, notebooks, cash, weapons, locks, ownership documents, lease, license are photographed and seized by the police, and the offender is arrested as per the Code of Criminal Procedure, 1973("CRPC").
- 2.7 The DM or SDM shall ensure that the police prepare a seizure list and rescue memo detailing the identities of the rescued labourer and his contact details, and cause it to be signed by independent and local witnesses.
- 2.8 All police officers and Executive Magistrates shall be competent to make arrest without warrant in accordance with Section 41 and 44 of the Code of Criminal Procedure, 1973 ("CrPC").
- 2.9 The DM or SDM shall ensure that the labourer are removed from the rescue location, are separated and given adequate protection from the offender and his associates, and are brought to a safe location. The DM or SDM shall also ensure that no bonded labourer is left behind.

3. Inquiry

- 3.1 The DM or SDM shall provide the labourer with immediate assistance, including food, shelter and protection;
- 3.2 The DM or SDM shall ensure that the labour officer initiates proceedings under the Minimum Wages Act, 1948 and the Payment of Wages Act, 1936 where applicable.
- 3.3 In order to issue a release certificate, the DM or SDM shall conduct an inquiry in a free and fair environment, in respect of each labourer separately or with his family, in the absence of the offender and in the presence of a member of a civil society organisation or a social worker as soon as possible but definitely within 24 hours of the rescue. The questions to be asked the labourer should include questions regarding advance or other obligations, wage payments, freedom to travel, seek alternative employment, and sell or purchase goods at market value, and questions regarding other offences against schedule castes or tribes, offenses against children, etc. It shall not be necessary to question the offender or any of his associates. Such an inquiry is not an adversarial inquiry, and the procedures for criminal trials do not apply to such an inquiry.
- 3.4 The DM or SDM shall issue immediately and definitely within 24 hours, a release Certificate to each rescued labourer, including children, found to be bonded labourer even if they are accompanied by families.

- 3.5 The DM or SDM shall provide each rescued labourer, including children, found to be bonded labourer even if they are accompanied by families, with immediate cash assistance.
- 3.6 The DM or SDM shall take necessary action for the medical examination of the victim by a registered medical practitioner for the purposes of determination of age, injury or disease incidental to the exploitation and occupational health hazards.

4. First Information Report

- 4.1 If the DM or SDM prima facie finds that offences under laws other than the BLSA have also been committed, he shall ensure that a complaint is made to the police for the registration of a First Information Report ("FIR"), under all relevant sections and laws for the time being in force, including relevant sections under the BLSA, within 24 hours of the date of rescue.
- 4.2 A complaint to the police alleging offences under the BLSA and other laws for the time being in force may be made by any person, including but not limited to the DM or SDM, the victim, family of the victim, NGO or any other person. Further, on receipt of such a complaint, Section 154 CrPC to apply.
- 4.3 Upon a complaint being made to the police, the DM or SDM shall ensure that all relevant documents in his custody, including the Inquiry Form, Release Certificate and Medical Examination Reports, are supplied to the police at the earliest for effective investigation.
- 4.4 The DM or SDM shall ensure that the police complete all the necessary procedure under the CrPC, the BLSA and herein in relation to the labourer, such as taking of statements under Section 161 CrPC, if applicable, as soon as possible, and before the labourer are repatriated / moved beyond the jurisdiction of the said police.

5. Prosecution of Offences

- 5.1 The DM or SDM shall communicate any judgement and sentence along with certified copies of the same to the relevant officials of the DA, including the DM, of the rescue location and rehabilitation location.

6. Summary Trial

- 6.1 The procedure for Summary Trial of Offences under the BLSA is clarified as under:
- (i) Executive Magistrates conferred by the State Government with the powers of a Judicial Magistrate of the first class to try offences under the BLSA under Section 21(1) of the BLSA ("Designated Magistrate") are empowered to try offences under the BLSA summarily [S. 21(2)].
 - (ii) The commencement of Summary Trial of offences under the BLSA shall be not later than 24 hours from the date of identification or rescue, whichever is later. In neither case shall the commencement of Summary Trial be delayed for want of registration of an FIR.

- (iii) If at any stage during the Summary Proceedings, it appears to the Designated Magistrate that the accused is also chargeable for offences under some other law for the time being in force, other than the BLSA, the Designated Magistrate shall proceed in accordance with the provisions of Section 322 or 323 CrPC, as the case may be.
- (iv) If upon police report, it appears to the Designated Magistrate that the accused is also chargeable for offences under some other law for the time being in force, other than the BLSA, the Designated Magistrate shall commit the entire case along with the case records to the competent court.

The procedure specified in CrPC shall be followed except as stated otherwise in the BLSA.

- 6.2 The Designated Magistrate should conclude the Summary Trial within three months.

7. Trial Proceedings

- 7.1 The Designated Magistrate shall ensure that the victim, labourer or any witness to the commission of any offence under the BLSA shall be provided with protection during the pendency of the trial.
- 7.2 Any complaints raised by the labourer, victim or witness in relation to harassment by the accused or his associates shall be acted upon urgently and the Designated Magistrate shall make orders for the protection of the labourer, victim or witness, such as cancellation of bail, or other appropriate orders.
- 7.3 In case the accused is absconding from trial, proclamation and attachment of property may be initiated.
- 7.4 Copies of case documents shall be made available on application.

8. Evidence

- 8.1 In all proceedings herein, the Designated Magistrate shall record the substance of evidence and particulars as per Section 262(1) CrPC. Such evidence may include documentary evidence, and when necessary, oral evidence.
- 8.2 The Designated Magistrate must make the record of the case in the appropriate form as per Section 263 CrPC.

9. Judgment and Sentence in Summary Trial

- 9.1 The Designated Magistrate shall record a judgement including a brief statement of the reasons for the finding.
- 9.2 Punishment under this procedure shall be as per S. 9, 16-20 of the BLSA.
- 9.3 Essential elements of a judgment upon Summary Trial under the BLSA shall be the following:
 - (a) Serial number of the case;
 - (b) Date of the commission of the offence;
 - (c) Date of the report or complaint;
 - (d) Name of the complainant (if any);

- (e) Name, parentage and residence of the accused;
 - (f) The offence complained of and the offence (if any) proved;
 - (g) Plea of the accused and his/her examination (if any);
 - (h) The finding with reasoning;
 - (i) Sentence or other final order with reasons (Sec 9, 16-20 of the BLSA);
 - (j) Amount of debt extinguished (if any) (Sec. 6 of BLSA)
 - (k) Extent of mortgage freed (if any) (Sec.7 of BLSA)
 - (l) Date on which proceedings concluded/terminated.
 - (m) Order of committal (if any)
- 9.4 Proceedings shall be in addition to other civil and criminal proceedings, such as but not limited to proceedings under Minimum Wages Act.
- 9.5 In addition, the DM or SDM shall ensure that the rescued labourers are provided with other benefits and are repatriated as stated below:

10. Benefits to Labourer

- 10.1 The DM or SDM shall coordinate with relevant authorities to expedite provision of existing benefits due to the labourer such as benefits under central or state schemes including issuance of the following to the labourer,
- a) Aadhar Card,
 - b) Ration Card,
 - c) Caste Certificate,
 - d) Voter ID,
 - e) MNREGA Card
 - f) Land patta
 - g) Government Health Insurance and
 - h) Any other relevant or required document.
- 10.2 Release Certificates shall be considered as Identity Proof for the labourer.
- 10.3 The DM or SDM shall provide the labourer or their representative with receipt of any application for provision of any benefit due to the labourer including benefits not included under the BLSA, herein or benefits that are specific to bonded labourer.
- 10.4 The DM or SDM shall ensure that the local primary health centre of the rehabilitation location medically screens the labourer.

11. Repatriation

- 11.1 Repatriation shall be subject to the consent of the labourer. The rescuing DM or SDM shall be responsible for repatriation, which must be done at the earliest possible time and in any case, no later than 24 hours from the date of rescue.
- 11.2 The DM or SDM shall coordinate with both rehabilitation and rescue location's police and District Administration ("DA") for quick and safe transfer, protection and rehabilitation, including,
- a) fooding, shelter, transport and protection,

- b) sending a written request to the local police of the rehabilitation location for protection of the rescued labourer against possible harassment and intimidation by the offender or his associates, and
 - c) sending a written request for rehabilitation of the rescued labourer to the relevant officials of the DA, including the DM, of the rehabilitation location, including,
 - name(s), final address(s), contact detail(s) of the labourer(s),
 - name(s) of the offender(s), if available
 - certified copies of the Identification Form(s) and Release Certificate(s),
 - identity card(s) of the labourer(s), and
 - receipt(s) of any rehabilitation given to the labourer(s).
- 11.3 DM or SDM shall ensure that his representative along with the police accompanies the labourer during such repatriation. At all times, the DM or SDM shall ensure that the offender is not allowed to come into contact with the labourer.
- 11.4 The pendency of investigation or trial in relation to commission of offences under the BLSA shall not stand in the way of repatriation of the labourer and / or his family at any stage.
- 11.5 Where a labourer has been repatriated but, in the opinion of the Designated Magistrate, is later required to be summoned for evidence, the Designated Magistrate should ensure that any expenses incurred by the labourer or witness in this regard are met and that such labourer or witness is given adequate protection during and post trial.
- 11.6 For offences under laws other than BLSA, where statements under Section 161 CrPC are required to be recorded, the DM or SDM shall ensure that the same is done at the earliest, prior to repatriation.

Towards Child Labour Free India



**Standard Operating Procedure for Enforcement of The Child and
Adolescent Labour (Prohibition and Regulation) Act, 1986**



Government of India
Ministry of Labour and Employment
September 2017



Intended Users:

- Law enforcement officers from central or state governments
 - Parents/ guardians of Child or Adolescent Labourers
 - Parents/ guardians of Child Artists
 - Organisers of children's entertainment programmes
 - Social workers/ community members
 - Employers
 - Outreach workers
 - Labour inspectors
 - District Administration
 - District Nodal Officer at the Labour Department
 - Trade Unions/Employers' Associations
-

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Section 1: Introduction

Child Labour is the system of employing a child to provide labour or service by the child to any person, for any payment or benefit to the child, or any other person exercising control over the said child. . International Labour Organisation (ILO) uses the term 'child labour' to cover all economic activities carried out by persons less than fifteen years of age, regardless of their occupational status (wage earners, own- account workers, unpaid family workers etc) but not household work performed by them in their parents' home, except where such work can be assimilated to an economic activity as for example, when a child must devote his or her entire time to the work so that his or her parents can be employed outside the home, and is, therefore, deprived of the possibility of going to school.

Child labour includes children prematurely leading adult lives, working long hours for low wages under conditions damaging to their health and to their physical and mental development, sometimes separated from their families, frequently deprived of meaningful education and training opportunities that could open up for them a better future.

India has always stood for constitutional, statutory and developmental measures that are required to eliminate child labour in India. Realising the multifaceted nature of this problem, Government has embarked on a holistic and multi-pronged approach to eliminate child labour from the country. On the one hand, it provides for legal action for enforcement purposes and on the other, focuses on general development programmes for the economic empowerment of the families of children as well as project based action in areas of high concentration of child labour.

1.1 Vision and Objectives

Vision: Complete elimination of child labour in all work and adolescent labour in hazardous work, and regulation of adolescent labour.

Objectives: The SOP is conceived as a working tool on law enforcement for practitioners and specialists of governmental, non-governmental and civil society organisations at different stages of intervention. To achieve the stated vision through the SOP, following objectives are laid down:

- 
- (a) Develop effective action plan from the village to the national level for prevention of child labour and adolescent labour in hazardous work;
 - (b) Create mechanisms for identification, rescue and rehabilitation of child labour and adolescent labour in hazardous work;
 - (c) Establish mechanisms for regulation of children working in entertainment industries and sports activities;
 - (d) Ensure strong investigation of all cases of child labour and adolescent labour in hazardous work leading to strengthening the prosecution against offenders;
 - (e) Ensure coordinated and convergent action of stakeholders through clear definition of roles and responsibilities and thereby ensure standardisation of response to violation of child labour throughout the country;
 - (f) Develop monitoring and accountability mechanisms at the district, state and central level.

1.2 Need of Standard Operating Procedure

Effective enforcement and implementation of the provisions of the various legislations, convergence of resources of Government both horizontally and vertically, coordination between various stakeholders and active involvement of the community is the key to attaining the ambitious goal of a child labour free society. It has been observed that in spite of presence of plethora of protective legislations, the stakeholders are not very clear about the action to be taken when a child or adolescent labour is identified. Specific information is required on steps to be taken for rescue of the child/ adolescent and subsequent rehabilitative measures to be taken. Sometime the language of legislation is not understood by common people restricting the enforcement of the provisions. In this backdrop, it is necessary that a simple step by step SoP is provided to ensure enforcement of the provisions of the protective legislation.

Section 2: Understanding Legal Framework- Who is Child and Adolescent Labour?

2.1 WHO IS A CHILD LABOUR?

A child below 14 years if found employed or working in any occupation or processes is a child labour. Employment of children below 14 years in any form in any occupation and process is prohibited and attracts the penalty provisions under Child and Adolescent Labour (Prohibition and Regulation) Act, 1986.



“Our Aim - Child Labour Free India”

2.2 What are the Exceptions to the Legislation?

Table of Exceptions			
	Situation	Definition of the situation	Subject to the following conditions
a.	Child helps his family or family enterprise	<p>i. Family- child's</p> <ul style="list-style-type: none"> - Mother - Father - Brother or Sister - Mother's biological brother or sister - Father's biological brother or sister <p>OR</p> <p>ii. Family Enterprise –</p> <ul style="list-style-type: none"> - Work - Profession - Manufacture or - Business <p><i>performed by members of the child's family</i></p> <p>AND</p> <p>iii. Help means: Aid or Assist family only in such a manner <u>that is not incidental to</u> –</p> <ul style="list-style-type: none"> - Any occupation, work, profession, 	<p>i. The help done is not in a hazardous occupation or process listed in Part A or Part B of the Schedule of the Act</p> <p>ii. Shall not include any activity that is remunerative for the child or his family or the family enterprise</p> <p>iii. Shall not include any activity where he substitutes an adult or adolescent</p> <p>iv. Shall not be in contravention of any law for the time being in force</p> <p><u>'Help' provided by the child, in addition to the above, shall be further subject to,</u></p> <p>v. Child's Family must be the occupier of the family enterprise</p> <p>vi. Task must not be performed during school hours or between 7pm and 8 am</p>

		<p>manufacture or business</p> <ul style="list-style-type: none"> - Or for any payment or benefit to the child or any person having control over the child - And which is not detrimental to the growth, education and overall development of the child 	<p>vii. Provided sufficient rest and shall not work continuously for more than 3 hours at a stretch</p> <p>viii. Shall not interfere or affect the child's</p> <ul style="list-style-type: none"> - Right to education - School attendance - Education or related activities such as homework or extra-curricular activities
b.	<p>Working as an artist in an audio-visual entertainment industry, including but not restricted to:</p> <ul style="list-style-type: none"> - Advertisements - Films - Television - Serials - Any other such entertainment or sports activities 	<p>i. <u>Shall not include circuses or street performances for monetary gain</u></p> <p>ii. Shall include other activities where child him/her self is participating in:</p> <ul style="list-style-type: none"> - Sports competition or event or training for such competition or event - Cinema, documentary, shows on television such as quiz, reality show, talent show or radio program - Drama serials - Anchor of a show or event - Other artistic performances that the Central Government 	<p>i. Hours of work: 5 hours a day; not more than three hours without rest.</p> <p>ii. Permission in Form C:</p> <ul style="list-style-type: none"> - Valid for 6 months from date of issue - Shall state provisions made available for <ul style="list-style-type: none"> ▪ One responsible person per maximum of 5 children for each production ▪ Education ▪ Safety ▪ Protection from sexual offence and mechanism for reporting any such offence against a child ▪ Physical and mental health of the child ▪ Nutritional diet ▪ Safe, clean shelter ▪ Child shall not consecutively work for more than 27 days. <p>iii. 20% of the child's earning shall be deposited in a nationalised bank in the</p>

		permits on individual case	name of the child and shall be credited on attaining majority
		iii. Producer of audio visual production house or manager of any commercial event including children must take permission from the District Magistrate in Form C provided with the Central Government Rules	iv. All audio-visual entertainment involving children shall issue a disclaimer at the beginning stating, 'that due permission was obtained for involvement of children, and their protection from abuse, neglect and exploitation was ensured in line with the laws of India'

Further, if a child receiving education in a school remains absent for thirty consecutive working days without intimation to the Principal or Head Master of such school, the Principal or Head Master shall report the same to the District Nodal Officer nominated for curbing child labour in the District.

2.3 What is Prohibited Employment for An Adolescent Labourer?

Any adolescent in the age group of 14 to 18 years is prohibited to work or employed in any occupation or process set forth in Part A of the Schedule of Hazardous Occupations and Processes in the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986.

2.4 What are the Conditions Which Apply if Adolescent is Permitted to be Employed in Non-hazardous Occupations and Processes?

In all occupations or processes other than those set forth in Part A of the Schedule of the Act, the following conditions shall apply:

Element of work	Conditions applicable
Hours of work	<ol style="list-style-type: none"> 1. Cannot work for more hours than prescribed for that establishment or class of establishments 2. No period of work shall be fixed as stated in point 1 above but no adolescent shall work consecutively for over three hours; hence no adolescent shall work for more than 3 hours without rest 3. No period of work shall be more than six hours a day 4. Timing of work cannot be between 7 pm and 8 am 5. They cannot work overtime 6. Cannot work at an establishment on the same day as he has been working in another establishment
Weekly Holiday	<ol style="list-style-type: none"> 1. Every Adolescent shall be allowed one whole day holiday every week 2. The specific day of such holiday shall be evidently displayed in the organisation 3. Such day shall not be altered more than once in every three months
Notice to Inspector	<ol style="list-style-type: none"> 1. Every establishment employing an adolescent has to send the following information to labour inspector within local limits about their establishment: <ul style="list-style-type: none"> - Name and the situation of the establishment - Name of the persons in actual management of the establishment - Address to which related communication to be sent - Nature of the occupation or process carried on in the establishment 2. This should be sent within 30 days from the starting of the employment of the adolescent in the establishment

Regulation regarding age	<ol style="list-style-type: none"> 1. During a labour inspection, the inspector shall in every instance where he is unsure if the employed person is a child below 14 years or an adolescent who is employed in a hazardous occupation shall ask for a certificate of age granted by the prescribed medical authority. 2. In case such record does not exist, the inspector may refer to prescribed medical authority for decision regarding age of concerned child or adolescent
Maintenance of Register	All establishments where adolescents are employed or permitted to work shall maintain a register as prescribed in the Rules.
Health and Safety	The health and safety of the adolescents shall be ensured with respect to points given in Section 13 sub-section (2) of the C & AL (P&R) Act.

Section 3- Prevention of Child Labour and Adolescent Labour in Hazardous Employment

The Child Labour (Prohibition & Regulation) Amendment Act, 2016 and the amended Central Rules look to prohibit child labour and adolescent labour in hazardous employment. An important aspect of such prohibition is prevention of child labour and adolescent labour in hazardous employment. This will require consistent and proactive investigation on the part of law enforcement agencies for early detection of crime and collection of evidence to stop child labour before the crime takes place or when the crime is detected in transit. The prevention strategy for an area has to be developed looking into the community resources, forming networks for intelligence collection, analysis of existing data and consistent collection of information of identified key vulnerability indicators.

Prevention activities to be undertaken may be categorized as follows:

3.1 Creation of Awareness: Specific action has been identified as necessary to create awareness among general public and vulnerable communities for prevention, and ensuring that children have access to free and compulsory education as per section 2A of the Rules. This includes:

- Launching of public awareness campaigns targeted to the general public, consumers, vulnerable communities, employers etc. using folk, traditional media, mass media such as television and / or radio etc.
- Awareness campaigns to encourage reporting by facilitating access to the number of the police, child line and local district nodal office in the labour department.
- Create and display in an easily understandable manner salient provisions of the Act and the Rules in public places.
- Empower and enable the public and community resources like Panchayat, Women's groups, children's groups, schools, teachers etc. to generate intelligence regarding any violation. Awareness among children and adolescents can be undertaken at the school – level or through mid-media activities such street plays, competitive activities and folklore activities etc.

- Aid and assist different training institutes for senior government officials, judicial training institutes, business schools, law schools etc to include information on legal implication of child and adolescent labour.
- Conduct sensitization programs for the employers/ officials of industries or institutions to generate legal awareness and their role in eliminating child labour by district administration.

3.2 Building Capacity of Institutions: Creating prescribed institutional mechanisms and building capacity of institutions to carry out tasks assigned to them is also one of the prerequisites to prevent child labour and adolescent labour in hazardous employment.

- Formation of a District Task Force (DTF) in every district with the District Magistrate as its chairperson, with members as prescribed under Rule 17 C (iii) of the Child and Adolescent Labour (Prohibition and Regulation) Rules, 1988. The task force shall meet once a month and shall identify areas in the district vulnerable to child labour (NCLP survey, survey as per the Bonded Labour Rehabilitation Scheme and/ or information from the local CWC etc maybe used). The task force shall coordinate such activities as necessary at the local level for awareness generation, monitoring and stopping child labour and adolescent labour in hazardous employment.
- The labour department/DM shall appoint a District Nodal Officer (DNO) who shall track the cases of child labour on PENCIL Portal and recommend necessary activities in the monthly DTF meetings for prevention of child labour and adolescent labour in hazardous employment.
- Consistent tracking of complaints of child labour and adolescent labour in hazardous employment through the online portal 'PENCIL'. The District Nodal Officer to fill and bring all the complaints from other sources to 'PENCIL'. Child Tracking System under PENCIL would ensure prevention through checking their re-entry into the labour market and their regularity in school.

3.3 Coordination and Convergence among Agencies: An important step towards prevention is coordination among various child protection agencies at the District, State and Center.

- Coordination with Ministry of Women and Child Development – sharing of information from child helpline, surveys or portals of Mo WCD for identification of child labour.
- Coordination with Department of School Education & Literacy- At the school level reporting of children who have been consistently absent from school for 30 days and ensuring enrolment and retention of all children; and at the State and Central level inclusion of information about child labour in the syllabus and education material is key in ensuring prevention of child labour.
- Consistent coordination and work with other agencies at the district level such as District Child Protection Unit (DCPU), Special Juvenile Police Unit (SJPU), Child Line, District Magistrate/ Sub-District Magistrate , Child Welfare Committee, National Child Labour Project, Village-level Child Protection Committee under ICPS, District-level Vigilance Committee under ITPA Act, 1986, Schools and Panchayat through the District Task Force (DTF).
- Coordination and convergence with local level skill development department can ensure skill training of young persons to protect them from being employed in hazardous labour.

3.4 Knowledge Management: Managing existing knowledge and ensuring availability of sufficient information for data driven planning to prevent child labour is key.

- Information from surveys such as the NCLP survey and the survey under the Central Sector Scheme for Rehabilitation of Bonded Labourers can ensure identification and mapping of vulnerability towards child labour and adolescent labour in hazardous employment.
- Ensuring the above stated information as well as information from CWCs is fed into 'PENCIL' and then analyzed to map vulnerable geographical areas, areas of employment etc to plan prevention programs as well as to identify new forms of hazardous labour for adolescents or hazardous work where children should not help also leads to prevention.

- Analysing information collected from the database of missing children.
- Information received from previously rescued survivors can also help to receive information about potential violations.
- Forming a strong network with stakeholders and law enforcement agencies engaged in transit points and destination areas will ensure data collection and prevention.

An illustrative list of places where awareness generation against child labour and provisions of Child and Adolescent labour (P&R) Act, 1986 may be undertaken. Note that this list is not exhaustive:

- i. Railway coaches and at railway stations
- ii. Major bus stations
- iii. Toll plazas
- iv. Ports and port authorities
- v. Airports
- vi. Public places including shopping centers, markets, cinema halls, hotels, hospitals
- vii. Panchayat offices, police stations, resident welfare association offices, industrial areas
- viii. Schools, educational institutions,
- ix. Court complexes, and offices of all authorities authorised under the Act

Section 4: Identification and Reporting of Child Labour and Adolescent Labour in Hazardous Employment

- Identification is the first step of a process that allows presumed child labour victims to access to proper and safe assistance and protection measures and eventually to be officially identified as victims of child labour.

4.1 How to Identify a Victim?

Information can be obtained from following sources for identification of child labour and adolescent labour employed in hazardous occupations and processes:

Survey	<ul style="list-style-type: none"> ● National Child Labour Project ● Bonded Labour Scheme ● Out of School children- HRD ● Need Assessment of District Child Protection Units and State Child Protection Units
Proactive Investigation	<ul style="list-style-type: none"> ● District Task Force ● Officials of District Labour Department ● District Magistrate ● District Nodal Officer ● Police
Institutional Complaint	<ul style="list-style-type: none"> ● on PENCIL - www.pencil.gov.in ● on Childline- 1098 ● by NCLP Project Society ● by District Nodal Officer ● From NCPCR, SCPCR, NHRC,SHRC, NALSA, SLSA, DLSA, CWC
Complaint from Other Sources	<ul style="list-style-type: none"> ● from employer associations and trade unions ● from NGO's ● from parents and relatives ● from teachers & Principal on absence of 30 days self reported by Victim ● Any person

4.2 Who Can Report?

Any person, member of civil society, institutions or organizations can report through PENCIL Portal of Ministry of Labour and Employment, phone, letter, written complaint, e-mail, helpline, in person, or any other means can report an incident of child labour, or, adolescent labour in hazardous employment.

4.3 Where to Report a Complaint?

Anyone having any information about a child labour, may contact the following agencies.

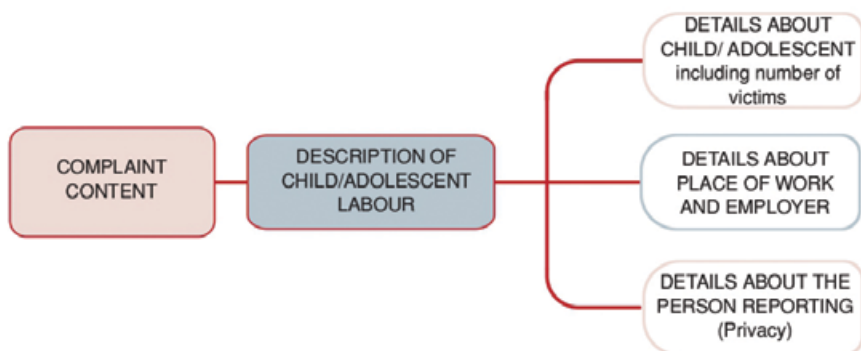
Reporting Agencies					
Complaint Corner at PENCIL Portal	Any Police Station/ SJPU	District Task Force under DM	State Labour Dept./ Labour Insp.	Child Line (1098)	District Nodal Officer

These agencies will verify the complaint, either through direct site visits or through resources identified by the District Task Force within 24 hours of the receipt of the complaint. If the complaint is found to be genuine, all agencies are to report the complaint to the police department who may begin the process for rescue.

The procedure to make a complaint on PENCIL is at Annexure. An updated list of District Nodal Officers along with contact numbers is available at PENCIL Portal

4.4 What Should the Complaint Contain?

The written complaint should contain a description about the place where the child/ adolescent is working, details of place and address of working place, name of employer, suspected child/ adolescent labour, probable age of child/ adolescent, if possible picture of the child/ adolescent.



4.5 How to Register a Complaint?

On receipt of the complaint the police proceeds to identify the relevant laws to include when a complaint is registered, including the following provisions of the Child and Adolescent Labour (Regulation and Prohibition) Act, 1986.

Section 14	Offence	Punishment
(1)	Employing a child or permitting a child to work	Imprisonment for a term that shall not be less than 6 months but which may extend to 2 years or with fine which shall not be less than Rs. 20,000 but which may extend to Rs. 50,000 or with both. <u>(Parents or guardians may not be punished under this section)</u>
(1A)	Employing an adolescent or permitting an adolescent to work in a hazardous occupation or process listed in Part A of the Schedule	Imprisonment for a term that shall not be less than 6 months but which may extend to 2 years or with fine which shall not be less than Rs. 20,000 but which may extend to Rs. 50,000 or with both. <u>(Parents or guardians may not be punished under this section)</u>
(2)	A repeat offence of the above stated sections	Imprisonment for a term which shall not be less than 1 year but which may extend to 3 years.

(2A)	Parents who commit a repeat offence	Fine which may extend to 10000 rupees.
(3)	Violations of any other section of the Act including conditions for adolescents to work	Imprisonment for a month or with fine of 10000 rupees or with both.

Provisions in other Legislations

For a case of child labour the following sections in various laws may also be considered for trafficking, crimes against a child during employment and bonded labour	IPC Sec 370, 370A, 342, 343, 344, 363A, 374
	JJ Act 2015 Sec 74-88, 80-85, 87, 42, 33-34 (in case of children)
	BLSA 1976 Sec 16-23 SC/ST ACT S. 3(h), 3(2)(v)
If there is a case of sexual exploitation then the following sections may also be considered	POCSO 2012 Sec 3-18 (in case of children) IPC 342, 343, 344, 346, 354A, 354B, 354C, 354D, 366A, 366B, 509

Section 5: Pre- Rescue

For every verified complaint:

- Assess the vulnerability of the situation.
- If there is a risk to life, liberty or safety of the child or if there is a risk of the child being moved conduct immediately; FIR can be filed simultaneously.
- The District Task Force may create a schedule every month for a stand by team of stakeholders who may be called upon for immediate rescue. These may be shared with all stakeholders involved.

5.1 Constitution of Rescue Teams

A comprehensive rescue team consisting of a spectrum of stakeholders shall be constituted for the rescue of child labourer or adolescent labourer in hazardous employment. Given below is a suggestive list of law enforcement agencies, independent witnesses and other persons with valuable skill sets to be included in a rescue team.

- a) Police/ Special Juvenile Police Unit;
- b) District Nodal Officer or Labour Inspectors;
- c) District Magistrate or the Sub- Divisional Magistrate or Nominee of the DM (A case of child labour could also be a case of Bonded Labour);
- d) CWCs/ DCPO/ Members of village level child protection committees;
- e) Representative of District Legal Services Authority;
- f) Women police officer;
- g) NGOs, representative of child helpline services; and
- h) Translators, counsellors etc.

★ Remember: Safety of the victim is of primary importance, hence while the above stated list is a comprehensive list for a rescue team and maybe used by the DTF to develop and maintain a schedule for availability of above stated stakeholders, a rescue maybe conducted on emergency basis by the police personnel.

5.2 Preparation for Rescue:

- a) Logistical Support: The rescue team needs to ensure that adequate logistical support is available with them in terms of
- food
 - water
 - clothes, blankets
 - Medical kit with first aid (provide for all basic toiletry needs such as sanitary napkins etc.)
 - translator, if required
 - Map the nearest hospital and availability of professional medical help in case of emergencies. Have an ambulance on stand by.
 - Inform nearest child care institution, or fit person, fit facility as approved by the district DCPU or CWC of the rescue for immediate shelter. Ensure that this information is at the disposal of DTF for immediate and planned rescue.
- b) Prepare for adequate number of vehicles to transport the all victims and accused separately. This can be supported by the ICPS, the police or the State Resource Center constituted under the NCLP scheme.
- c) Collection of Evidence: Ensure preparation for all evidence to be collected from the place of rescue. Coordinate with the rescue team to ensure that team assigned for evidence collection is aware of the structure of the place of rescue before the rescue. Arrange for a sensitive videographer/ photographer to support evidence collection
- d) Arranging for adequate medical support: Identify the nearest Government hospital and availability of professional medical help in case of emergencies. Have an ambulance on stand-by. Ensure the availability of an authorised medical practitioner to address the immediate as well as long term medical needs of the victim. Identify resources to provide psychological support to the victim of trafficking as soon as possible after rescue.

- e) **Victim Protection Mechanisms:** The members of the rescue team assigned to the victim should ensure that a plan is made for separating the victim from offender as soon as the rescue is conducted to protect the victim and safe guard evidence. If possible, arrange for the victim to be taken to a neutral place for her/ his statement. Care should also be taken that all relevant departments, officers of all relevant departments including police, SDM, Labour Inspector are present at the same time so as to ensure that the victim does not have to give her statement again and again.
- f) **Information to Place for Immediate Care and Protection:** The rescue team should notify the government, or NGO run Short Stay Home/ Child Care Institutions (CCIs), or any fit place, or fit institution, or fit person of the expected number of rescued persons and the expected time of arrival at such place. The Child Welfare Committee should also be duly notified.
- g) **Ensuring Confidentiality for Victim:** The rescue team should ensure confidentiality of the rescue operation and the persons rescued. The police officer shall ensure that the identity of the victim is protected from the public media, unless directed otherwise by a competent law enforcement authority.
- h) **Presence of Witnesses:** At least two witnesses should be present during rescue, at least one of whom is a woman.
- i) **Ensuring Access to Legal Aid:** Arrange for a lawyer/ paralegal assigned by the DLSA/ SLSA to accompany the rescue team and ensure that appropriate legal counsel is given in collecting evidence, registering sections of law for the FIR and immediate legal aid is provided for the victim and her/ his family.



Section 6: Rescue

6.1. Steps to be Taken for Rescue:

★ Remember: Each rescue should be dealt with on a case to case basis. The rescue team should be alert and each action must be guided towards rescuing all victims, ensuring protection of the victims and collecting evidence for investigation.

1. Make a General Diary Entry when leaving the police station that ensures that the information with respect to source/ victim/ location is not compromised.
2. Ensure thorough search of the place so that no child or adolescent is left behind. Look for false doors, roof, hiding out areas etc. Protecting the anonymity of the victim has to be ensured.
3. Explain the situation to the child. Use the help of the translator and the NGO representative or the representative of the DLSA for the same. Remember to use child friendly language.
4. Collect evidence of work done by the victim, food bills, tickets, documents of vehicles/ property owned, computers, phones, any other electronic items, records/ identity cards of each victim, identity cards of the accused etc. Make a seizure memo.
5. Make a site map of the area. Denote what was recovered from which place, where was the accused, where was the victim etc. Take photos/ videos to support this.
6. Develop a disclosure memo.
7. Sec 74 of the JJ Act, 2015, mandates ensuring the anonymity of a rescued child (here a child means a person below the age of 18 years). Contravention of this provision is punishable with imprisonment of 6 months. Ensure anonymity of the rescued child and adolescent.
8. Seal the premises.

6.2 Age Verification

Age Verification in case of dispute between the employer and Labour Inspector regarding age of the child/ children: In case of conflict regarding the age of the victim, the following procedure may be followed for age determination by seeking evidence by obtaining :

- i. the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned Examination Board, Aadhaar card, if available; and in the absence thereof;
- ii. the birth certificate given by a corporation or a municipal authority or a panchayat;
- iii. and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Court.

6.3 Immediate Aid to the Victim

As soon as a victim of child labour is rescued, the following needs should be met:

1. Separate the victims from the offender and if possible, move the victims to another location.
2. Provide food, water and necessary clothing.
3. Make available the access to a bathroom/ toilet facilities.
4. Immediate medical aid using the previously accessed medical kit. If needed move the victim to the identified place for further medical attention.
5. If needed ensure that a translator is made available.
6. Explain to the victim in a sensitive and child friendly manner about the situation at hand and what to expect in the immediate future. This can be done best with the aid of the social worker or psychologist.
7. Assess if the victim has any immediate medical (physical or psychological) needs and provide for if necessary.
8. Provide for legal counseling and legal aid to explain the situation to the victim in a sensitive manner.
9. Make a list of services that need to be immediately made available to the victim and ensure their availability.

- 10 Rescued children should be placed in Child Care Institutions or with fit person or fit facility as per the instruction of Child Welfare Committee. Or in cases where the complaint is given by the parent, the child's custody can be given to the parent after production in front of the CWC.

★ Remember: Children rescued have to be produced in front of the CWC or where that is not possible in front of one member within 24 hours from the time of rescue, excluding the time of travel.



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Section 7: Post Rescue

7.1 Protection of Victim

- The basic needs of the rescued child must be met immediately after rescue and the child should be provided with sufficient information regarding the situation and reassured of her/ his safety, It is the first and one of the most important steps in building trust with the child and adolescent labour.

★ Remember: A victim should never be treated as an offender, kept in a lock up or made to interact with the offender. All interaction with the victim should be in child friendly language. Attention should be paid to ensure that the victim does not meet the accused or her/his representative.

- i. Registration of FIR: The police should ensure that FIR is registered including relevant provisions of all laws. Additional to child labour or adolescent labour in hazardous employment, the child could also be a victim of trafficking, crimes against the child, kidnapping, sexual exploitation etc. Refer to 4.5 of the SOP for relevant sections. In case of trafficking also remember to include economic offences under Maharashtra Control of Organized Crime Act, 1999 and Prevention of Money Laundering Act, 2002.
- ii. Production in front of the CWC: All children must be produced in front of the CWC who shall then order inquiry which may include medical examination, determination of age, intermediary care and protection, tracing parents or if the CWC deems fit sending the child with parents, home verification etc. The social investigation report to be filed within 15 days. At this stage or the end of the inquiry, CWC may recommend inclusion of additional sections in the FIR through the Juvenile Justice Board as per the JJ Act, 2015.
- iii. Counseling of victim: Counseling should be provided to victims by trained counselor, community social worker or NGOs or DLSA so that the victim is well informed. An assessment of mental trauma caused to the victim and support required should be determined and such information provided to the CWC so that they may pass suitable orders for the same. All information s/he possess is obtained for the investigation and her/ his needs are heard at all stages of prosecution and rehabilitation.
- iv. Legal Aid: Legal aid is to be provided to the victim at the police station and at the place of safety wherever necessary by empanelled lawyers of the DLSA/ SLSA and NGOs. Legal Counseling and advice to the parents of the child must be provided.

- v. **Recording of Statement of Victim:** Victim statement should be recorded as per Section 164 Cr.PC by metropolitan/judicial magistrate only after due psycho social counseling but within a 14 days. The period maybe extended only after such permission is issued from the CWC or Court for reasons recorded in writing.
- vi. **Victim- Witness Protection:** All victims and /or witnesses are entitled to protection on submitting a request to the police or to the concerned Court by himself/herself or parent/ guardian. This protection can be extended to any other person with custody of the child. The police on its own or the Court on its own motion at any stage may decide to extend this assistance.
- vii. **Orders:** All orders and proceedings relating to victim/ witness protection should be maintained with utmost secrecy and in perpetuity.
- viii. **Victim-Witness Deposition:** The local District Legal Services Authority must consistently follow up on witness depositions to ensure that the witness is able to safely depose. Ensure that the victim/ witness has sufficient travel allowance and safe shelter. Use in camera trial and video conferencing where ever applicable and deemed necessary.

7.2 Strengthening Prosecution/ Investigation:

- i. **Rescued children are granted access to justice and fair treatment through the support of the competent authorities and assisting stakeholders.** The victim has a right to receive compensation for the physical and psychological harm suffered and wages lost through criminal proceedings, civil action and administrative systems. The District Nodal Officer has the responsibility to prepare a Status report on legal action taken and upload on the PENCIL Portal. The police must finish investigation as diligently as possible in a time bound manner. As per section 173 (1A) of CrPC the same must be completed in 3 months and trial must be completed in a year wherever possible in a case where an offence under POCSO is registered. Charge sheet must be filed as soon as possible and public prosecutor briefed to the full extent.
- ii. **Assessment of Appropriate Sections of Law:** All relevant sections as per the facts of the case must be mentioned in the FIR and in the charge sheet based on the evidence collected during investigation. The police may avail the services of the public prosecutor, the empanelled lawyer from DLSA or with the aid of the paralegal designated to the police station for the same.

- iii. **Medical Examination of the Accused:** Medical examination of the accused may be done as required under Section. 53, 53 A and 54 of Cr. PC.
- iv. **Speedy Trial:**
 - As far as possible trial must be completed in a time -bound manner.
 - Summary Trial wherever applicable: Provision of summary trial as per BLSA. Victim friendly court procedures to be followed at all times.
 - Monitor Status of bail: Denial or cancellation of bail for the accused is possible and maybe applied for where further investigation is required or there is evidence for that the accused on bail will hamper with the investigation.
 - Victim Friendly time bound trial: The trial should be conducted in a victim friendly manner and all efforts should be made to ensure that it is time bound.

Section 8: Rehabilitation

Rehabilitation of all child labourers and adolescent labourers who have been rescued may be done through coordinated and convergent action by a series of stakeholders. The District Nodal Officer has the responsibility to prepare an Index card and decide on rehabilitative method.

8.1 Social Rehabilitation:

Home Verification and Repatriation:

All persons below 18 years who have been rescued have to be produced in front of the CWC. The CWC must conduct an inquiry which includes a home verification process and a social investigation report. Based on the same the CWC may pass orders for:

- If home verification is approved: the victim should be sent back to her/his community/home and the CWC may pass an order for repatriation. The CWC can order and provide for the necessary monetary support required for repatriation. For safe repatriation within the state and between States the CWC will inform the concerned authorities in the receiving area, such as the local CWC. The CWC may also order an NGO or the SJPU to accompany the child.
- If home verification is not approved: arrangement should be made for the victim in long term rehabilitation a child in need of institutional support may be send by the CWC to,
 - Children's home
 - Fit facility
 - Fit person
 - Foster Care

till he/she attains 18 years of age, with periodic monitoring of the CWC through the individual care plan.

- The CWC will issue rehabilitation card for each child to monitor the progress made on their individual care plan. CWC to make an individual care plan (with information on health and nutrition needs, special needs, educational, training, emotional, psychological, restoration, follow up, social mainstreaming, life skills, protection from all kinds of exploitation and abuse). This has to be reviewed after three months and modified as per progress.

8.2 Educational Rehabilitation:

Children who are rescued from labour or adolescents who are rescued from hazardous employment shall be linked to suitable education facilities by National Child Labour Project (NCLP) in following steps:

- If the child is between 5- 8 years she/ he will be directly linked to the Sarva Shiksha Abhiyan to access their Right to Education.
- A child between 9- 14 years will attend two year bridge education in the NCLP Special Training Centers and then will be mainstreamed to the schools under Sarva Shiksha Abhiyan program.
- To ensure quality of educational rehabilitation, the index card prepared under PENCIL portal of Ministry of Labour and Employment would be updated regularly by the District Project Society under NCLP.
- An adolescent between 14 – 18 years will be linked to a skill development program run by the Government of India or the particular State Government.
- The data of rescued adolescents would be shared with Ministry of Skill Development through PENCIL Portal.

8.3 Economic Rehabilitation:

- Back wages: All rescued child labourer and adolescent labourers in hazardous employment shall be paid back wages at a rate not less than minimum wages for their period of employment.
- Immediate financial assistance of Rs 20000 under the Central Sector Scheme for Rehabilitation of Bonded Labourer 2016 if the child/ adolescent are a bonded labour. Additional compensation up to Rs. 3,00,000 is available on issuing of release certificate by the District Magistrate.

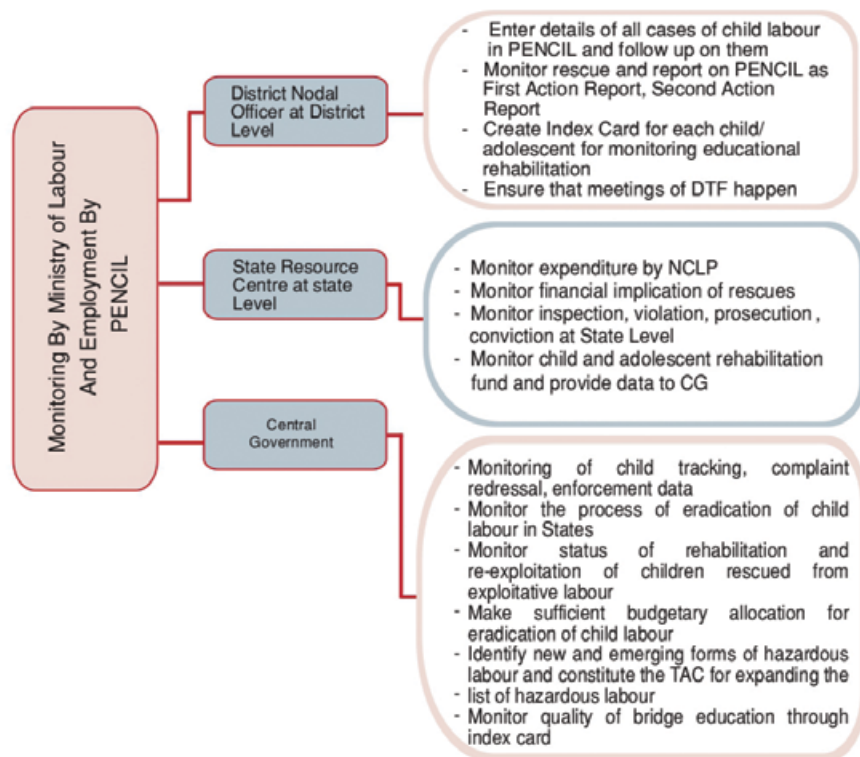
- ❖ As per CrPC Section 357A victim compensation scheme, whenever a recommendation is made by the Court for compensation, the District Legal Services Authority (DLSA) or State Legal Services Authority (SLSA) as the case may be shall decide the quantum of compensation to be awarded under this scheme.
- ❖ Economic Compensation: As per MC Mehta vs. State of Tamil Nadu and Ors. AIR 1997 SCC 699 judgment-
 - Rs 20000 per child are to be paid by the employer to a "Child Labour Rehabilitation-cum-Welfare Fund" to be used only for the benefit of that child.
 - In addition, the Government is to provide employment to an adult family member of the child or contribute Rs 5000 per child to this fund.
- ❖ As per Section 14(B) of C&AL (P&R) Act 1986, a Child and Adolescent Labour Rehabilitation Fund is to be formed by appropriate government in every district or for two or more districts. The amount of Fine and an additional amount of Rs 15000 is to be credited by the Government for each child or adolescent in such fund. The amount deposited and income accrued shall be given to the child as per Child and Adolescent Labour (Prohibition and Regulation) Central Rules.



Section 9: Monitoring

Enforcement of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 and Rules made therein are to be monitored both by an elaborate monitoring mechanism within the Ministry of Labour and Employment as well as by external independent agencies, thereby assuring robust enforcement of the law.

9.1. Monitoring Mechanism of Ministry of Labour and Employment: PENCIL Portal



9.2. Monitoring Mechanisms at the District, State and Central Level:

Commissions formed at the center, state and district level have the mandate to monitor the implementation of child labour

- ❖ National Human Rights Commission along with its counterpart at the state are to look into any violation of human rights not addressed, including child labour and adolescent labour in hazardous industries.
- ❖ The National Commission for Protection of Child Rights and its counterpart at the State levels as well as those at the District Child Protection Unit at the district level have a mandate to monitor the protection systems for children all over the country. While the NCPCR and SCPCR reviews policy implementation, the DCPU regulates and monitors institutions on the field such as the children's homes, community level monitoring committees etc.
- ❖ NALSA, SLISA and DLISA have the mandate to monitor coordination among agencies, and convergent implementation of laws and schemes for the eradication of child labour. They also have the mandate to monitor access to justice of every child.



Section 10: Roles and Responsibilities of Enforcing Agencies and Other Stakeholders at different Stages



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A. District Nodal Officer

S.No:	Action
PREVENTION	
1.	Ensure monthly meeting of the District Task Force (DTF)
2.	Present progress of prevention activities in the district for monthly meeting
3.	Share details of prevention activities in the district with State Resource Centre through PENCIL
IDENTIFICATION	
1.	Upload all complaints received by other means to the PENCIL portal immediately (e.g: Through telephone calls, emails, child line, from schools on drop outs etc.)
2.	Conduct regular inspections as per Rule 17 D of the Child and Adolescent Labour (Prohibition and Regulation) Rules
3.	Monitor adherence to norms stated in the Act and Rules and reiterated in this SoP for employment of adolescents on non - hazardous work
4.	Verify complaints received through various resources and identify if <ul style="list-style-type: none"> child is employed or, adolescent is employed in hazardous work or, regulation for employment of adolescent is not met
5.	Register verified complaint of child labour, or adolescent labour in hazardous employment with local police station/ SJPU
6.	Take action and upload First Action Report (FAR) on the PENCIL within 48 hours of receipt of all complaint
7.	Coordinate with various agencies through DTF for survey and identification of child labourers in the district and to develop action plans accordingly
8.	Upload action plan and minutes of the DTF meeting to State Resource Centre
PREPARATION BEFORE RESCUE	
1.	Ensure FIR is filed in all complaints registered with the police. If there is a threat to life or liberty of the victim, ensure their immediate rescue in coordination with the police
2.	Facilitate resources needed for each rescue of child labourers are made available including logistical resource, transportation, members of the rescue team, information to children's home etc as per this SoP

3. Coordinate with various stakeholders for rescue

RESCUE

1. Ensure that rescue is conducted on all verified complaints or as per DTF action plan
2. Ensure that during the rescue protection is given to the victims including transportation facilities, separation from accused, translator, counselling, medical attention etc.
3. Collect details of the company, factory etc such as registration, licence number etc for further action
4. Ensure that no victim is left behind

POST RESCUE

1. If FIR was not registered before rescue, ensure registration of FIR
2. Produce rescued child or adolescent before the CWC within 24 hours of rescue
3. Arrange for shelter home, immediate medical care etc wherever necessary

REHABILITATION

1. Facilitate repatriation of the child or adolescent victim as per the order of the CWC, in coordination with the DTF where ever required
2. Create a bank account for each child and adolescent and ensure transfer of interest accrued on the amount collected in the name of the child to such bank account once in every six months. Further ensure transfer of principle amount to such bank account when such child or adolescent reaches 18 years
3. Ensure issuing of index card and inclusion of the child or adolescent victim to the child tracking system
4. Coordinate with the CWC, SSA/NCLP project, DM's office, Department of Social Justice and Empowerment, District Legal Services Authority etc for social, educational and economic compensation for the victim as elaborated in Section 8 of the SoP
5. Upload the Second Action Report (SAR) on the PENCIL portal within 21 days of receipt of first complaint including details of rescue, rehabilitation and issuing of index card

FOLLOW-UP

1. Ensure that all children rescued as re-integrated to school or skill development program
2. Follow up with individual child on receipt of declared compensations, social rehabilitation schemes etc.
3. Follow up on the progress of each trial
4. Upload the Legal Action Report on the PENCIL portal including status of prosecution

B. Police/ Special Juvenile Police Officer

S.No:	Action
PREVENTION	
1.	Special Juvenile Police Unit to attend the monthly meeting of a District Task Force
2.	SJPU to participate in prevention of child labour activities in your district along with the labour department and DTF
IDENTIFICATION	
1.	Conduct proactive investigation to collect intelligence on cases of child labour, and adolescent labour in hazardous work or violation of any other child protection laws in your area
2.	To identify potential crimes related to child labour, create a database on Traffickers, Pimps, agents, Informants etc.
3.	Analyse information collected from the database of missing children
4.	Forming a strong network with stakeholders and law enforcement agencies engaged in trans points and destination areas
5.	Form action plan along with other members of DTF for elimination of child labour in your district. Monitor the monthly progress of the action plan in coordination with the DNO
6.	Register complaints received from the DNO, Child line and other sources
PRE- RESCUE PLANNING	
1.	Ensure registration of FIR for the complaints related to child labour. <u>If there is a threat to life or liberty of the victim, ensure their immediate rescue in coordination with the DNO</u>
2.	Constitute a comprehensive rescue team, under coordination with DNO.
3.	Ensure resources to overcome language barrier of the victims (reach out to DNO, DCPU or DLSA for a translator), immediate food, clothing, toilet, first aid kit, fire extinguisher, vehicles etc. in coordination with DNO.
4.	Ensure preparation for all evidence to be collected from the place of rescue and engage photographer/videographer.
5.	Ensure secrecy of the rescue operation
RESCUE	
1.	Ensure presence of the owner/manager responsible for running the place
2.	Ensured that the victim is not arrested and that the victim and accused are immediately separated
3.	Ensure thorough search of the place so that no child or adolescent is left behind

4. Collect evidences with proper documentation
5. Identify the relevant laws to include and ensure that an FIR is lodged immediately

POST RESCUE

1. Explain the situation to the victim
2. Ensure that the Legal Services Authority and the paralegal volunteers are immediately involved.
3. Ensure that the victim's statement is recorded as per provisions of Cr.PC after due psychosocial counselling.
4. Produce the child before the CWC within 24 hours and if required, before the DM for ascertaining a case under BLSA, 1976
5. Ensure that the rescued children or adolescents are placed in a CCI or with fit person or fit institution as per the instruction of CWC
6. Provide required protection to the victim(s) and witnesses.

INVESTIGATION

1. Register an FIR and apply sections for continuing offences wherever relevant.
2. Ensure protection for all victims and/or witnesses
3. Ensure that the investigation is carried out in a time-bound manner and charge sheet is filed as soon as possible.
4. Brief and aid the public prosecutor or representing lawyer

C. District Magistrate

S.No:	Action
PREVENTION	
1.	Ensure formation and monthly meeting of the District Task Force (DTF). Coordinate with the DNO for the same
2.	Develop a plan for prevention activities in the district and track its progress in monthly DTF meeting
3.	Authorise child artists and children working in other entertainment. Such permission to have validity only for 6 months and to be authorised based on section 2.2 b of this SoP and other guidelines issued by the Central Government on the same from time to time
4.	Ensure that 20% of the earnings of the child artist is transferred into a bank account in the name of the child, accessible to the child only after s/he turns 18 years
IDENTIFICATION	
1.	Ensure coordination with various agencies through DTF for survey and identification of child labourers, and adolescent labour in hazardous employment in the district
2.	Based on the identification ensure that the DTF develops action plan for elimination of child labour
PREPARATION BEFORE RESCUE	
1.	If there is a threat to life or liberty of the victim as per complaint, ensure their immediate rescue in coordination with the police and DNO
2.	Ensure resources needed for each rescue of child labourers are made available including logistical resource, transportation, members of the rescue team, information to children's home etc as per this SoP
RESCUE	
1.	Ensure that rescue is conducted on all verified complaints or as per DTF action plan
2.	Ensure that during the rescue protection is given to the victims and no victim is left behind

POST RESCUE

1. Monitor registration of FIR for all cases of child labour, or adolescent labour in hazardous employment under all relevant child protection laws
2. Ensure that all rescued child or adolescent before the CWC within 24 hours of rescue
3. Monitor and ensure all cases for -
 - Immediate medical care etc wherever necessary
 - Immediate separation of the victim and accused
 - No child or adolescent is kept in the police station overnight
 - Shelter home, fit person or fit facility is available for immediate care as well as long term care and rehabilitation of children
 - Children who require long term medical care – (both physical and psychological) is provided the same
4. Conduct timely summary trial as well as issue release certificate to access other forms of compensation under the BLSA, 1976
5. Monitor progress of investigation of all cases of child and adolescent labour in hazardous employment through DTF
6. Ensure coordination with labour inspectors for compounding of offences

REHABILITATION

1. Facilitate repatriation of the child or adolescent victim as per the order of the CWC, in coordination with the DTF wherever required
2. Monitor receipt of rehabilitation services with respect to social, educational and economic compensation for the victim including those elaborated Section 8 of the SoP

D. Project Director- National Child Labour Project Society

S.No:	Action
PREVENTION	
1.	Coordinate with the DNO for the progress of the work of the DTF
2.	Develop a plan for child labour and adolescent labour in hazardous employment prevention activities in the district
3.	Conduct capacity building for key community level stakeholders such as teachers, PRIs etc for elimination of child labour and adolescent labour in hazardous employment
IDENTIFICATION	
1.	Conduct NCLP Survey in a timely manner for identification of child labourers
2.	Based on the identification ensure that the DTF develops action plan for elimination of child labour
3.	Register complaint, where complaint has not been registered, with the police for child labourers or adolescent labourers in hazardous employment enlisted in the NCLP program
ASSISTANCE IN RESCUE	
	Provide requisite support to DNO, police to conduct rescue of child labourers or adolescent labourers in hazardous employment
REHABILITATION	
1.	Facilitate repatriation of the child or adolescent victim as per the order of the CWC, in coordination with the DTF where ever required.
2.	Prepare index card for child enrolled in the NCLP bridge schools if it is not prepared by the DNO.
3.	Facilitate enrolment of rescued child victims into the NCLP program or the adolescent victims in the skill development program
4.	Monitor receipt of rehabilitation services with respect to social, educational and economic compensation for the victim including those elaborated Section 8 of the SoP
FOLLOW-UP	
1.	Monitor progress rescued child victims in NCLP program for the following year on the index card
2.	Monitor the receipt of various economic, social and educational national and state level schemes and compensations through the index card

E. State Resource Centre – State Labour Department

S.No:	Action
PREVENTION	
1.	Implement prevention activities at the state level
2.	Monitor prevention activities in each district and utilisation of allocated funds for prevention allocated to NCLP Society and DNO
3.	Upload information of prevention on the PENCIL portal
4.	Build capacity of NCLP staff, labour inspectors and other district level implementation officers for the implementation of this SoP
IDENTIFICATION	
1.	Monitor timely action by DNO on complaints received (DNO to take action within 48 hours of receipt of complaint) and take appropriate action
2.	Monitor child labour survey in the State
3.	Create plan for, and monitor implementation of inspections by labour inspectors on the issue
4.	Monitor Second Action Report (SAR) by DNO
ASSISTANCE IN RESCUE	
	Provide requisite support to DNO, police to conduct rescue of child labourers or adolescent labourers in hazardous employment in the form of funds for logistic support, vehicles etc.
REHABILITATION	
1.	Monitor Second Action Report (SAR) by DNO
2.	Ensure creation of Child and Adolescent Labour Fund in every district or a group of districts
3.	Report on the Child and Adolescent Labour Fund formed on the PENCIL portal
FOLLOW-UP	
1.	Monitor progress rescued child victims in NCLP program
2.	Monitor the receipt of various economic, social and educational national and state level schemes and compensations provided under labour laws as well as other applicable central and state laws and schemes
3.	Suggest changes to Central Government towards elimination of child labour based on the data collected at the State level

F. STATE OR DISTRICT LEGAL SERVICES AUTHORITY

S.No:	Action
PREVENTION	
1.	Participate in the monthly DTF meetings and inform other stakeholders of challenges for prosecution of offenders
2.	Aid prevention activities through spreading legal awareness on protection of children as a part of prevention activities
3.	Aid State Resource Centre and NCLP in conducting legal awareness on protection of children as a part of the capacity building initiative including stakeholders of the DTF
ASSISTANCE IN RESCUE	
1.	Ensure that a lawyer or paralegal is a part of the rescue team in all cases of child labour and adolescent labour in hazardous employment
2.	Assist in filing of FIR in cases of child labour and adolescent labour in hazardous employment
3.	Provide legal aid and legal counsel to cases of child labour and adolescent labour in hazardous employment
PROSECUTION	
1.	Provide legal representation to cases of child labour and adolescent labour in hazardous employment
2.	Aid DNO to prepare Legal Action Report (LAR) on progress of the trial

G. Child Welfare Committee

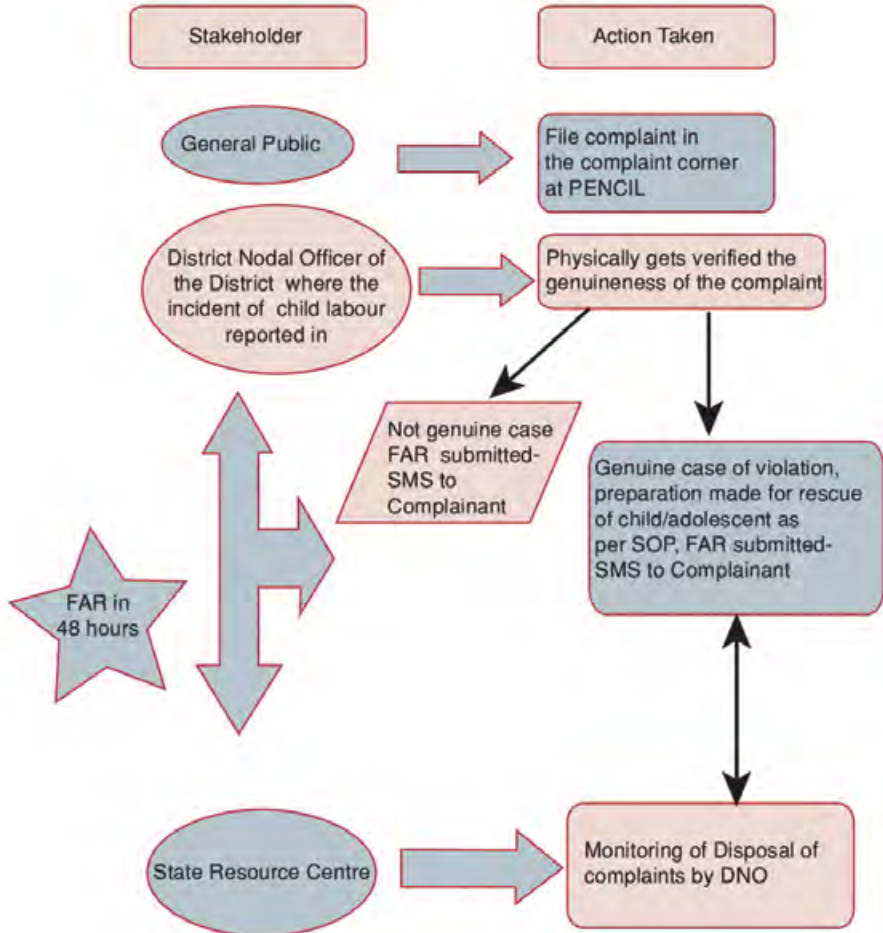
S.No:	Action
RESCUE	
1.	Participate in monthly DTF meetings and aid in implementation of the action plan developed to eliminate child labour and adolescent labour in hazardous employment
2.	Ensure that one member joins the rescue team for child labour and adolescent labour in hazardous employment
3.	Ensure immediate care for child labour and adolescent labour in hazardous employment is produced in front of the committee within 24 hours as per Juvenile Justice (Care and Protection) Act, 2015
REHABILITATION	
	Share information with DNO on rehabilitation provided to all victims of child labour and adolescent labour in hazardous employment

H. Department of Education and Schools

S.No:	Action
PREVENTION	
1.	Ensure 100% enrolment of all children in schools
2.	Include information about child labour and child rights in school curriculum
3.	Train teachers to understand the issue of child labour, adolescent labour and create awareness regarding Child and Adolescent Labour Act and Rules and institutional mechanism for child protection
4.	District Education Officer to participate in monthly DTF meetings and contribute to implementation of action plan against child labour
IDENTIFICATION	
	Teacher to report drop out of children for consecutive 30 days and child artists who are being employed without notifying district administration
REHABILITATION	
	Ensure enrolment or reintegration of child labourers into Sarva Shiksha Abhiyan

Annexure

Path of the flow of Complaint on child Labour and action taken on PENCIL Portal



List of Abbreviations

1. BLSA- The Bonded Labour System (Abolition) Act, 1976
2. C&AL(P&R) Act- Child and Adolescent Labour (Prohibition and Regulation) Act, 1986
3. CCI- Child Care Institutions
4. CWC- Child Welfare Committee
5. DCPO- District Child Protection Officer
6. DCPU- District Child Protection Unit
7. DM – District Magistrate
8. DTF- District Task Force
9. DLSA – District Legal Services Authority
10. IPC- Indian Penal Code
11. ICPS- The Integrated Child Protection Scheme
12. ILO- International Labour Organization
13. ITPA - Immoral Traffic (Prevention) Act
14. JJ Act- Juvenile Justice Act, 2015
15. MOWCD- Ministry of Women and Child Development
16. NALSA- National Legal Services Authority
17. NCLP- National Child Labour Project
18. NCPCR- The National Commission for Protection of Child Rights
19. NGO- Non Governmental Organization,
20. NHRC- National Human Rights Commission
21. POCSO- The Protection of Children from Sexual Offences Act
22. SCPCR- State Commission for Protection of Child Rights
23. SDG- Sustainable Development Goals
24. SHRC- State Human Rights Commission
25. SJPU- Special Juvenile Police Unit
26. SLSA- State Legal Services Authority
27. SMC- School Management Committee
28. TAC- Technical Advisory Committee

RELEVANT POLICY VI

F. No.S-11012/01/2015-BL
Government of India
Ministry of Labour & Employment

Jaisalmer House,
26 Man Singh Road,
New Delhi-110011.

May 18, 2016

OFFICE MEMORANDUM

Sub: Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

The Centrally Sponsored Scheme for Rehabilitation of Bonded Labourers 1978 was last revised in May 2000. In an evaluation of the performance of the scheme and consultation with stakeholders, it was realised that the scheme was not effective in elimination of Bonded Labour System and a revamp was necessary in the larger public interest. A draft scheme was accordingly prepared by the Ministry and circulated to all State Governments, NHRC, various concerned Ministries of Government of India and the same was also published in the official website of the Ministry for eliciting comments and suggestions from the public and other concerned citizens. Based on the suggestions and inputs received from all quarters including the Social Partners, Central Government has approved the revamped Scheme w.e.f. 17.05.2016. Copy of the revamped Scheme is appended hereto.

2. The revamped scheme shall henceforth be known as a Central Sector Scheme which does not entail State share in the cash component of the rehabilitation package. The non-cash component of the erstwhile CSP scheme will continue as it is, with minor modifications to suit the changing needs of the time.

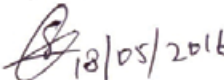
3. I am directed to convey the approval of Central Government of the said scheme for implementation by the State Governments/UT Administrations through their District Magistrates/Collectors/Sub-Divisional Magistrates.

Encl.: As above.

Chief Secretary (all State Governments)
Administrator (all UT Administrations)
District Magistrate/Collector (All)

Copy to:

Principal Secretary to the Prime Minister
Ministries of Home Affairs, Law & Justice, SJ&E, W&CD, Finance, External Affairs,
Comptroller & Auditor General of India
National Human Rights Commission


(J.S. Sidhu)

Deputy Secretary to the Government of India

जे. एस. सिन्हा/J. S. SIDHU
उप सचिव/Deputy Secretary
श्रम एवं रोजगार मंत्रालय
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Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

1. INTRODUCTION

1.1 Bonded Labour System in India is characterized by a long-term relationship between employer and employee, which is usually solidified through a loan or social obligation, and is embedded intricately in India's socio-economic culture marked by class/caste relations. Bonded labour contracts are not purely economic; in India, they are reinforced by custom or coercion in many sectors. The Constitution of India which was adopted by the Constituent Assembly on 26th November 1949 as the Magna Carta of Civil liberties, enshrines under dedicated Article 23, a specific provision declaring traffic in human beings, *begar* and similar forms of forced labour to be punishable offence.

1.2 The Government of India has ratified the ILO Convention C029 on 30th November 1954 which *inter alia* defines forced labour as "all work or service which is exacted from any person under the menace of penalty and for which the said person has not offered himself voluntarily"

1.3 The traditional form of bondage or forced labour in India are known as Adiyamar, Baramasia, Basahya, Bethu, Bhagela, Cherumar, Garru-Galu, Hali, Hari, Harwai, Holya, Jana, Jeetha, Kamiya, Khundit-Mundit, Kuthia, Lakhari, Munjhi, Mat, Munish system, Nit-Majoor, Paleru, Padiyal, Pannayilal, Sagri, Sanji, Sanjawat, Sewak, Sewakia, Seri, Vetti. However, with the passage of time, new dimensions of bondage have crept in under different names. The system is much more intricate than mere economic or labour relations; it reflects the stratified social structure where one or more social groups work without consideration of minimum wages or other right-based labour standards just for the sake of honouring social custom or for fear of possible reprisal in case of non-conformity, which more often than not are characterised by physical violence, ostracisation, etc.

1.4 Emerging forms of forced labour and traffic in human beings, especially of children and other disadvantaged sections of society, require a holistic approach for law enforcement as well as comprehensive rehabilitation mechanism for social, psychological, educational and economic rehabilitation.

2. EVOLUTION OF THE SCHEME

2.1 The issue of 'bonded labour' came to the list of national priority when it was included in the old 20-Point Programme in 1975. The Bonded Labour System (Abolition) Ordinance was promulgated on 25th October, 1975. This was later on replaced by the Bonded Labour System (Abolition) Act, 1976 (hereinafter referred to as the Act). This Act provides for the abolition of the system of bonded labour with simultaneous liquidation of their debts. Since the subject is included in the Concurrent List, the Union Government stepped in to assist the State Governments in their task of rehabilitation of released bonded labourers. Accordingly, Ministry of

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

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Labour & Employment launched a Centrally Sponsored Scheme for rehabilitation of bonded labourers in May, 1978.

2.2 Originally the Scheme provided for rehabilitation assistance up to a ceiling limit of Rs. 4000/- per bonded labour to be equally shared by Central Government and State Governments on (50:50) basis. This amount was raised to Rs.6250/- w.e.f. 1.2.86; and to Rs.10,000/- w.e.f. 1.4.95. Out of this, Rs.1000/- was to be given as subsistence allowance to meet travel expenses etc. to the state of origin, in case the released bonded labour was to be repatriated to his or her native place/ State or for their subsistence until they are rehabilitated. With effect from 1.4.1999, only Rehabilitation assistance was enhanced to Rs. 20,000/-. The scheme was last revised in May 2000 wherein survey component, awareness generation activities and evaluation studies were included as additional items in the existing scheme.

3. OVERVIEW OF PERFORMANCE OF THE SCHEME AND NEED FOR REVISION

3.1 From the year 1978 to 2014-15, the Central Government has released ₹81.826 crores towards its share of rehabilitation assistance in respect of 280213 released bonded labourers in the entire country. The State Governments have contributed equal amount i.e. ₹81.826 crores thus taking the total amount to about ₹ 164 crores. The annual average expenditure has thus remained at the level of ₹2.21 crore. It has become a regular feature to surrender money under this scheme in the absence of adequate proposals from the States and operation of the scheme remained restricted to only 18 states.

3.2 Evaluation studies and other field level inputs indicate certain shortcomings in the existing scheme which *inter alia* includes: (i) Lack of regular monitoring; (ii) No mechanism to monitor court cases and convictions; (iii) Inadequate and unattractive rehabilitation package; (iv) Lack of flexibility of the scheme to address the needs of special category beneficiaries such as children including orphans, differently abled, trans-genders, people rescued from organised and forced begging rings and women and children rescued from trafficking and sexual exploitation including prostitution; (v) Lack of institutionalized mechanism to keep an account of the other major benefits listed in the existing scheme such as agricultural land, dwelling unit, skill training, education etc.; and (vi) Ineffectiveness of awareness generation camps. Hence, there was a strong need to update the scheme for making it more effective.

4. CONSULTATION WITH STAKEHOLDERS & REVISION

4.1 Accordingly, Ministry of Labour & Employment conducted an in-depth study of all the operational limitations as listed above. Important stakeholders such as National Human Rights Commission, International Labour Organization, NGOs and activists working for bonded labours, UNESCO and other intellectuals were consulted for charting out the broad contours of the revised scheme. The draft scheme with approval of the competent authority was circulated for Inter-Ministerial and stakeholder consultation and copy of the same was also made available on the Ministry's website for eliciting views of the public. The draft was also circulated to all

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State Governments and Union Territories. The draft scheme duly incorporating the views of stakeholders was considered by the Standing Finance Committee (SFC) for consideration and approval. The SFC memorandum was appraised by the Ministry including the IFD by circulation and approved by the Hon'ble LEM as per norms of delegation of financial powers.

4.2 The revised scheme incorporates all relevant inputs and comments of stakeholders and addresses all the operational issues of the existing scheme in a holistic manner. Hereafter, Ministry of Labour & Employment and State Governments will follow the below mentioned guidelines for administration of the Bonded Labour Rehabilitation Scheme:

5. REVISED SCHEME AND GUIDELINES

(i) The revised Scheme shall be a Central Sector Scheme and shall come into effect from 17th May, 2016. The State Governments shall not be required to pay any matching contribution for the purpose of cash rehabilitation assistance.

(ii) The Rehabilitation package shall be Rs.1,00,000/- per adult male beneficiary. Beneficiary shall have the option to either deposit it in an annuity scheme or receive cash grant. The District Administration will assess the cash requirement of the beneficiary and exercise its best judgement in the matter and put the money under annuity scheme with the consent of the said adult male.

(iii) For special category beneficiaries such as children including orphans or those rescued from organised and forced begging rings or other forms of forced child labour, and women, the amount of rehabilitation assistance shall be ₹2 lakhs out of which at least ₹1,25,000/- shall be deposited in an annuity scheme in the name of each beneficiary and the balance amount shall be transferred to the beneficiary account through ECS.

(iv) In cases of bonded or forced labour involving extreme cases of deprivation or marginalization such as trans-genders, or women or children rescued from ostensible sexual exploitation such as brothels, massage parlours, placement agencies etc., or trafficking, or in cases of differently abled persons, or in situations where the District Magistrate deems fit, the rehabilitation assistance shall be ₹3 lakhs, out of which at least ₹2 lakhs shall be deposited in an annuity scheme in the name of each beneficiary and ₹1 lakh shall be transferred to the beneficiary account through ECS.

(v) The above benefits would be additional to other land and housing elements, etc. of the original scheme as mentioned below:

- (1) Allotment of house-site and agricultural land;
- (2) Land development;
- (3) Provision of low cost dwelling units;
- (4) Animal husbandry, dairy, poultry, piggery etc.;
- (5) Wage employment, enforcement of minimum wages etc.;

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- (6) Collection and processing of minor forest products;
- (7) Supply of essential commodities under targeted public distribution system; and
- (8) Education for children.

(vi) In cases where, on the conclusion of the summary trial, the District Magistrate(DM)/Sub-Divisional Magistrate (SDM) concludes that the alleged bonded labourer is, in fact, not in a condition of bondage, but requires socio-economic assistance, the DM/SDM, may provide state assistance under any other scheme administered by them.

(vii) In cases where, the DM/SDM find that immediate assistance is necessary for care and protection of the rescued persons during the pendency of the summary trial, such assistance including fooding, lodging, medical assistance, legal aid, provisions for victim's or witness' protection, etc., shall be provided under any other law or scheme forthwith, notwithstanding the entitlements prescribed under this scheme.

(viii) State Governments/UTAs shall be required to concentrate their efforts on the following activities:

(a) The District Administration in a convergence approach shall undertake measures for providing safe and secure environment for the capacity building of child bonded labourers in coordination with all relevant Government departments. Accordingly, facilities for, ensuring their proper education, psycho social counselling short stay home till education upto class 12th, skill development shall be an integral component of the rehabilitation package.

(b) For addressing the special needs of female freed bonded labourers, State Government shall also provide financial and other assistance for marriage, apart from other capacity building measures mentioned at sub para (a).

(c) For addressing the needs of the disabled persons, special care should be made available by the State as per national policy for disabled people apart from other capacity building measures mentioned at sub para (a) and (b).

(d) For adult bonded labour who do not come under any of the above categories, employable skill development training shall be a compulsory element of rehabilitation.

(ix) The benefits prescribed hereinbefore shall be, in addition to, other cash or non-cash benefits which a beneficiary under this scheme is entitled to, by or under any other scheme or law applicable for the time being in force.

(x) The amount of assistance for survey of bonded labourers shall be ₹4.50 lakh per district. This amount can be utilised to finance the NGO efforts for identification of bonded labour as per State Government norms. Central Government will

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reimburse this amount upon satisfactory performance in each identification project. The component of assistance shall be as per the following table:

S.No.	Cost involved in survey	Funds Permissible
1.	Cost of printing of questionnaire (average 2000 questionnaires @ ₹5 each)	₹10,000
2.	Costing of imparting training to investigators/field staff for collecting information (payment to 10 investigator/field staff @ ₹500/- per day to each for 5 days (₹5000 x 5)	₹25,000
3.	Cost of collecting primary data from field (payment to 10 investigators/field staff @ ₹500/- per day to each for 2 months (₹5000 x 60 days)	₹3,00,000
4.	Cost of editing, tabulation and analysis of primary data (payment to 2 Research Assistant @ ₹20000/- per month to each for 2 months (₹40000 x 2 months)	₹80,000
5.	Cost of computerisation of data/information	₹35,000
	Total	₹4,50,000

(xi) The expenditure on awareness generation shall be reimbursed on case by case basis subject to maximum limit of ₹10 lakh per State per annum, as per the following components:

S.No.	Cost components	Funds Permissible
1.	Cost of campaigning and telecast of various audio visual inputs through AIR, Doordarshan, Song and Drama Division, etc.	₹7 lakh
2.	Campaigns through local newspapers	₹1 lakh
3.	Cost of performance by folk cultural troupes including cost of travelling	₹2 lakh
	Total	₹10 lakh

(xii) The existing norms of grants of ₹1 lakh for evaluatory studies shall be maintained as such.

S.No.	Cost components	Funds Permissible
1.	Formulation and printing of questionnaire for collecting information from various Departments & who are providing grants/loans for the purpose of effective	₹8,000.00

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	rehabilitation of bonded labourers including cost of mailing of questionnaire	
2.	Analysis of data by 2 Research Assistants-cum-computer operator (payment @ ₹9,000/- per month for 2 months) (18,000 x 2 months)	₹36,000.00
3.	Writing of reports by one Research Officer (payment @ ₹18000/- per month for 2 months) (18,000 x 2 months)	₹36,000.00
4.	Printing and binding of the report (20 original copies)	₹10,000.00
5.	Misc. expenses including travelling expenses	₹10,000.00
	Total	₹1,00,000.00

(xiii) A Bonded Labour Rehabilitation Fund shall be created at the District level by each State with a permanent corpus of at least Rs.10 lakhs at the disposal of the District Magistrate which should be renewable. This fund will be utilised for extending immediate help to the released bonded labourers. The entire penalties recovered from the perpetrators of the bonded labour upon conviction, may be deposited in this special fund.

(xiv) Immediate assistance of at least ₹5,000/- shall be provided by the District Administration to the rescued person out of the District Bonded Labour Rehabilitation Fund at the disposal of the District Magistrate. Where the DM is satisfied that a particular rescued person requires more than Rs.5,000, he or she may disburse such higher amount as deemed fit, but limited to the maximum entitlement prescribed under this scheme. Any such advance amount shall be deducted from the Central cash assistance amount.

6. SUBMISSION OF PROPOSAL TO THE CENTRAL GOVERNMENT

6.1 The District Magistrate shall submit claims to the District NCLP (National Child Labour Project) Society, set up under the revised guidelines of the NCLP Scheme 2016, in the prescribed proforma, along with documents as specified in the check list (Annexure I and II).

6.2 Each such proposal shall have (i) details of cash and non-cash assistance and rehabilitation facilities provided by the State Government (Annexure-III); and (ii) the quantum of penalty/imprisonment awarded to the accused in the Summary Trial as provided under the Act.

6.3 In cases where the Summary Trial under Sec 21 of the Act has not been concluded as per Rules, but the DM/SDM has arrived at a prima facie finding and proof of bondage, then the proposal for cash assistance shall not be stopped for want of details of conviction. However, final disbursement of case assistance shall be made upon proof of bondage and other legal consequences as per judicial process.

6.4 Upon receipt of claims, the District NCLP Society will then scrutinise all documents and submit its proposals, from time to time, to the Central Government, i.e. Ministry of Labour and Employment (MoLE). The claims shall be furnished under the Major Head 2230/2552 as the case may be.

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

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उप सचिव/Deputy Secretary
बन एवं रोजगार मंत्रालय
Ministry of Labour & Employment
नारत, सरकार/Govt. of India
नई दिल्ली/New Delhi

7. Release of Funds

7.1 As per modalities of release of funds approved by the Ministry of Finance, admissible reimbursement under the revised scheme, will be released by MoLE, directly to the District NCLP (National Child Labour Project) Society, and the District Project Society in turn will release the fund including the interest, to the implementing agencies which shall include the district administration, for the purpose of the Bonded Labourer Rehabilitation Scheme forthwith.

7.2 The account of District NCLP Society in respect of the BLR Scheme shall be subject to the same audit norms as applicable to the NCLP scheme. Any future alterations in release of fund and accounting procedures by Central government for the NCLP scheme shall be equally applicable *mutatis mutandis* to the BLR Scheme.

7.3 Wherever the District NCLP society does not exist, the Ministry shall immediately, but not later than 30 calendar days reckoned from the date of notification of this scheme, notify a new NCLP society under the NCLP scheme.

8. Implementation and Monitoring

8.1 The implementation and monitoring of the BLR scheme shall be carried out by the Central Monitoring Committee, prescribed under the NCLP scheme, but with JS/DG(LW) as member-convenor for the purpose of BLR Scheme.

8.2 At the State level, the same implementation machinery for NCLP scheme shall also be responsible for implementation of the revised BLR Scheme.

8.3 At the district and sub-divisional level the same implementation machinery for NCLP scheme shall also be responsible for implementation of the revised BLR Scheme assisted by the Vigilance Committees, as prescribed under the Act and Rules.



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Central Sector Scheme for Rehabilitation of Bonded Labourer -2016**Revised performa for details of Bonded Labour****I. IDENTIFICATION PARTICULARS**

- i. Name :
- ii. Father/Mother's Name :
- iii. Gender: Male/ Female/ Other
- iv. Age :
- v. Whether special/ other category* : Y/N
- vi. Whether physically disabled : Y/N
- vii. If yes, details thereof :
- viii. Village :
- ix. Taluk :
- x. Block :
- xi. District :
- xii. State :
- xiii. Aadhar and UWIN (NSS) No. (if available) :
**Special/ Other category as specified at para 5 (iii) and 5 (iv) of this Scheme*

II. PARTICULARS OF FAMILY MEMBERS:

Sl. No.	Name	Relation to Respondent	Age	Sex	Education	Occupation	Remarks

III. PARTICULARS OF OCCUPATION:

- i. Nature of Occupation
- ii. Duration of the Occupation
- iii. Whether free to work elsewhere or to quit the job with present employer : Y/N
- iv. If no, specify the reasons

IV. WORKING CONDITIONS:

- i. Wages agreed upon by the Employer
- ii. Wages paid in kind (per day/week/month/year)
- iii. Wages paid in cash (per day/week/month/year)
- iv. Any other non-cash/kind benefit received from the employer
- v. Details of the Punishment for absence or slackness in work
- vi. Daily hours of work

V. NATURE OF BONDAGE [in lieu of advance/ debt]

- i. Amount of loan/Advance received (cash/kind):

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

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- ii. Rate of Interest:
- iii. Purpose of borrowings:
- iv. Who has taken the loan and his relation with the Respondent:
- v. Mode of repayment:
- vi. Number of year working for the loan taken
- vii. When will the loan get repaid along with interest
- viii. Is any other member of the family also bonded: Yes /No

If yes, please indicate his/her:

Name	Age	Duration of Work	Loan Taken	Interest, if any	Hours of work	Wages paid

VI. PARTICULARS OF ASSETS [of the Bonded Labour]:

- i. Land owned :
- ii. Milch animals/bullocks/sheep/goat/poultry :
- iii. Does he/she live in own homestead or in employer's land :
- iv. House owned or rented :
- v. Education Level :

VII. PARTICULARS OF EMPLOYERS

- i. Name & Address :
- ii. Father/Mother's Name :
- iii. Occupation :
- iv. No. of bonded labourers under the same employer :
- v. Aadhar No. :
- vi. Any instance of beating/commission of atrocity/violence by the employer as reported to the Vigilance Committee (please specify) :

VIII. RELEASE AND REHABILITATION

- i. Whether the respondent is aware of the provision of the BLS(Abolition) Act :
- ii. Whether the respondent is aware of the scheme for rehabilitation of bonded labour :
- iii. Whether the respondent was released in the past under the BLS (Abolition) Act and Rules:
- iv. Whether the respondent has received the benefit under the BLS (Abolition) Act and Rules:

VERIFICATION

It is certified that the facts stated in the above questionnaire are true to the information provided by the respondent which has been read over and explained to him in his mother tongue.

Date :

Place :

Signature of the Surveyor
(Name)

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Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

Proposal for Release of Central Assistance for Rehabilitation of Bonded Labourers:

- i. Number of the labourers required to be rehabilitated :
(Release certificate should be attached for every bonded labour rehabilitated)
- ii. Category wise break-up of Beneficiaries as General, OBC, SCs and STs and Special Categories wise break-up of beneficiaries as adult male, women, transgenders, differently abled persons, minor boys, minor girls, persons released from special categories in the below mentioned table:

S.No.	Gender	Special Category	Number
1.	Male	Adult	
		Boys below 18	
		Total	
2.	Female	Adult	
		Girls below 18	
		Total	
3.	Special/ Other Category as specified in para 5 (iii) and 5(iv)	Adult male	
		Adult female	
		Children below 18	
		Differently-abled persons	
		Trans-gender	
		Total	


* "Person with disability" means a person suffering from not less than forty per cent of any disability as certified by a medical authority, medical authority is Hospital funded by Central or State Government. The medical certificate issued by medical authority should be provided with the proposal.

iii. Total amount of Central Assistance Required:

S. No.	Category	Total Number	Prescribed limit as per the bonded labour scheme (in Rs.) (in 000')	Total Amount
1	Adult male member		100	
2	Adult Female/ Minor boys and Girls		200	
3	Special/ Other		300	

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

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	category as specified at para 5 (iii) and 5 (iv) of this Scheme			
	Total			
	Balance available at Bonded Labour Rehabilitation Fund*			

* Bonded Labour Rehabilitation Fund will be used to provide immediate financial assistance to the rehabilitate bonded labour with at least Rs.10.00 lakh as a corpus for this fund.

- iv. Name of the District (s) where these bonded labourers (category wise) have been identified :

S.No.	Name of the District (s)	Name of the State	Number of bonded labour		
			Identified	Released	Rehabilitated
1					
2,3...					
Total					

- v. Mode of identification :

- vi. Whether the rehabilitation scheme has been formulated and approved by the competent authority? :

(copy of the scheme must be attached)

- vi. The detailed statement of assistance provided by State Government/UT (abstract with detailed names of bonded labour to be provided):

- vii. Whether any utilization certificate for Central Assistance released in the preceding years are pending : Yes/No

If yes indicate the details of pending utilization certificates :

Name of the State/UT						
Sl. No.	Component for Central Assistance received	Name of the District (s)	Year in which funds released	Amount of Central Assistance (Rs.)	Amount for which Utilization certificates is submitted (Rs.)	Reasons for non-submission of utilization certificates
1						
2,3, so on						
Total	Name of the State/UT					

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.5-11012/01/2015-BL)

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Ministry of Labour & Employment
भारत सरकार / Govt. of India
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Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

Format for Release Certificate BL Case NO.....
(Order of the JMFC/JMSC under Section 12 of the Bonded Labour System
(Abolition) Act, 1976)

A Colour passport
signed photograph
of the bonded
labour released
should be passed in
this box

1. Name :
2. Father/Mother's Name :
3. Age :
4. Whether special category* : Y/N
5. If yes, details thereof :
6. Whether physically disabled# : Y/N
7. If yes, details thereof :
8. Address where bonded labour is identified :
9. Male/Female/trans-gender:
10. Aadhar/UWIN(NSS) No. (if available) :
11. Jan Dhan A/c No with IFSC code:
12. Address of Bonded Labour
13. Name of the Captor/Bonder :
14. Aadhar Card no. of Captor/Bonder :
15. Address of Captor/Bonder :
16. Date of conviction & Release Order :
17. Quantum of Punishment under Chapter VI:
18. Amount of Debt Extinguished u/s 6:
19. Extent and nature of property freed u/s 7:

** Special/ Other category as specified at para 5 (iii) and 5 (iv) of this Scheme*

"Person with disability" means a person suffering from not less than forty per cent of any disability as certified by a medical authority, medical authority is Hospital funded by Central or State Government.

Given under my hand and seal on date _____

Signature

Name

District Magistrate/ Sub- Divisional Magistrate

District....., State.....,

Seal

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

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Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016
Proposal for Release of Central Assistance for Conducting Survey of Bonded Labourers:


- i. Name of District (s) where survey will be conducted :
- ii. Duration of Survey with timelines for its completion :
- iii. Whether any survey was conducted in the past, in the district (s) : (Y/N)
 - (a) if yes indicate year and month of the survey:
 - (b) if no, the reasons :
- iv. Name of the agency (ies) which conducted survey in the past:
- v. Name of the agency (ies) which will be conducting survey:
- vi. Item wise breakup of the cost of the proposed survey per sensitive district :

S. no.	Item	Cost involved
1	Cost of printing of questionnaire (average 2000 @ ₹5 each = ₹10,000)	
2	Costing of imparting training to investigators/field staff for information (payment to 10 investigator/field staff @ ₹500/- per day to each for 5 days (₹5000 x 5 = ₹25000))	
3	Cost of collecting primary data from field (payment to 10 investigators / field staff @ ₹500/- per day to each for 2 months (₹5000 x 60 days = ₹3,00,000))	
4	Cost of editing, tabulation and analysis of primary data (payment to 2 Research Assistant @ ₹20000/- per month to each for 2 months (₹40000 x 2 months = ₹80,000))	
5	Costing of imparting training to investigators/field staff (₹35,000)	
	Total	

- vii. Whether previous survey, if conducted any, have been done within one year of releasing Central assistance: (Y/N)
- viii. If yes, then details of findings, recommendations to be provided
- ix. Whether reports of the survey conducted in the past have been sent to Ministry of Labour & Employment, Government of India: (Y/N)
 - (a) If yes, details thereof
 - (b) If no, reasons thereof
- x. Whether any utilization certificate for Central Assistance released in the preceding years are pending : Yes/No
 - (a) If yes indicate the details of pending utilization certificates :

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 Ministry of Labour & Employment
 भारत सरकार / Govt. of India
 नई दिल्ली / New Delhi

Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

Proposal for Availing Central Assistance for Awareness Generation Activities:


- i. List of activities proposed to be undertaken for awareness generation:
- ii. Name of the agencies which will undertake awareness generation activities. Whether it is Government or Private:
- iii. Item-wise break-up of the cost involving in awareness generation activities.

S. no.	Item	Cost involved (in ₹)
1	Cost of Campaigning and telecast of various audio visual inputs through AIR, Doordarshan, Song and Drama Division, etc. (max. fund permissible is ₹7 lakh)	
2	Campaigns through local newspapers (max. fund permissible is ₹1 lakh)	
3	Cost of performance by folk cultural troupes including cost of travelling (max. fund permissible is ₹2 lakh)	
	Total	

- iv. Whether awareness generation activities have been done within 6 months of releasing Central assistance in preceding years. (Y/N)
- v. Whether reports of the awareness generation activities conducted in the past have been sent to Ministry of Labour & Employment, Government of India: (Y/N)
 - (c) If yes, details thereof
 - (d) If no, reasons thereof
- vi. Whether any utilization certificate for Central Assistance released in the preceding years are pending : Yes/No
 - (b) If yes indicate the details of pending utilization certificates :

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Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

Proposal for Availing Central Assistance for Evaluation Studies:

- i. List of activities proposed to be undertaken for Evaluation Studies;
- ii. Name of the agencies which will undertake the evaluation. Whether it is Government or Private;
- iii. Item-wise break-up of the cost involving in evaluation studies:

S.No.	Cost components	Cost involved
1.	Formulation and printing of questionnaire for collecting information from various Departments & who are providing grants/loans for the purpose of effective rehabilitation of bonded labourers including cost of mailing of questionnaire (Rs.8,000)	
2.	Analysis of data by 2 Research Assistants-cum-computer operator (payment @ ₹9,000/- per month for 2 months) (18,000 x 2 months= Rs.36,000)	
3.	Writing of reports by one Research Officer (payment @ ₹18000/- per month for 2 months) (18,000 x 2 months= Rs.36,00)	
4.	Printing and binding of the report (20 original copies) (Rs. 10,000)	
5.	Misc. expenses including travelling expenses (Rs.10,000)	
	Total	

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Ministry of Labour & Employment
भारत सरकार / Govt. of India
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Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

Form of Utilisation Certificate

Form 19-A of GFR

Sl. No.	Letter No. and Date (attach copy)	Amount
1.		
2,3,...		
	Total	

Certified that out of Rs. of grant-in-aid sanctioned during the year _____ in favour of _____ Under the Ministry of Labour and Employment letter no _____ dated the _____ given in the margin, a sum of Rs. _____ has been utilized for the purpose of Central Sector Scheme for Rehabilitation of Bonded Labour for which it was sanctioned and the balance of Rs. _____ remaining unutilized at the end of the year has been surrendered to the Ministry of Labour and Employment, Government of India vide letter no. _____ dated the _____/will be adjusted towards the grants-in-aid payable during the next year _____.

2. Certified that I have satisfied myself that the conditions on which the grants-in-aids were sanctioned have been duly fulfilled/are being fulfilled and that I have exercised the following checks to see that the money was actually utilized for the purpose for which it was sanctioned.

Kinds of Checks exercised.*

- 1.
- 2.

Signature of the Chairperson of District NCLP Society

Designation.....

State Govt./UT Administration

Date

Seal

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Ministry of Labour & Employment
नार्वे सचकर / Govt. of India
नई दिल्ली / New Delhi

Annexure-III

Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

Detailed Abstract of Assistance provided by State/District Administration to Released Bonded Labourers											
Ministry of Labour and Employment sanctioned letter No. _____ dated _____ Amount of _____											
S. No.	Name of the freed Bonded Labour	No. and Date of BL case as per release Certificate	Quantum of punishment to the Convict/ Accused	Benefits provided by State Government (in kind) and its monetary value and cash component in case of educational assistance							Immediate Cash Assistance provided out of District BLR Fund
				House/ site	Agri. land	Land Development	AH/Dairy/ Poultry etc.	Minor forest products	Ration	Edu. Asst.	
1											
2											
3											
Total											

Signature of the Chairperson of District NCLP Society

Designation.....


State Govt./UT Administration

Date _____

Seal

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

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Ministry of Labour & Employment
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi

F.No. S-11012/01/2015-BL (Pt.)
GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT
Director General Labour Welfare

Jaisalmer House, 26, Mansingh Road
NEW DELHI,

Dated June 23, 2017

To

The Chief Secretary (all State Governments)
The Administrator (all UT Administrations)
The District Magistrate/The Collector (All)

Subject: - Modifications In the Central Sector Scheme for the Rehabilitation of Bonded Labour, 2016 – regarding.

On the basis of feedbacks received from various stakeholders and with the approval of the Competent Authority, certain modifications have been made in the Central Sector Scheme for the Rehabilitation of Bonded Labour, 2016, as mentioned below:

Sl. No.	Gist of existing provisions	Amended provisions
1.	Central Government will reimburse the expenditure made by the States on Survey, Awareness Generation and Evaluatory Studies up to the financial limits prescribed in the Scheme [Para 5(x, xl, xli) of the 2016 Scheme].	Central Government will give 50% of the amount required for conducting Survey, Awareness Generation and Evaluatory Studies in advance. A State may conduct survey once in every three years per sensitive district. A State may conduct five Evaluatory Studies per year.
2.	District Magistrate will submit financial claim to the district NCLP Society which in turn will submit the demand to the Central Government. The Central Government will release funds to the District NCLP Society for onward release to the District Administration. [Para 6 & 7 of the 2016 Scheme]	The fund release architecture in operation prior to 2016 Scheme will be followed and the existing NCLP route has been done away with in view of the fact that many of the districts of a State do not have NCLP Society. The District Administration will send the financial demand to the State's concerned Ministry/ Department dealing with the BLR scheme and the State Ministry/ Department will send the proposal to the Central Government. Routing of proposals and release of fund



		through the State's Ministry/Department will be helpful both for the Centre and the State in monitoring the implementation of the Scheme.
3.	Immediate assistance of Rs. 20,000/- (increased from 5 thousand to 20 thousand w.e.f. 17.01.2017) to be provided by the District Administration to the rescued person out of the District Bonded Labour Rehabilitation Fund linked to conviction of the accused. [Para 5(xiv)]	Immediate assistance upto Rs. 20,000/- may be provided to the rescued bonded labour by the District Administration irrespective of the status of conviction proceedings.
4(i).	The Format for Release Certificate appended to the 2016 Scheme does not capture the caste category of the rescued bonded labourer	The entry at S. No. 1 of the Format for Release Certificate shall be substituted with the following expression: "1. Name and Caste Category of the rescued bonded labourer:" (It is necessary as the budget has separate provision for SC and ST)
4(ii)	The Release Certificate requires date of conviction and release order (<i>meaning thereby that a Release Certificate is to be issued after the conviction proceeding has concluded</i>).	So as to enable issuance of Release Certificate at the time of release of rescued bonded laborer prior to conclusion of conviction proceedings, it has been decided to do away with replace the existing entries at S. no. 16 to 19 in the Format for Release Certificate .

2. It is requested to ensure that the modification in the 2016 Scheme as mentioned above are circulated among all concerned.


(23.6.17)

(A.K. Singh)

Under Secretary to the Govt. of India
E-mail: ajay.kumar67@nic.in

Copy for information to:

- (i) Principal Secretary to the Prime Minister
- (ii) Ministries of Home Affairs, Law & Justice, Social Justice & Empowerment, Women & Child Development, Finance, External Affairs
- (iii) National Human Rights Commission
- (iv) Comptroller & Auditor General of India

NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015

BACKGROUND

Under Section 4 (b) of the Legal Services Authorities Act, 1987, the “Central Authority”, i.e. the National Legal Services Authority, has been obligated to “frame the most effective and economical schemes for the purpose of making legal services available under the provisions” of the Act. The Preamble of the Legal Services Authorities Act, 1987, underscores that the legal services authorities are concerned with the weaker sections of the society and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

There can be no doubt that victims of commercial sexual exploitation, whether trafficked or voluntary sex workers are by far a highly marginalised group. Their rights are forgotten; their conditions of life and living are not anybody's concern; what happens to them and their children interest no-one. Yet they are all entitled to benefits of the various schemes of the government by the mere fact of who they are. By their much marginalised existence they are entitled to all benefits that accrue to them as are available to other marginalised sections of the society.

Victims of trafficking for commercial sexual exploitation face a great deal of trauma not just following such trafficking but also after their rescue. They need to be protected against the traffickers who would want them to come back or not pursue their case. There are also livelihood issues and if a viable alternative is not given, chances of being re-trafficked are high.

In the case filed by PRAJWALA, being Writ Petition (C) No.56 of 2004 the NALSA has given a report in the Supreme Court to take the following actions in respect of victims of trafficking for commercial Sexual Exploitation and sex workers:

"The role of the legal services authorities as set out in the preliminary report is reiterated as follows:

- (a) Provide legal assistance to the victims of trafficking and sexual exploitation at the time of rescue and thereafter during trial.
- (b) Facilitate the accessing of the District Legal Services Authorities(DLSAs) for award of victim compensation under Section 357A Cr.P.C
- (c) To monitor and act as social auditors of the existing facilities available for rehabilitation of rescued victims of sexual exploitation and trafficking.
- (d) DLSAs can spread awareness in the community through the panel lawyers and para-legal volunteers about the issues of trafficking particularly in vulnerable areas and among vulnerable groups.
- (e) The DLSAs can act as converging nodes to ensure that the government schemes meant for the marginalized actually reach them as such access to the government support does have a positive impact in preventing trafficking and falling prey to traffickers.
- (f) Initiate steps to sensitize the corporate world to support rehabilitation measures for trafficked victims including skill building and employment under the head of CSR.
- (g) SLSAs can also assist in the training and sensitization of stakeholders, like police, lawyers including legal services lawyers, prosecutors, government servants and the judiciary.
- (h) SLSAs may also collaborate with the local educational institutions and civil society organisations and NGOs working in this field."

The NALSA believes that it is necessary to draw up a scheme to give a framework for the legal services authorities at different levels to put into

action the undertaking given to the Supreme Court. To that end the present Scheme has been drawn up. It is expected that the Legal services authorities at all levels would be able to render legal services effectively to these vulnerable people by following the present scheme.

NAME OF THE SCHEME

The Scheme shall be called "**NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015**".

The objective of the Scheme is to provide legal services to address the concerns of victims of trafficking including women of all age groups and at every stage: ie prevention, rescue and rehabilitation.

The thrust of the scheme is to provide economic and social pathways for these marginalised groups so that they are socially included and thus get all social protections available to an ordinary citizen. The interventions of the legal services authorities should be to ensure the protection of the dignity of the victims which is as much their fundamental right to a life as of any other citizen.

In order that the already marginalised voluntary sex workers are not excluded from the assistance of the legal services authorities, they are also considered victims of commercial sexual exploitation, apart from those children and adults who are trafficked for the purpose.

STRATEGY FOR LEGAL SERVICES TO THE VICTIMS

The strategy of the legal services must be guided by a 360 degree approach. Thus, children, young adults of whatever sex, adolescent girls, young women and older women should all be included in the action plan. The legal services authorities must also develop an action plan for prevention, rescue and rehabilitation and not merely for one of these aspects. Further the legal services authorities must document each case and carry out a follow up at least for three years so that reintegration of the victim into the society is complete.

Enabling trafficked women to get their entitlements by completing all due diligence processes

The action plan must be to use the existing welfare schemes of the Government, both Central as well as the State, with a life-cycle approach to strengthen social security, social development and welfare in order to cover prevention of trafficking and rehabilitation of the victims. DLSA can request NGOs/CBOs to use tools such as micro planning and surveys to ascertain the demand for schemes and thereafter set up Help Desks across the district to facilitate registration for the schemes. Simultaneously the victims/community members could be motivated and educated about how to apply for schemes they wish to enroll or register for.

The DLSA, with the support of the concerned department could facilitate the applicant to fulfil the procedures stipulated under each scheme and comply with all the due diligence processes. This would include enabling the applicant to get the supportive documents that are required to be furnished in order to establish eligibility for the benefits under a scheme, such as getting proof of residence, age certificate, nativity certificate, income certificate, etc. Once all the due diligence is over and the scheme sanctioned, DLSA should provide support to the community till the scheme gets delivered or the benefit reaches the beneficiary.

The Available Schemes

- 1. ICDS or Childcare development ---0-6 years, pregnant women and lactating mothers (as care givers)**
- 2. Food security or ration cards**
- 3. Social security or Pension for the elderly women**
- 4. Educational schemes including midday meal, bridge schools, residential schools of Sarva Shiksha Abhiyan, Sabala; scholarships for the primary, secondary and higher education**

from Social Welfare Department for adolescents and specifically girls

- 5. Livelihood- Skill Development, Financial Inclusion, Micro Enterprise -from SC/ST/BC/Minority and Women's Development Corporation and CSR funds from government and public sector undertakings**
- 6. Housing or Subsidy for Construction and Land Pattas from Urban Development, Housing Corporation**
- 7. Universal entitlements-Jan Dhan, Aadhar, Voter Card, SHG membership**
- 8. Legal aid Schemes- Legal Literacy, Para Legal Volunteers, Legal services clinics to ensure free legal aid and protection**

Role of LSAs

The most important role of the SLSAs/DLSAs is to maintain convergence oversight. While the administrative convergence for all the schemes no doubt will be under the District Collector, the protection convergence will have to be overseen by the SLSAs and the DLSAs. To converge social and legal protection for marginalized women SLSAs and DLSAs will provide the oversight on the process of convergence by bringing together the administrative convergence provided by the District Collector and those generated by the structures or community organizations that are facilitating the process on the ground and are rooted in the community and its realities and have played significant roles in preventing HIV, trafficking and violence against women and girls. In this background, the role of the SLSAs/DLSAs would be in:

Bridging the Gap- between all departments and trafficked women, women in sex work and those vulnerable to trafficking and extreme violence

Enhancing Engagement- Scheme Education Drive Organized by DLSA bringing together Community organizations and its members and government-department-district and sub-district administration

Facilitating Participation and Ownership-Led by DLSA in collaboration with community organizations through community meetings and camps

Sensitization- Enabling all departments and institutions to learn about dynamics of community, remove misconceptions

Strengthening Accountability –Through an MIS capturing all processes from identifying entitlement holder to scheme delivery.

Forging Partnerships –At the more micro level the collaborations will be with Community Organizations and NGOs working with sex workers and victims of trafficking and sexual exploitation. They will facilitate the process of reaching out to the many hidden members of the community and shape the process of community mobilization.

At the meso level, the partnership should be with and between district administrative mechanisms such as Department of Women and Child Development (especially Child Protection/Welfare Committees and Anti Human Trafficking Units) and the DLSA. This will highlight initiatives at the ground level with the community or beneficiaries.

The third level of partnership will be at the macro level with the Department of Women and Child which implements many schemes for victims of trafficking and also runs shelter homes for those rescued; Ministry of Home Affairs, Ministry of Social Justice and Empowerment and Rural Livelihood Mission which also has the mandate of prevention of human trafficking and will be vital partner to strengthen protection and safety nets to the beneficiaries.

Action Plan

The first step that the DLSA should take is to reach out to the Non Governmental Organisations and Community Based Organisations (CBOs) working in the field. To do this, the SLSAs must contact the UNICEF or UNODC. State Agencies such as Department of Women and Child, Rural Livelihood Missions . They must also seek the assistance of the National Aids Control Organisation (NACO) and the State and District

Aids Control Societies (SACS & DACS). Thus the SLSAs/DLSAs would be able to obtain information about trafficking as well as sex workers.

The second step would be to catalyse inter departmental convergence both at the State and further down to the district level so that an all inclusive and comprehensive response from all concerned departments and stakeholders emerges and essential inter-sectoral linkages, processes and mechanisms get established.

Trafficking: As regards trafficking, from the Anti Human Trafficking units in the State and with the help of the NGOs/CBOs, the DLSA should map out the vulnerable areas and the vulnerable populations within its jurisdiction. Then preventive strategies can be put into motion. These would be spreading information about schemes and connecting the vulnerable people to such schemes so that they benefit from them. This would also include spreading awareness about the law and about the dangers posed by prospective traffickers. The children and adolescent children could be made aware of the dangers of strangers befriending them and the parents cautioned about the falsity of promises made to them of better education for their children in cities. Young adults could similarly be warned about false promises of jobs and better lives.

The SLSAs/DLSAs should create a team of panel lawyers and social workers to spread awareness about the welfare schemes of the government. The PLVs should be used to ensure that all the due diligence processes including eligibility documents and proofs are collected to enable the vulnerable communities to access the various schemes. The DLSA should use their PLVs and their offices wherever necessary to interact with the Administrative heads such as the District Collector or Chief Secretary to ensure the final realisation of the scheme.

The PLVs attached to or assigned to a police station in compliance of the orders of the Supreme Court of India to handle cases of missing children should be given special training by the SLSAs /DLSAs to sensitise them on children's issues as well as trafficking issues, so that

they are responsive. These PLVs must inform the SLSAs/DLSAs whenever such a case of trafficking is reported or arrest of a sex worker occurs at the police station.

Sex Workers: One method of understanding community needs is to organise meetings between the Member Secretary SLSA or Full Time Secretary DLSA and the community leaders where the community leaders can explain the difficulties they face in accessing social entitlements especially the social security schemes such as widow and old age pension schemes even though they fall under eligible category.

The other method is to organize public hearings where community members would “depose”, or in other words relate their experience with governance at all levels. The “jury” should be made up of DLSA Chairperson and /or Full time secretary , other judicial officers wherever possible, high government functionaries such as DC, Principal secretaries or Chief Secretaries, police officers and protection officers. The SLSAs/DLSAs should also involve senior advocates and panel lawyers in such programmes.

After the deposition the Member Secretary /Secretary as the case maybe or the panel advocate should explain to the community about the legal services available in the Legal Services Authority and encourage them to file complaints and seek free legal aid whenever their rights are infringed or they have a legal problem such inheritance etc. The Legal Services Authority can enable the target groups to redress the violence and harassment they face in their day to day life. In cases of violence from partners or husbands, the DLSA along with Protection Officers can provide legal aid and counselling services.

The DLSAs can accredit Para legal volunteers drawn from the community and train them as per the NALSA module. These PLVs can then act as the front line workers of the Authority as far as the community is concerned. The effort must be to ensure “saturation coverage” by having representation from all the blocks of the district and ultimately the entire State.

Once again, the DLSAs should assess the need for schemes in the community and facilitate the access of the community to the various welfare schemes of the government in the manner as mentioned hereinbefore.

Prevention: While ensuring the implementation of government welfare schemes, the SLSAs/DLSAs should pay attention to the structure already available under the Integrated Child Protection Scheme, particularly the setting up of the Village Level Child Protection Committees (VLCPC). These Committees are made up of Panchayat members, school teachers, students and parents from the community. Special awareness programmes should be organized for the VLCPC to keep a watch on the children in the village. The teachers should be sensitized to keep a watch for children missing from school and report them, so that further enquiries about their well being are promptly made.

A similar awareness and sensitization programme should be organized for the Anganwadi and Health workers for younger children and adolescent girls. Again, the SLSAs/DLSAs must ensure that children remaining absent are followed up and reported immediately.

PLVs drawn from the VLCPCs and Anganwadis as well as teachers should be trained with special emphasis on the issues of trafficking and sexual exploitation. The work of these PLVs must be closely monitored. At the same time these PLVs must be given effective mentors and support so that any incident reported is given full and complete attention by the SLSA/DLSA concerned.

Student Legal Literacy Clubs should be encouraged to write about and talk and discuss about trafficking issues. These clubs could play the role of peer educators about the dangers of growing up and how to keep oneself safe.

The SLSAs/DLSAs should strengthen groups who are working to prevent child marriages and empowerment of women. Many times, child and forced marriages are a prelude to trafficking for sexual exploitation. Apart from spreading awareness student groups should be formed in

vulnerable areas and communities to report on child marriages and initiate preventive action.

While dealing with women already in sex work, the SLSAs/DLSAs should focus on the livelihood alternatives to help these women come out of the profession and prevent their children entering it. Women could be encouraged to save money and channelize the money into entrepreneurship which would ensure their social recognition and assimilation. The SLSAs/DLSAs should help the women to protect themselves from domestic violence and provide legal assistance to follow up court cases. They should help these women access all government schemes as mentioned above.

Strategies of prevention and protection of victims of trafficking implemented by the Rural Livelihood Missions should also be understood and explored so as to replicate some of the successful methods and establish collaborative efforts.

Rescue and Rehabilitation: The protocol for the One Stop Crisis Centre would no doubt be available for the rescued victims of trafficking. Apart from ensuring compliance of the directions of the Supreme Court in Prajwala's case, the SLSAs/DLSAs must also follow up with the rehabilitation of the victim chiefly through access to government schemes to provide a stable alternate livelihood for the victims. The DLSAs should ensure that panel lawyers and PLVs help the victims to get their FIR registered and are present during remand proceedings to oppose bail etc. The Panel lawyers should obtain court orders for protection of witnesses wherever necessary and to counsel the victims before deposition and be present during trial including recording of the statement of the victim. The panel lawyers and PLVs should also help the victim to apply to the DLSAs for release of compensation under the Victims Compensation Scheme and also to access other welfare schemes of the Govt. meant for the rehabilitation of such victims.

Management Information Systems: The SLSAs and DLSAs will have to develop a sound MIS so that every activity under this scheme is recorded,

followed up and assessed. Similarly, the assistance of the PLVs and the Panel lawyers given to the victims will have to be recorded and monitored closely by the Secretary DLSA. Where the DLSA has facilitated the rehabilitation, there must be a tracking of the person for at least three years so that the rehabilitation is complete and there is no danger of re-trafficking.

Transgenders: The provisions of this scheme will be applicable to all Transgenders as well.

RELEVANT POLICY VIII

GOVERNMENT OF TELANGANA ABSTRACT

Labour, Employment, Training & Factories Department – The Bonded Labour System (Abolition) Act, 1976 – Re-Constitution of the District Level and Sub-Divisional Level Vigilance and Monitoring Committee in all (31) Districts of the Telangana State for identification, release and rehabilitation of Bonded Labourers – Orders – Issued.

LABOUR EMPLOYMENT TRAINING & FACTORIES (LABOUR) DEPARTMENT

G.O.Ms.No.20,

Dated: 04.04.2018.

Read the following:-

1. Government Circular Memorandum No.3695/H2/97-1, Social Welfare (H2) Department, Dated: 09.06.1997.
2. G.O.Ms.No.127, General Administration (AR&T) Department, Dated: 19.05.2017.
3. From the Commissioner of Labour(FAC), Telangana, Hyderabad, Lr.No.J4/6793/2017, Dated: 23.02.2018.
4. G.O.Ms.No.19, LET&F (Lab) Department, Dated: 04.04.2018.

ORDER:

In the Circular Memorandum 1st read above, the Social Welfare Department, Government of Andhra Pradesh issued orders re-constituting the District Level and Sub-Divisional Level Vigilance and Monitoring Committee in Andhra Pradesh.

2. In the G.O. 2nd read above, the General Administration (AR&T) Department issued orders transferring the subject matter "Scheme of Bonded Labour" from Scheduled Caste Development Department to "Labour, Employment, Training and Factories Department.

3. In the letter 3rd read above, the Commissioner of Labour, Telangana, Hyderabad has furnished proposal for re-constitution of the District Level and Sub-Divisional Level Vigilance and Monitoring Committee in all (31) Districts of the Telangana State for identification, release and rehabilitation of Bonded Labourers.

4. In the G.O. 4th read above, the Government have issued orders re-constituting the State Level Monitoring Committee for elimination of the Bonded Labour and for implementation of the Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016 in Telangana State.

5. Government, after careful examination of the matter, has decided to re-constitute the District Level and Sub-Divisional Level Vigilance and Monitoring Committee in all (31) Districts of the Telangana State for identification, release and rehabilitation of Bonded Labourers under Sub-Sections (2) & (3) of Section-13 of the Bonded Labour System (Abolition) Act, 1976 (Central Act, 19 of 1976).

Contd....2

6. Accordingly, the following notification shall be published in an Extra-ordinary Issue of the Telangana Gazette, dated: 07.04.2018.

NOTIFICATION

In exercise of the powers conferred under the provisions of sub-sections (2) & (3) of Section-13 of the Bonded Labour System (Abolition) Act, 1976 (Central Act 19 of 1976), Government of Telangana hereby re-constitutes the District Level and Sub-Divisional Level Vigilance and Monitoring Committee in all (31) Districts of the Telangana State for identification, release and rehabilitation of Bonded Labourers with the following members:

District Vigilance and Monitoring Committee			Sub-Divisional Vigilance and Monitoring Committee		
1	District Magistrate & Collector	Chairman	1	Sub-Divisional Magistrate / Revenue Divisional Officer	Chairman
2	Joint Collector	Convenor	2	Deputy Superintendent of Police / Deputy Commissioner of Police	Member
3	Superintendent of Police / Commissioner of Police	Member	3	Assistant Labour Officer	Convenor
4	Deputy Commissioner of Labour / Assistant Commissioner of Labour	Member	4	(a) Assistant Social Welfare Officer (b) Assistant Tribal Welfare Officer	Member
5	(a) District Social Welfare Officer (b) District Tribal Welfare Officer	Member	5	Three persons belonging to the SCs or STs (to be nominated by the Chairman)	Member
6	One person to represent the financial and credit institutions (Banks) in the District (to be nominated by the District Magistrate)	Member	6	Two Social Workers (to be nominated by the Chairman)	Member
7	Three persons belonging to the SCs / STs (to be nominated by the District Magistrate)	Member	7	Three persons to represent official or non-official agencies in the sub-divisional connected with Rural Development (to be nominated by the District Magistrate)	Member
8	Two Social Workers (to be nominated by the District Magistrate)	Member	8	One person to represent the financial and credit institutions (Banks) in the sub-divisional (to be nominated by the Chairman)	Member
9	Three persons representing official or non-official agencies (Voluntary) in the District connected with Rural Development (to be nominated by the District Collector)	Member	9	One officer in the sub-division specified by the District Magistrate	Member
10	Representatives of District Legal Services Authority (District Level) (to be nominated by the District Magistrate)	Member	10	Representatives of District Legal Services Authority (Sub-Divisional Level) (to be nominated by the Chairman)	Member

Contd.....3

7. The above committees will discharge the following functions:-

- a) Advise the District Magistrate or any officer authorized by him as to the efforts made and action taken, to ensure that the provisions of this Act or of any rule made there under are properly implemented;
- b) Provide for the economic and social rehabilitation of the freed bonded labourers;
- c) Co-ordinate the function of rural banks and co-operative societies with a view to canalising adequate credit to the freed bonded labourers;
- d) Keep an eye on the number of offenses for which cognizance has been taken under this Act;
- e) Make a survey as to whether there is any offence of which cognizance ought to be taken under this Act;
- f) Defend any suit instituted against a freed bonded labourer or a member of his family or any other person dependent on him for the recovery of the whole or part of any bonded debt or any other debt which is claimed by such person to be bonded debt.

Vigilance committee may authorize one of its member to defend a suit against a freed bonded labourer and the members authorized shall be deemed, for the purpose of such suits, to be authorized agent of the freed bonded labourer.

g) Ensure implementation of the provisions of the Act by taking steps to:-

- i) Identify bonded labourers and examine their conditions;
- ii) Re-negotiate wherever possible working conditions of bonded labourers with the employers on the basis of the employer's public undertaking to re-establish legal rights and clear dues provided that safety of the bonded labour can be guaranteed and the employer kept under watch to prevent re-lapse into bondage;
- iii) Receive information about locals who are held in bondage in other States, and report details to the Government for action;
- iv) Facilitate rescue efforts by involving the police, district and labour officials, legal – aid members or lawyers, NGO's both within the area or from other States with respect of labourers originating from the area;
- v) Assist the released bonded labourers in registering an FIR and obtaining the "release certificate" and where necessary follow up on the same;
- vi) Serve as reception and rehabilitation committee in respect of released bonded labourers originating from the area;
- vii) Ensuring that the immediate need for food, health, clothing, transportation and interim housing arrangement are taken care of;
- viii) Provide counseling and psychological support in trauma conditions through trained personnel and also assist the family unit to re-integrate in society;
- ix) Ensure that subsistence grant of Rs.20,000 per bonded labour, as required by the law, is paid immediately.

Contd.....4

- x) Ensure that the provisions of the Bonded Labour System (Abolition) Act, 1976 relating to extinguishment of bonded debt, non-ouster from homestead, restoration of property or release of property from mortgage, recovery of dues and compensation where applicable, are implemented;
- xi) Ensure that the release rehabilitation be a single composite step with long-term sustainable arrangements finalized within three months, as far as possible;
- xii) Consult the freed labourer on the method of his rehabilitation, considering his or her background, and specific needs and talents;
- xiii) Provide consumption loan or monthly sustenance, being a reasonable amount, in the Interregnum between release and rehabilitation or until suitable employment is found;
- xiv) Arrange alternative wage-employment through preferential treatment to the released individual.
- xv) Arrange or extend skill training or other adult education schemes utilizing the help of private or voluntary sector;
- xvi) Assist the freed labourer in obtaining financial assistance, subsidies through state funds or from nationalized banks.
- xvii) Endeavour to rehabilitate the individual in the same occupation. Co-operatives or collectives, wherever feasible, be encouraged for groups or released bonded labourers, on a preferential basis and all the complementary assistance such as training and managerial and marketing support be provided;
- xviii) Be vigilant against abuse or misappropriation of rehabilitation benefits by recommending stringent action against offenders;
- xix) Review rehabilitation efforts to assess if second dose or additional measures are necessary;
- xx) Recommend long-term measures through convergence of anti-poverty schemes, specific development programs and welfare measures including housing, cultivable land where bonded labourers receive preferential treatment;
- xxi) Assign rehabilitation package, in the name of the women of the household;
- xxii) Take all steps to prevent and preempt entrapment into bondage, through enforcement of the Bonded labour system (Abolition) Act, 1976;
- xxiii) Critically assess the socio-economic condition creating bondage and devise means of curbing them;
- xxiv) Study sensitive occupations known to employ bonded labour and employ specific measures;
- xxv) Review the functioning of Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 and the Contract Labour (Regulation and Abolition) Act, 1970 to prevent its abuse for employing bonded labour;
- xxvi) Maintain a list of employers of bonded labour, recruiters and agents and initiate criminal action against them and follow up diligently with prosecutions;

Contd.....5

xxvii) The principal employer will be liable for offenses under the Bonded Labour System (Abolition) Act, 1976;

xxviii) Step up enforcement of the Minimum Wages Act.

8. Further it is decided that one Vigilance and Monitoring Committee shall be constituted at District Level in every District and one Vigilance and Monitoring Committee each shall be constituted at Sub-Divisional Level in every Revenue Sub-Divisions in the State.

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9. All the District Collectors are requested to constitute the Vigilance and Monitoring Committees at District and Sub-divisional level as above by notifying in the District Gazette and send the copies of the notification to the Commissioner of Labour for record.

10. The District Collectors are directed to ensure that meetings of Sub-divisional level committees are conducted every month. The District level Committee meetings shall be conducted for every quarter and proceedings of these meeting should be sent regularly to the Commissioner of Labour. The Commissioner of Labour shall review these reports and send quarterly progress report to the Government.

11. The District Collectors must send their monthly and quarterly progress reports in the already prescribed formats to the Commissioner of Labour, Telangana, Hyderabad.

12. The District and Sub-divisional level Vigilance and Monitoring committees shall maintain all the registers as prescribed in Section 7 of the Bonded Labour System (Abolition) Act, 1976.

13. The Commissioner of Labour, Telangana, Hyderabad shall take further action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. SHASHANK GOEL,
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Commissioner of Printing, Stationary and Stores Purchases (PW),
Chanchalguda, Hyderabad.

All the District Collectors in the State.

All Sub-Divisional Police Officers / Revenue Divisional Officers /
Sub-Collectors / Assistant Collectors.

All Superintendents of Police of the State.

The Commissioner of Labour, Telangana, Hyderabad.

The Commissioner of Scheduled Caste, Telangana, Hyderabad.

The Commissioner of Tribal Welfare, Telangana, Hyderabad.

Copy to:

The P.S. to Special Secretary to Chief Minister

The P.S. to Minister (Home & Labour)

The P.S. to Chief Secretary to Government

The Scheduled Caste Department

The Law (F) Department

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// FORWARDED :: BY ORDER //

SECTION OFFICER

RELEVANT POLICY IX

GOVERNMENT OF TELANGANA ABSTRACT

Labour, Employment, Training & Factories Department – The Bonded Labour System (Abolition) Act, 1976 – Committees – Re-Constitution of the State Level Monitoring Committee for Elimination of the Bonded Labour – Implementation of the Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016 in Telangana State – Orders – Issued.

LABOUR EMPLOYMENT TRAINING & FACTORIES (LABOUR) DEPARTMENT

G.O.Ms.No. 19

Dated: 04-04-2018.

Read the following:-

1. G.O.Ms.No.77, Social Welfare (H2) Department, Dated: 09.06.1997.
2. G.O.Ms.No.127, General Administration (AR&T) Department, Dated: 19.05.2017.
3. From the Commissioner of Labour, Telangana, Hyderabad, Lr.No.J4/6793/2017, Dated: 23.02.2018.

ORDER:

In the G.O. 1st read above, Social Welfare Department, Government of Andhra Pradesh have issued order re-constituting the State Level Screening Committee in Andhra Pradesh.

2. In the G.O. 2nd read above, the General Administration (AR&T) Department has issued orders transferring the subject matter "Scheme of Bonded Labour" from Scheduled Caste Development Department to "Labour, Employment, Training and Factories Department.

3. In the letter 3rd read above, the Commissioner of Labour, Telangana, Hyderabad has furnished proposal for re-constitution of the State Level Monitoring Committee for elimination of the Bonded Labour and for implementation of the Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016 in Telangana State.

4. Government, after careful examination of the matter, hereby re-constitutes the State Level Monitoring Committee for elimination of the Bonded Labour and for implementation of the Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016 in Telangana State with the following members:

1	Chief Secretary to Government	Chairperson
2	Principal Secretary to Government, LET&F Department	Member / Convener
3	Principal Secretary to Government, Finance Department	Member
4	Special Chief Secretary / Principal Secretary to Government, Revenue Department	Member
5	Secretary to Government, Department for Women, Children, Disabled & Senior Citizen	Member
6	Secretary to Government, Law Department	Member
7	Principal Secretary to Government, Panchayat Raj & Rural Development Department	Member
8	Principal Secretary to Government, School Education Department	Member
9	Principal Secretary to Government, Health Medical & Family Welfare Department	Member

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10	Principal Secretary to Government, Home Department	Member
11	Principal Secretary to Government, Municipal Administration & Urban Development Department	Member
12	The Special Chief Secretary & Chief Commissioner of Land Administration Department	Member
13	The Director General of Police, Home Department	Member
14	The Commissioner of Labour, Telangana, Hyderabad	Member
15	The Commissioner & Director, School Education Department, Telangana, Hyderabad	Member
16	The Director, Agriculture Department, Telangana, Hyderabad	Member
17	The Director of Factories, Telangana, Hyderabad	Member
18	The Director of Skill Development Board, Telangana, Hyderabad	Member
19	Local Representative, United Nations Children's Fund (UNICEF)	Member
20	Representative, Corporate Social Responsibility (CSR) Unit of Telangana Confederation of Indian Industry (CII)	Member
21	Representative, Federation of Telangana and Andhra Pradesh Chambers of Commerce and Industry (FTAPCCI)	Member

5. The functions of the committee with respect to elimination of Bonded Labour in the State will be as follows:

- a) It shall review the functioning of District Level Vigilance and Monitoring Committees and the functions of various Departments with regard to the identification, release and rehabilitation of Bonded Labourers in the State.
- b) It shall also take the following measures:-
 - (i) Take all Steps to prevent and preempt entrapment into bondage, through enforcement of the Bonded Labour System (Abolition) Act, 1976.
 - (ii) Critically assess the socio-economic condition creating bondage and devise means of curbing them.
 - (iii) Study sensitive occupations known to employ bonded labour and take specific measures.
 - (iv) Ensure the setting up of rural credit facilities such as Grameena Banks, Co-Operatives etc., from which short-term interest loans can be availed without security.
 - (v) Review the functioning of the Inter-State Migrant Workmen (Regulation of Employment Conditions of Service) Act, 1979 and the Contract Labour (Regulation and Abolition) Act, 1970 to prevent its abuse for employing bonded labour.
 - (vi) Review the enforcement of Minimum Wages Act.

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6. The State Level Monitoring Committee should meet as frequently as required but at least once in six months.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. SHASHANK GOEL,
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Principal Secretary to Government, Finance Department.
The Special Chief Secretary to Government, Revenue Department.
The Secretary to Government,
Department for Women, Children, Disabled & Senior Citizens.
The Secretary to Government, Law Department.
The Principal Secretary to Government,
Panchayat Raj & Rural Development Department.
The Principal Secretary to Government, School Education Department.
The Principal Secretary to Government,
Health Medical & Family Welfare Department.
The Principal Secretary to Government,
Municipal Administration & Urban Development Department.
The Principal Secretary to Government, Home Department.
The Special Chief Secretary &
Chief Commissioner of Land Administration Department.
The Commissioner of Labour, Telangana, Hyderabad.
The Director General of Police, Telangana, Hyderabad.
The Commissioner & Director, School Education, Telangana, Hyderabad.
The Director, Agriculture Department, Telangana, Hyderabad.
The Director of Factories, Telangana, Hyderabad.
The Director, Skill Development Board, Telangana, Hyderabad.
The Representative, UNICEF, Hyderabad.
The Representative, Corporate Social Responsibility (CSR)
unit of Telangana CII, Hyderabad.
The Representative, Federation of Telangana and Andhra Pradesh
Chambers of Commerce and Industry (FTAPCCI), Hyderabad.
All District Collectors in the State.
Copy to:
The P.S. to Special Secretary to Chief Minister
The P.S. to Minister (Home & Labour)
The P.S. to Chief Secretary to Government
The P.S. to Principal Secretary to Government, LET&F Department
The Law (F) Department
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SECTION OFFICER

RELEVANT POLICY X

GOVERNMENT OF TELANGANA ABSTRACT

The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 and the Child Labour (Prohibition and Regulation) Act, 2016 – Committees – Constitution of State Level Monitoring Committee on elimination of Child Labour – Orders – Issued.

LABOUR EMPLOYMENT TRAINING & FACTORIES (LABOUR) DEPARTMENT

G.O.Ms.No. 25

Dated: 23-06-2017

Read the following:

- Minutes of the Meeting under the Chairmanship of the Chief Secretary held on 06.05.2017.
- From the Commissioner of Labour, Telangana, Hyderabad, Lr.No.J1/2374/2017, dated: 25.5.2017.

ORDER:

In the meeting convened by the Chief Secretary to the Government on 06.05.2017, it was recommended to constitute a State Level Monitoring Committee (SLMC) on Elimination of Child and Adolescent Labour in the State.

2. In the letter 2nd read above, the Commissioner of Labour, Telangana, Hyderabad has submitted proposal for constitution of State Level Monitoring Committee on elimination of Child Labour.

3. Government, after careful examination of the proposal submitted by the Commissioner of Labour in the reference 2nd read above, hereby decided to constitute a State Level Monitoring Committee (SLMC) with the following Members:

1	Chief Secretary to Government	Chairperson
2	Principal Secretary to Government, LET&F Department	Member / Convener
3	Secretary to Government, Finance Department	Member
4	Secretary to Government, Department for Women, Children, Disabled & Senior Citizen	Member
5	Secretary to Government, Law Department	Member
6	Principal Secretary to Government, Panchayat Raj & Rural Development Department	Member
7	Principal Secretary to Government, School Education Department	Member
8	Principal Secretary to Government, Health Medical & Family Welfare Department	Member
9	Principal Secretary to Government, Municipal Administration & Urban Development Department	Member
10	The Director General of Police, Home Department	Member
11	The Commissioner of Labour, Telangana, Hyderabad	Member
12	The Commissioner & Director, School Education Department, Telangana, Hyderabad	Member

Contd....2

13	The Director, Agriculture Department, Telangana, Hyderabad	Member
14	The Director of Factories, Telangana, Hyderabad	Member
15	The Director of Skill Development Board, Telangana, Hyderabad	Member
16	Local Representative, United Nations Children's Fund (UNICEF)	Member
17	Representative, Corporate Social Responsibility (CSR) Unit of Telangana Confederation of Indian Industry (CII)	Member
18	Representative, Federation of Telangana and Andhra Pradesh Chambers of Commerce and Industry (FTAPCCI)	Member

3. The concerns of the committee will be

- (i) to finalize and update periodically the strategy for elimination of child labour in Telangana State ,
- (ii) to issue guidelines for conduct of survey / periodical updation of the data regarding prevalence of child labour in hazardous occupations,
- (iii) to approve action plans / programmes for release and rehabilitation of child labour,
- (iv) to monitor and enforcement of relevant labour laws relating to release of children from hazardous occupations and other working children,
- (v) to monitor the programmes relating to education of children released from work and particularly implementation of National Child Labour Projects,
- (vi) to issue guidelines and monitor the employment / rehabilitation of families of child labour as per the directions of the Supreme Court,
- (vii) to monitor the implementation of directions of the Supreme Court relating to "Child Labour rehabilitation-cum-welfare fund" constituted as per the directions of the Supreme Court.

4. The State Level Monitoring Committee should meet as frequently as required but at least once in a quarter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

DR. RAJAT KUMAR,
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Principal Secretary to Government, LET & F Department
The Secretary to Government, Finance Department
The Secretary to Government, Women, Children, Disabled & Senior Citizens Dept
The Secretary to Government, Law Department
The Principal Secretary to Government, Panchayat Raj & Rural Development Dept
The Principal Secretary to Government, School Education Department
The Principal Secretary to Government, Health Medical and Family welfare Dept
The Principal Secretary to Government, Municipal Administration & Urban Development Department
The Commissioner of Labour, Telangana, Hyderabad.
The Director General of Police, Telangana, Hyderabad
The Commissioner and Director, School Education, Telangana, Hyderabad

Contd....3

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The Director, Agriculture Department, Telangana, Hyderabad
The Director of Factories Department, Telangana, Hyderabad
The Director of Skill Development Board, Telangana, Hyderabad
The Representative, UNICEF, Hyderabad.
The Representative, Corporate Social Responsibility (CSR) unit of Telangana CII, Hyderabad.
The Representative, FAPCCI (unit of Telangana), Hyderabad.
All District Collectors in the State.

Copy to:

The P.S. to Special Secretary to C.M.
The P.S. to Minister(Home & Labour)
The P.S. to Chief Secretary to Government
The P.S. to Prl. Secy., LET&F Dept.,
SC/SF

// FORWARDED :: BY ORDER //

SECTION OFFICER



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