

NHRC - UNIFEM - ISS Project

**A Report
on
Trafficking in Women and Children in India
2002-2003**

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Volume I



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Final Report of Action Research on Trafficking in Women and Children

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Foreword

Irrefutable is the fact that trafficking in women and children, an obscene affront to their dignity and rights, is a gross commercialization of innocent human lives, indulged in by organized criminals. Trafficking violates all known canons of human rights and dignity. In this world of tragic and complex human abuse, women and children form a particularly vulnerable class. In the existing social scenario in India, vulnerability is a product of inequality, low status and discrimination as well as the patriarchal and captivating authority unleashed on children, especially the girl child. All of this is further compounded by an apathetic attitude of society fueled by a mindset which views women as mere chattels. With no freedom of choice and options for a life with dignity, these hapless women and children are merrily trafficked and exploited forcing them to lead a life crippled with indignity, social stigma, debt bondage and a host of ailments including HIV/AIDS.

While on the one side the situation is disquieting and disturbing, the response by agencies concerned, on the other side, is equally disturbing for want of sensitivity, responsiveness and commitment. The void is so wide, in the given response scenario, that it is the trafficked victim who gets further victimized, violated and more often than not re-trafficked. Moreover, very often, trafficking is equated with prostitution and this is one of the prime reasons why the human rights violation inherent in trafficking is not correctly understood and the traffickers who are the actual “criminals” get away scot free. Therefore, a need was felt for demystification of the term and understanding the trends and dimensions from a human rights paradigm.

This path breaking action research project was commissioned by the NHRC as it felt the need for an empirical study of this complex multi-layered and multi-dimensional problem. The study was carried out with the support of UNIFEM and conducted by the Institute of Social Sciences. It is a unique experiment in several ways. For the first time in history a study of this dimension has been commissioned by NHRC. The research process was action-oriented and action packed with several activities of anti-trafficking (including prevention, protection and prosecution) being ignited, aided and facilitated by the NHRC-UNIFEM-ISS network. A perceptible momentum, based on human rights of women and children, has been created in the country, thanks to the processes undertaken in this research. Moreover the study has been both extensive and intensive, as well as multi-dimensional and multi-centric. Not only the push and pull factors have been studied but even the demand side has been looked into, by interviewing the ‘victims’ and traffickers, many of whom are at large, as the law never caught up with them. The study has gone through a very challenging process, which was systematic and purposive, and, therefore, this report is an epitome of the hardwork done by the entire team.

The research laid bare the multi-dimensional nature of the problem, loopholes in the law, gaps in law enforcement, involvement of organized mafia and the agonies of the victims. It also revealed that India serves as a source, transit and destination where thousands of women and children are exploited day in and day out. It also reveals that an important feature of the trafficking

network is an efficient coordination of what appears to be a fragmented process. The actors in the trafficking network collaborate and protect each other.

The research report, in two volumes, is comprehensive and fathoms the various aspects cardinal to the understanding of the issues concerned in a human rights paradigm. The case studies presented in volume 2 have enriched the quantitative data by leaps and bounds.

I am delighted that the study conducted under the direct supervision of my colleague, Justice Mrs. Sujata V. Manohar, Member, NHRC, who is the focal point in NHRC for issues relating to women and children, has seen the best contribution from the members of the team, who have put in systematic and dedicated service to the cause of human rights. I take this opportunity to congratulate Dr. George Mathew, Director, ISS, Mr. Sankar Sen, the coordinator of the research and Mr. P.M. Nair, IPS, the principal researcher-cum-investigator and all members of the team who have worked on the project as well as all those who have contributed to the project. I am also thankful to Ms. Chandni Joshi and other members of UNIFEM for their unstinted support and involvement.

I hope this report in two volumes, will be of immense use to human rights agencies, government, civil society, media, social activists, policy planners and all concerned, in India and elsewhere, to understand the issues in an objective manner and to take appropriate steps in preventing and combating trafficking, which is the gravest affront to human dignity.

I do hope that the facts and figures unraveled by this painstaking study for about two years and the insightful conclusions and recommendations it contains will bestir central and state governments as well as civil society into purposive action, to contain and suppress this 'modern day slavery', which is one of the greatest human rights challenges of our time. Unless we fight for the victims or potential victims and champion their dignity, we will not be able to embrace fully our own dignity as human beings. Let us act - NOW - tomorrow may be too late!

A.S. Anand
Chairperson,
National Human Rights Commission,
New Delhi

18th July, 2004

Foreword

Prostitution is often referred to as the oldest profession in the world. This statement has clear overtones of derision and inevitability which unfortunately tend to get attached to victims of sexual exploitation and trafficking. It would be far more accurate to describe instead, trafficking as the oldest business in the world – and incidentally, one of the most lucrative. There is nothing inevitable about such a business, as the law enforcers may like to believe. Given proper laws, strict law enforcement and socio-economic programmes for the empowerment of the vulnerable and the victims, trafficking can be effectively checked. The purpose of this “action” research is to identify vulnerable areas and groups, to ascertain causes of weak law enforcement and provide data for creation of proper programmes and policies to check trafficking effectively.

Trading in human beings and their exploitation in varied forms by traffickers in human beings is one of the most despicable forms of violation of human rights. Trafficking in its widest sense includes not just exploitation of prostitution of others or forms of sexual exploitation, it also includes forced labour or services, slavery or practices similar to slavery or trade in human beings for removal of organs. Trafficking clearly violates the fundamental right to a life with dignity. It also violates right to health and health care, right to liberty and security of person, right to freedom from torture, violence, cruelty or degrading treatment. It violates for children who have been trafficked, or victims of child marriages their right to education, it violates the right to employment and the right of self determination.

Unfortunately, there is little awareness of the ramifications of trafficking as a transnational organised crime. The income generated by trafficking is comparable to the money generated through trafficking in arms and drugs. There is, in addition, a lack of adequate laws which should recognise that the trafficked person is a victim and not a criminal. Laws do not adequately target traffickers, pimps, procurers, brothel keepers and the like; or provide adequate punishments. The laws do not address clients. It is also unfortunate that the infrastructure for rescue and rehabilitation is grossly inadequate. Both the law as well as administrative policies have not addressed these issues adequately and with imagination. As a result, many rescued victims are re-trafficked.

When the National Human Rights Commission set up a Focal Point on trafficking and women’s human rights in 2001 and appointed me as the focal point, one of the major problems I faced was lack of reliable data on the nature and extent of trafficking prevalent in India – either within the country, or from across national borders or in transit. Without reliable data it was difficult to formulate strategies to combat trafficking. It was to fill this gap and to collect reliable data that one of the first projects undertaken by the Focal Point was to prepare a detailed study on trafficking in India based on reliable data with the help of a reputed Social Sciences Institute, the police and the NGOs working in the field. Inputs from the government were also requested. One important object of this project was to create sensitivity to the issue in the general public through holding appropriate programmes, to generate and understanding of the issues among

administrators, the police and the judiciary and to activate and support NGOs working in the field. If NHRC has succeeded in achieving some of these objectives, the credit must go to the entire research team. In the process, NHRC has succeeded in creating a national network of nodal officers on trafficking, appointed state-wise by the concerned governments.

The NHRC with the help of UNIFEM launched the project in October, 2001. Without the financial support of UNIFEM, such an extensive survey would not have been possible. The Institute of Social Sciences, Delhi was entrusted with the execution of the project and Mr. Sankar Sen, the former DGI of NHRC was put in charge of the project by the ISS, Delhi. He has discharged his manifold responsibilities relating to a very complex issue with understanding and sensitivity. Mr. P.M. Nair, Inspector General of Police, Bihar was selected as the nodal officer of NHRC and was deputed to the Commission for this work. He has shown great initiative and drive, holding several sensitisation and training sessions with the police, the Border Security Force, NGOs and others in the course of his research and undertaking rescue operations in individuals cases when requested. He has played a key role in the outcome of the research and has fully justified the confidence NHRC placed in him. Many experts and staff of the Institute of Social Sciences, Delhi have contributed to the report. Their work has been acknowledged by Mr. Sankar Sen, and I thank them for their help and support. I must also mention the special contribution of Dr. Savita Bhakhry, Senior Research Officer of NHRC whose expertise in social science research helped in the designing of questionnaires for data collection by the eleven NGO research partners, selecting sample sizes, preparation of codebooks and monitoring data collection. Dr. B.S. Nagi and she did basic work for data collection, and gave orientation and training to the field staff.

I must express my appreciation of the overall control exercised by Dr. George Mathew over the entire project. His personal attention to the final collation of data and the two volumes of the report have made all the difference to the ultimate outcome. Above all, I must thank UNIFEM, especially Ms. Chandni Joshi and Ms. Nandita Barua for their cooperation and support. I will fail in my duty if I do not acknowledge the help and support I received in carrying through the project from the two chairpersons of the Commission – Justice J.S. Verma and Dr. Justice A.S. Anand.

I hope this report and the case studies will help in creating a better understanding of trafficking in the country. It should also help in pinpointing vulnerabilities, strategies which have worked in strengthening the vulnerable and in creating proper programmes and policies to tackle trafficking. I hope it will help in the enactment of a proper comprehensive legislation to target traffickers and provide for proper rescue and rehabilitation programmes for the victim survivors.

I hope the report will lead to proper policies and comprehensive laws for the apprehension, prosecution and punishment of traffickers, and proper action at the government as well as NGO level to prevent trafficking, to create programmes which empower the vulnerable and to frame proper measures to rehabilitate and restore to the trafficked and exploited women and children of our country, their dignity and worth as human beings.

Mrs. (Justice) Sujata Manohar
Focal Point on Trafficking & Women's Human Rights,
National Human Rights Commission, New Delhi

women and children. It was her personal commitment and dedication to the issues of women's rights that made this study more than a simple research and has become a tool for continued action and advocacy at various levels to combat trafficking. I take this opportunity to congratulate ISS, who under the able guidance of Dr. George Mathew, Director ISS, Mr. Sankar Sen, coordinator of the research and Mr. P.M. Nair (IPS) the principal researcher-cum-investigator and all the other researchers who made this research a reality.

This research is the outcome of the hard work of many grassroots organizations and NGO without whose active support and collaboration such a comprehensive report would not have been possibly got of the ground. I would like to thank each and every one of the organization who have contributed to the research for their excellent work. My thanks to all my colleagues at UNIFEM; Nandita Baruah, Regional Coordinator of the Anti-trafficking Program for her continued feedback and guidance throughout the research period, Richa Macsuedon Program Officer and Geetha Balasubramanian, Resource Center Manager for their contribution and support during the research, and all others who have worked towards making this research a comprehensive well thought out document.

Last but not the least, I would like to thank the USAID who have provided us with the financial support to carry out our regional initiatives to combat human-trafficking. This study is a part of our ongoing regional anti- trafficking program.

Finally I am sure that this study and the supporting case studies will be of great value to all agencies, institutions and individuals working towards prevention of trafficking and promotion of human rights of women and children, I look forward to the government, the NHRC and all other stakeholders to take on the recommendations made in this study and continue our joint battle to fight this most in-human trade in Human Misery

Chandni Joshi
Regional Program Director 20th
UNIFEM (SARO)

August, 2004

Preface

TRAFFICKING in women and children is the most abominable violation of human rights. Perhaps not many crimes are as ghastly as trading in human misery. Human rights guaranteed by the Indian Constitution are inalienable, non-negotiable and universal. Trafficking in women and children is a violation of several human rights including the very right to life, the right to liberty and human dignity, and security of person, the right to freedom from torture or cruelty, inhuman or degrading treatment, the right to a home and family, the right to education and proper employment, the right to health care and everything that makes for a life with dignity. Trafficking in women and children is on the rise. And yet, the redressal mechanisms are woefully inadequate and the way the various governmental agencies have dealt with this gross violation of human rights has left much to be desired. This dichotomy calls for an in-depth understanding of the dimensions of trafficking in India as also the need for creating an authentic database, which would help devise appropriate measures to protect human rights with greater vigour.

In view of the rising graph of trafficking in women and children, the 'Focal Point' in the NHRC on the human rights of women (including matters relating to trafficking), chaired by the Member of NHRC, Hon'ble Justice (Smt.) Sujata V. Manohar, called a meeting of a select group of persons concerned with the issues, representing UNIFEM, UNFPA, DWCD, CBI and NHRC. In the course of several rounds of meetings and discussions it was decided that NHRC, in collaboration with UNIFEM, will spearhead the action-oriented research. DWCD was involved in the various meetings held to decide the scope and process of research. After several consultations, the Institute of Social Sciences (ISS) was selected for the task of carrying out this research.

Mr. Sankar Sen, IPS (Retd.) (former Director of National Police Academy and Director General of NHRC), Head, Human Rights Division of the Institute of Social Sciences, was the coordinator of this study—the first of its kind in India. His long years of experience in the highest positions of police service and in the National Human Rights Commission contributed significantly to making this study one of the best research programmes the Institute had undertaken in the past several years. His understanding of the problem at hand and commitment to the cause were extraordinary.

Mr. P. M. Nair, IPS was the Nodal Officer of the NHRC for this project and was based at ISS. He was the Principal Investigator-cum-Researcher of this study. Mr. Nair has brought to this study not only his vast experience in working on various trafficking crimes having international ramifications, which he handled while serving the Central Bureau of Investigation and Bihar Police, but also his commitment and dedication to the cause of women's rights and child rights.

Since law enforcement has a critical role to play in combating trafficking it is unfortunate that in India, the number of law enforcement officials who fully comprehend the human dimension and practice a rights approach to the problem are few and far between. Mr. Nair is one among this minority. Despite the demands of the police service, he had pursued academic interests. From the very beginning, Mr. Nair left no stone unturned to make this study as qualitative as possible. He

travelled extensively, contacted all the actors concerned with this issue, led a research team, collected and collated data, and coordinated reports from all parts of the country. But for his hard work and commitment as well as his insightful understanding of the problem, this report would not have been possible. I am grateful to the Government of India and the Government of Bihar for making available Mr. Nair's services on deputation to the Institute of Social Sciences.

My very special thanks are due to Ms. Chandni Joshi, Regional Programme Director, UNIFEM, South Asia Regional Office. Ms. Nandita Baruah, Regional Programme Coordinator, UNIFEM, South Asia Anti-Trafficking Project, was not only an interlocutor between NHRC, UNIFEM and ISS but an exceptionally committed social researcher-cum-activist, who saw the entire process through to the end in spite of several heavy odds.

I must say that it was a pleasure to work with Justice Sujata Manohar, Member, NHRC, for this project. Her mild yet persuasive manner and gentle way of handling matters made things easier for all of us.

A large number of researchers, civil society organisations and officials from all over India, and above all, the research faculty of the ISS, contributed immensely to this project. Because of obvious reasons, it is not possible to list all their names here. I express my gratitude and heartfelt thanks to each and every one of them.

The scope and ambit of the study was vast and challenging; something on this scale had never been done before. It also saw the cooperation and partnership of governmental and non-governmental agencies. Although Nepal and Bangladesh were not covered by the study, the research team, in cooperation with some NGOs active in the anti-trafficking movement in these countries, was able to develop some very good case studies. Our thanks are due to all those organisations who have directly or indirectly helped us in accomplishing the task.

The wealth of data generated from the research will, no doubt, be of immense value to all those who are involved in the anti-trafficking movement. It will be even more useful to those who are framing laws and policies to deal with it. More importantly, it will raise awareness about the issue and encourage public intervention. There is no doubt that the spin-offs have been instrumental in creating a national momentum on anti-trafficking.

It goes without saying that this unique action-oriented research was possible because of the coming together of the NHRC, which commands immense respect throughout the country, the Department of Women and Child Development of the Government of India and UNIFEM, which has displayed a missionary zeal in their commitment to the anti-trafficking cause. Perhaps this is the first time in the history of India, and probably the world, that an issue pertaining to a serious violation of human rights has been researched by a trio comprising a human rights agency, a government department and an NGO, ably supported by a UN body. As regards the Institute of Social Sciences, it was an invaluable experience to take up this challenging task and work in cooperation with governments and society across several states in India.

I am sure that the findings and recommendations of the study will open up new possibilities to create a world free from trafficking of children and women.

George Mathew
Director
Institute of Social Sciences, New Delhi

28 June 2004

Acknowledgements

The National Study Team (NST), which conducted this study, included experienced professionals in the respective fields. Prof. B.S. Baviskar, retired Professor of Sociology, Delhi University, and presently Senior Fellow, ISS, provided orientation and guidance to the research by imparting technical know-how and expertise on the sociological methods required for the review of literature, preparing tools for interview, data collection, data analysis and data presentation. Mr. P.M. Nair, IPS (Inspector General of Police), on deputation from government, functioned as the Nodal Officer of NHRC. He was the chief subject expert, the principal researcher-cum-investigator as well as the full-time sheet anchor for the study and action programmes. He participated in data collection in the field, facilitated the process of research by clearing bottlenecks and was actively involved in advocacy and training programmes as well as developing case studies. The NST also had the association of experts on research methodology, whose contributions are acknowledged. This includes Prof. Sugan Bhatia, who prepared the initial draft papers to commence the study, and Dr. B.S. Nagi, who along with Dr. Savita Bhakhry (Senior Research Officer of NHRC) prepared the interview schedules and codebooks for data analysis and Dr. K.P. Sunny, who provided the technical expertise, especially on the statistical and econometric tools for analysis of quantitative data. The full-time researchers included Ms. Itishree Mohanty (data collection, analysis and preparing case studies), Mr. Habibur Rahman and Ms. Sheikh Hasina (data coding and compilation) and Ms. Farah Yasmin Abdullah (editing). The part-time researchers included Ms. Anita Lodhi, Ms. Usha Gopinath, Dr. Paramita Majumdar, Dr. Aravinda Satyavada, Ms. Amrita Dev, Ms. Jayashree Ahuja and many others, who rendered invaluable help. Mr. Joshy Jose, along with Mr. Janarthan, provided unstinted secretarial support. This study has also benefited from the support and insightful contributions of several interns from various universities especially Ms. Swagata Raha.

The study was supported by UNIFEM in manifold ways. Besides providing the required financial resources, Ms. Chandni Joshi and Ms. Nandita Baruah have been part of the study by way of technical back-up, providing the services of its resource centre, intervention with the various stakeholders in the field, and participating in discussions and deliberations which shaped and guided the research process.

The staff of NHRC provided immense help throughout. Mrs. S. Jalaja, Joint Secretary, expedited the process of procuring secondary data from the relevant state governments. Mr. Ajit Bharihoke, Registrar, NHRC, facilitated the focus group discussions with judicial officers. The support staff of NHRC rendered assistance, whenever needed, in streamlining various activities that contributed to the smooth process of research.

Outstanding professionals and experts like Dr. N.R. Madhava Menon, Prof. S.N. Ranade, Prof. Partha Nath Mukherji, Prof. Moolchand Sharma and Dr. Sasikumar have made significant contributions in the value addition of the report. Dr. Achal Bhagat, Consultant Psychiatrist, who contributed a chapter, ‘Mind of the Survivor: Psychosocial Impacts and Interventions for the Survivor of Trafficking’ deserves special mention. We had also received excellent cooperation from several officials and activists from different places in India and even abroad, which is thankfully acknowledged. The assistance of Dr. Govind Thapa, Mr. Yubaraj Sangroula and Ms. Anuradha Koirala of Nepal and Dr. Salma Ali of Bangladesh has been of excellent help.

The research community of ISS, and its administrative and support staff ungrudgingly and unstintedly rendered all possible help whenever the need arose. It would not have been possible to complete this study without their invaluable help.

Sankar Sen
Coordinator
Senior Fellow, Institute of Social Sciences
New Delhi

From the Researchers' Desk

“It is a matter of bitter shame and sorrow and deep humiliation that a number of women have to sell their chastity for men’s lust. Man, the law giver, will have to pay a dreadful penalty for the degradation he has imposed upon the so-called weaker sex. When woman freed from man’s snares rises to the full height and rebels against man’s legislation and institution designed by him, her rebellion, no doubt, non-violent, will be nevertheless effective” - Mahatma Gandhi

Researching an uncharted territory, especially to fathom the dark alleys of a well-organised crime, transcending the boundaries of time and space, was a tremendous challenge for us researchers in the Institute of Social Sciences, New Delhi and the places where the Action Research was carried out. The work called for all the initiative, ingenuity and inventiveness at the command of the researchers. The rigour that was required to make it as objective as possible made this study more challenging but, at the same time, triggered enormous enthusiasm and dynamism among the researchers. With their ears to the ground, the on-foot researchers succeeded in capturing the hitherto unheard voices, which have been presented in this two-volume report.

The uniqueness of the study lies in several respects, including the fact that it is based on primary data painstakingly collected through interviews of 4006 persons belonging to seven identified categories, focus group discussions with a large number of stakeholders, and interviews with many judges, experts and professionals. Capturing the human rights violations and the untold trauma of the trafficked women and children was a tremendous moving experience for the researchers. It was immensely gratifying to conduct the research as well as to carry out the action programmes, the combination of which resulted in the creation of a special niche for the anti-trafficking agenda, not only in the country, but also in the region. This note, on behalf of the researchers fraternity, is to convey our sincere thanks to the NHRC, UNIFEM and ISS for having provided the opportunity to be a part of this project and to all those who have helped us to accomplish this task and to our partners-in-action, in India and abroad, including many who wish to remain anonymous. Words are not enough to express our gratitude to the victims and survivors, who despite their trauma and agony, agreed to be interviewed. While ensuring our best to see that the research processes do not violate anybody’s rights, we have, with their help, been able to create a silent revolution of anti-trafficking. The best tribute to them would be to ensure expeditious implementation of the suggestions and recommendations in this study.

P.M. Nair IPS
[Inspector General of Police &
Nodal officer of the National Human Rights Commission &
Principal Investigator and Researcher]

Introduction

The main concern of the National Human Rights Commission in commissioning this study was to check the disturbing trend in the reported alarming rise in trafficking. Press, police and NGO reports on trafficking had given a clear and unequivocal indication that buying and selling of women and children for sexual and non-sexual purposes was an expanding activity and involved gross violation of human rights. What was even more worrisome was the indication that India was fast becoming a source, transit point as well as a destination area for traffickers. A substantial body of newspaper reporting as well as reports of voluntary agencies suggested that apart from Nepal, Bangladesh and the poverty-stricken districts within India, trafficking from the Commonwealth of Independent States (CIS) countries was also on the increase. This was a significant pointer towards the complex, organised nature of the crime.

The commonplace understanding of trafficking as akin to ‘prostitution’ was one of the major reasons why the human rights violations inherent in trafficking were never understood. This called for demystification of the term. The complexity of the phenomenon, its multidimensional nature, its rapid spread and the confusion surrounding the concept made the need for a deeper comprehension of trafficking a top priority. The reasons for its persistence and rapid proliferation were not very clear. Thus, there was an urgent need for a greater understanding of the various aspects of the phenomenon.

There was a strong indication from the available information that women and children were becoming vulnerable to trafficking as they were unable to survive with dignity because of lack of livelihood options. In the absence of awareness of human rights, the economically and socially deprived people at the grassroots have become easy prey to the trafficking trade. Migrating populations have become most vulnerable to exploitation by traffickers. The fact that notwithstanding this stark reality, such gross violations of human rights continued to be a low priority area with law enforcement agencies, made it imperative that this area be investigated.

So far, this area had not been subjected to any systematic study because of the clandestine nature of trafficking. It was found that there was a wide gap between the official data obtained from government sources and the data given out by NGOs during seminars and conferences. Many a time, how the data was collated was not clear. Thus, the creation of an authentic and reliable database at an all India level could no longer be delayed.

The study is grounded in a human rights perspective, which views trafficking in persons as “involving human rights violations as well as constituting a violation of human rights in and of itself” (UNESCAP 2004). In the human rights system, gender mainstreaming is achieved through

an assessment of the enjoyment of human rights by women as well as men within the frame of objectives of agreed norms and the human rights monitoring of treaty bodies. It recognises gender and child rights as a component of human rights. A gender responsive and a right-based approach is a vision and practice of development that ensures fundamental human entitlements – social, economic and political – in ways that expand choices, and promote human well-being and empowerment. Therefore, a human rights orientation to trafficking must also be responsive to gender differences and disparities, and focused on realising human rights equally for women and men, girls and boys.

Our approach focuses on the violation of human rights that occur in trafficking. It holds that it is the responsibility of the state to protect these human rights and address the fundamental structural causes of trafficking. The study also looked into the complementary role of NGOs, civil society, family, etc.

Action Orientation of the Research

NHRC, under powers conferred upon it by Section 12(g) of the Protection of Human Rights Act 1993, is mandated to “undertake and promote research in the field of human rights and also undertake any function as it may consider necessary for the promotion of human rights.” Therefore, NHRC wanted the study to be action-oriented, with spin-offs in the appropriate direction. Social science research is, no doubt, reality-based, but it becomes even more meaningful when it is reality-involved. It was felt that involvement of the formal and voluntary agencies which are engaged in combating trafficking would enhance the quality and objectivity of the research.

Although it was envisaged that the study should have an ‘action’ component, as the study progressed, several other areas emerged. These can be identified as:

- a) facilitating programmes and initiatives of prevention, protection and prosecution,
- b) setting up a functional national network of government officials and activists to devise and implement anti-trafficking strategies,
- c) identifying good practices across the country that could be replicated elsewhere, and dissemination of the same, and
- d) carrying out awareness, orientation and training programmes for the concerned agencies as a part of the research in order to make them accountable and committed to the cause.

Conceptualisation and Definitions

In its dictionary meaning, the concept of trafficking denotes a trade in something that should not be traded in. Thus, we have terms like drug trafficking, arms trafficking and human trafficking. The concept of trafficking in people refers to the criminal practice of exploitation of human beings where they are treated as commodities for profit and after being trafficked, are subjected to long term exploitation. For the purpose of study, the working definition of trafficking which was adopted has been stated in the U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children, supplementing the United Nations Convention against Transnational Organised Crime, 2000, to which India is a signatory. It defines trafficking as:

the recruitment, transportation, transfer, harboring 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 service, slavery or practices similar to slavery, servitude or the removal of organs.

Consent is considered irrelevant in the case of children. If any of the means stated above are used, consent becomes irrelevant in the case of adults also.

The three elements clearly involved are: first an action with intention, secondly the means and lastly the purposes. Thus, whether a person is trafficked or not is indicated by whether he or she has been subjected to the means mentioned above.

The UN definitions of these exploitative situations have been taken as the relevant definitions in this study.

Vulnerability refers to that section of a population, in a socio-economic context of severe deprivation, which is at risk because of its inability to cope with the pressure of life and living. It is understood to “refer to any situation in which the person involved has no real and acceptable alternative but to submit to the abuse involved.” (Jordan 2002:8).

The term “forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” (Jordan 2002:9).

Organisation of the Research

This study has seen extensive research by way of review of literature, interview schedules, focus group discussions, unstructured interviews, case studies, etc. All these have been detailed in the chapter on methodology. As the study was on an all-India level, involving over a hundred people, it required co-ordination of research at several levels. Hence, a working system was evolved, which allowed for mutual exchange of views.

National Study Team (NST)

The research was guided, facilitated and supervised by the National Study Team (NST). It organised brainstorming sessions and workshops to develop the instruments of research after the initial review of literature. The members prepared the tools of research, guided the research and made observation visits. They also participated in the fieldwork, in carrying out the research as well as in the action programmes. As the work progressed, the study team deliberated over the analysis of the data that had been generated and contributed to the drafting of the report. The NST benefited from the constant support of UNIFEM and NHRC. Moreover, several eminent professionals and experts have contributed significantly to the successful completion of this study.

Research partners

The NST undertook the process of identification of lead NGOs/institutions in each identified geographic area. Terms of reference were developed outlining their specific roles for compilation of available reports on trafficking and data generation as per the instruments that had been developed, and for facilitating focus group discussions with the concerned agencies in the identified states. Each NGO designated at least two full-time persons for the research throughout the process. The

list of research partners in the states and the principal research team of ISS is given below. The names of the researchers who carried out field investigation are indicated in brackets.

	State	Research Partner
1.	Andhra Pradesh	Integrated Rural Development Services, Secunderabad (Mr. Sukumar David and Mr. Balaswamy)
2.	Bihar	Sakhi, Patna (Ms. Suman Singh, Ms. Juhi Roy and Mr. Pradeep)
3.	Delhi	Mr. G.R. Gupta, Dr. Tahir, Ms. Itishree Mohanty, Ms. Damayanti and Ms. Rashmi
4.	Goa	Arz, Goa (Ms. Zarine Chinwala and Mr. Arun)
5.	Karnataka	Institute of Social Sciences, Bangalore Branch. [Dr. K. Subha, Mr. Arun and Mr. Mahendra]
6.	Maharashtra	Women's Institute for Social Education, (WISE), Mumbai (Ms. Vipula Kadri, Ms. Anjali Gokarn and Ms. Vaishali)
7.	Meghalaya & Assam	Impulse NGO Network, Shillong (Ms. Hasina Kharbhih, Ms. Rosanna Lyngdoh and Mr. Sangma)
8.	Rajasthan	Institute of Development Studies, Jaipur (Dr. Shobhita Rajgopal, Ms. Manju Balana, Ms. Sadhana and Mr. Suresh)
9.	Tamil Nadu (including Pondicherry)	Institute of Social Sciences, Chennai Branch, Chennai (Ms. E.K.Santha, Ms. Vidya and Ms. Usha)
10.	Uttar Pradesh	SEVA, Gorakhpur (Mr. Jatashankar, Mr. B.M. Tripathi, Mr. Rajesh Mani and Mr. Rakesh Nair)
11.	West Bengal	Institute of Social Sciences, Kolkata (Ms. Archana Ghosh, Mr. B.D. Ghosh, Ms. Madhulika Mitra and Dr. Arna Seal)
12.	Principal researcher for all the above states/UTs	Institute of Social Sciences (Mr. P.M. Nair, assisted by Ms. Itishree Mohanty, Mr. Habibur Rahman, Ms. Hasina, Ms. Farah Yasmin Abdullah and part-time assistance by Ms. Anita Lodhi, Ms. Usha Gopinath and Dr. Paramita Majumdar)

After the research partners were selected, the first task was to identify the areas for field study. For this, consultations were held in Bangalore in June 2002 and In Delhi in July 2002. In the first such meeting, research partners from the West and South of India participated and in the second, researchers from the North and East took part. The consultations enormously helped the research process.

Training and orientation for field research

A background note was prepared by ISS and circulated to all the field research partners to sensitise them about the objectives and scope of the research. This note also dealt with the programme of work, expectations of the study, the time frame and the responsibility of the various partners in research.

In order to familiarise the field researchers with the interview schedules and the methods of data collection, a training programme was organised at the Institute of Social Sciences during 14-17 November 2003. The research methodology experts in the National Study Team, who had prepared the schedules, conducted the training of the field staff — explaining the tools and instruments, the methods of data collection, the necessity of being sensitive towards the respondents, etc. The deliberations also brought out a spate of suggestions as well as reservations from the field researchers and investigators regarding the draft interview schedules with respect to content, style, focus and methodology. The experts took some of these suggestions into consideration and the revised schedules were dispatched to the research partners for data collection.

Networking in the states

When the tools/instruments of research were being developed, meetings were simultaneously held in all the states where the research was to be carried out. These meetings witnessed participation of officials of these states working with the departments of police, welfare, labour, women's issues, children's issues, etc., and academicians, activists, research partners and their field staff. These discussions were useful in more ways than one. Firstly, they were ice-breaking sessions that helped to establish a partnership between the government and non-government officials. Secondly, this provided the researchers with access to the government data and records. Thirdly, the specific areas and problems in the concerned states, which had to be researched, could be shortlisted. This, in turn, helped the researchers to focus their efforts in those places. Moreover, specific issues and topics for case studies were identified and listed out in these meetings. Lastly, the co-operation of several concerned agencies could be enlisted for facilitating the research. The Nodal Officers (on Trafficking) of the concerned states, who participated in these meetings, pledged all help to the researchers in carrying out their task.

Monitoring mechanism

The representatives of UNIFEM and NHRC were regularly updated about the progress of the research and feedback was taken from them regarding crucial decisions taken in connection with the project. This was done through quarterly review meetings and continuous exchanges.

The Report

The report is presented in two volumes. The first volume covers the following:

Chapters predominantly based on primary data: These chapters present the analysis and interpretation of the quantitative data, appropriately amalgamated with the qualitative data which the researchers collected during the fieldwork.

Chapters exclusively based on secondary data: These chapters present the status of responses by various agencies based on published and unpublished reports and the returns of government agencies and NGOs. Several judgments of the Supreme Court of India, High Courts of Delhi and Mumbai, judgments of trial courts from different parts of the country, etc. were collected and studied. However, these chapters also do find integration with the primary data, wherever relevant.

Other chapters deal with the tools, techniques and instruments of research, the literature review, the profile of study area, etc. The latter includes a matrix of the source points, destination points, the transit points and the trafficking routes, as applicable to each state of study.

Chapters on findings, conclusion and suggestions that emerge from the study.

The second volume of this report comprises 155 case studies. The rationale for developing the case studies was that they would qualitatively enhance the research by augmenting the quantitative data and giving a more holistic picture. Moreover, the case studies are mostly on issues and topics which are of utmost relevance to all those who are concerned about the plight of trafficked victims, and were identified through a rigorous process of consultation with the latter. Thus, they are a source of a wealth of information, which would not have been reflected in the results of the baseline survey. Most of the case studies have been cited in the various chapters in order to substantiate the findings of the research.

Challenges in Research

The fact that this study was exploring uncharted territory, that too a clandestine activity like trafficking, presented formidable challenges in conducting the research. Locating respondents was by no means an easy task. In the case of rescued victims (former victims of CSE or child labourers), some were found in rescue homes but the researchers had to search for repatriated trafficked 'survivors' in the places they had been rehabilitated. In certain states where the research partners were unable to locate the respondents, the help of NGOs active in the anti-trafficking movement was taken.

Once the respondents had been located, it was not easy to gain their confidence and to assure them that their identities would not be revealed. Suspicion and fear created an atmosphere which acted as a barrier to truthful response. It required considerable ingenuity and perseverance on the part of the interviewers to coax them to part with information relevant to the study and to assure them of anonymity. Many times, interviews had to be rescheduled, postponed and even repeated. Interviewing victims who were still trapped in commercial sexual exploitation was the most difficult. Segregating the trafficked victims from the non-trafficked ones in the brothels was certainly no simple matter. Moreover, as they were under the complete control of the exploiters, it was not easy to get them to speak the truth. The researchers had to make repeated visits to the brothels to interview some of the victims as they were busy with their 'clientele' and did not want to be disturbed. Clients would walk in even during the 'lean' periods and would get preference to anything else. The interviewers had to adjust to such breaks in the interviews and be patient enough to wait for the interviewee's convenience.

Often, when the victims were told that the project was being conducted by the NHRC, it raised hopes that something would be done to mitigate, if not solve, their agony. The researchers had to assure them that something concrete would come out of the study. Many a time, the victims agreed to the interviews only when this assurance was given.

Initially, the issue of whether predominance should be given to quantitative data or not was heavily debated. However, it was decided that adequate weightage would be given to both qualitative and quantitative data. Data collection also proved to be a formidable challenge. Most of the research partners had to be given the requisite training skills, and orientation in attitude, to do the work. In two states, halfway through the research partners were unable to continue the work. Finding suitable researchers midway was certainly not easy. Locating respondents, especially traffickers, was another difficult task. When the research partners were unable to find the interviewees, they had to identify appropriate research investigators and organisations to locate trafficked victims and even carry out their interviews. Traffickers, of course, were the most difficult to find. Most of the police officials who were approached were unwilling to spare time to respond to the interview schedules and group meetings had to be organised after talking to the police higher-ups, where they were requested to give their answers. Once the respondents had been identified, it required considerable effort to earn their trust and to get them to answer truthfully.

The biggest challenge was to integrate field research with action programmes. The experience that was gained by carrying out these programmes gave deeper insights into the priorities that should be accorded to the programmes and projects in preventing and combating trafficking of women and children.

Review of Literature

Introduction

The available literature on trafficking mainly consists of reports of studies, conferences and workshops conducted by international and domestic non-governmental organisations (NGOs). National and regional level studies are fewer in number compared to the literature available at the state level. The recent importance accorded to trafficking on the international agenda is responsible for the rise in the number of ongoing research studies on trafficking in India.

Though not exhaustive, the current review explores various perspectives and debates, positions and conclusions on trafficking in women and children. It is organised around the major themes that emerged from the literature — the definition of trafficking, the various stages of the operation and the anti-trafficking initiatives in India — while keeping in mind the objectives of the Action Research on Trafficking in Women and Children (ARTWAC).

The Indian Constitution prohibits all forms of trafficking under Article 23. The Suppression of the Immoral Traffic Act, 1956 (amended to the Immoral Traffic Prevention Act) was in response to the ratification of the International Convention on Suppression of Immoral Traffic and Exploitation of Prostitution of Others in 1950 by India. Trafficking has been an area of concern since the early 20th century. It especially attracted attention during the 1980s. More recently, there has been a widening of its focus. However, this was not accompanied by an independent and sustained mass movement, against trafficking in the country (D'Cunha 1998).

Issues of conceptual clarity

The literature on trafficking devotes a considerable amount of space to defining the phenomenon. The numerous definitions available reflect the lack of clarity and consensus on what precisely constitutes trafficking. Over decades, the concept itself has evolved, to include many more attributes and features than it began with. So much so that 'increasingly, it has been recognised that historical characterisations of trafficking are outdated, ill-defined and non-responsive to the current realities of the movement and trade in people and to the nature and extent of the abuses inherent in and incidental to trafficking' (United Nations 2000:8).

The various definitions reflect differences in the interpretation, understanding, emphasis, inclusion or exclusion of specific elements and attributes of trafficking. Debates, arguments and confusions appear to be centred around the issues of consent and movement; purpose relation with smuggling and illegal migration; and treatment of women and children.

The United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children adopted in November 2000, which is part of the United Nations Convention against organised Crime,¹ ‘provides the first internationally recognised’ definition of trafficking (ESCAP 2003). Besides giving ‘a framework for further discussions’, it has proved to be a ‘guiding principle for a macro conceptual understanding on trafficking’ (UNIFEM 2003b).

This definition² has expanded the exploitative conditions that may result from trafficking, which were earlier confined only to prostitution. Thus, it is considered to be more inclusive. The positive aspects of this definition are stated to be the elaboration of the means used, its clarity on the issue of consent (one of the most debated issues in trafficking)³ and the different acts in the trafficking process that it encompasses. Concern has been expressed that the ‘first modern definition of trafficking is being elaborated in the context of crime control, rather than with a focus on human rights’ (United Nations 2000:7). It is also viewed as one which confuses the lay person (UNICEF 2001). Thus, the debate is continuing post-2000, with other definitions being suggested and adopted by Coomarswamy United Nations (2001), ILO-IPEC (2001b:1) and SAARC (2001). A legal definition of trafficking has for the first time been attempted by the Goa Children’s Act⁴.

An explanation for this continued debate is that the ‘concept of “trafficking” can easily be expanded, limited or shifted to accommodate institutional objectives and context’ (ILO 2002a: 5). An ESCAP report has also concluded that trafficking is a multidimensional form of exploitation, wherein each dimension has its own legal and conceptual framework. There are multiple types of trafficking, each with different implications, yet part of ‘an interrelated web of varying contexts’. Thus, any expectations of a universal consistency in definitions of trafficking seem unrealistic (ESCAP 2003). The viewpoint that regions and contexts influence the interpretation of the term is clearly reflected in the literature.

The multiplicity of attributes and variables involved in the trafficking process and the different perspectives on the subject is another reason for the wide variation in the suggested forms of trafficking. There is no uniform method of classifying these forms. For instance, some suggested forms are defined on the basis of differences at the place of origin; others focus on difference arising at the destinations; some make the methods adopted by traffickers as the basis of the forms; others use the criteria of purpose (DWCD 1996; Friedman 2001: 4; HAQ Centre 2001; ILO 2001: 18; Marshall 2001; Mattar 2002; DePaul University 2002; IDS 2003).

Vulnerability factors

In the literature surveyed there seems to be broad agreement over the factors that lead to trafficking. However, there is uncertainty about precise role played by them. While some reports view these factors to be the root causes of trafficking, others state that ‘they merely exacerbate the vulnerability of marginalised and disadvantaged groups and render them increasingly more amenable to a variety of harm’ (Sanghera 2002). These factors relate to the socio-economic and political contexts of people, are interlinked and maybe divided into two categories — personal circumstances and structural forces that influence the context (Raymond et al 2002; DePaul University 2002) They

¹ For an elaboration of the definition and the various terms used, see Jordan (2002).

² See Chapter 3, page 2 for the definition.

³ See United Nations (2000), Doezenia (2002)

⁴ See Chapter 16 for details of the definition.

are generally listed in the context of commercial sexual exploitation. Mukherjee has identified ‘fifty seven factors which play the role of causal agents to push women and girls towards prostitution’ (SEVA 2003).

Personal circumstances

People with personal characteristics of low self-esteem and lack of self-control are reported to be vulnerable (UNDP 2002). Low levels of literacy, awareness and information are also risk factors. Economic deprivation due to various reasons and its associative conditions are among the most important factors that lead to vulnerability. Almost all the studies and reports under review found that a high percentage of trafficked people belong to lower income groups. Greater the degree of impoverishment, higher is the risk of falling prey to trafficking (Mukherjee and Das, 1996; Warburton 1996; DWCD 1998; UNDP 2002). People with disabilities or ‘women who may suffer from “disfigurements” are also vulnerable (Gathia 2003: 5)

A dysfunctional home environment — break-up of the family, marital discord, physical abuse, sexual abuse, drug use, family pressures, large families, families facing uncertain times, children in substitute care, gender discrimination within the family, desertion by husbands,⁵ husbands’ acquiring a second or a third wife — makes people vulnerable to trafficking. Studies by CSWB and others have shown that most trafficked women were unmarried, divorced, separated or widowed (Karmakar 2001). The involvement of another family member in commercial sex work also creates vulnerability (Warburton and Maria, 1996).

Structural factors

Environments lacking livelihood options or economic opportunities, with the accompanying pressures to work and earn, make peoples’ lives on ongoing ‘battle for survival’ (Sanghera 1999). The structural factors influencing and determining these circumstances are listed as industrialisation and globalisations; economic crises, decline, disruption or underdevelopment; economic policies like privatisation, liberalisation, promotion of sex tourism, withdrawal of subsidies and commercialisation of agriculture; the consequent erosion of subsistence agricultural practices, loss of traditional livelihoods and inflation. Labour demand and policies also influence vulnerability. In a global market, women and girls are increasingly being hired as service providers, which puts them at risk (ibid.).

Some of the political factors listed are conflicts, disruption and instability; immigration policies, human rights violations, and the gaps between government rhetoric and practice. Poor governance, limited law enforcement or implementation of labour standards also create vulnerabilities (ADB 2002: 9). Environmental calamities and disruptions may also put people at risk.

The quickening pace of urbanisation and heightened mobility resulting from the development of road links are contributing factors. A culture of consumerism, materialism, commodification of individuals and commercialisation of sex distorts family needs and individual desires (NCW 1997; Raymond 2002). A mindset which judges children’s worth by the amount of money they can earn, and how soon they are able to do so, has developed (ISS 2003b), justifying their exploitation by kin members. Discriminatory practices and social exclusion exacerbate the vulnerabilities of groups

⁵ For details on Maharashtra, see Nirmala Niketan (2003).

like Scheduled Tribes, Scheduled Castes, Other Backward Castes, ethnic minorities, tribal communities, undocumented migrant workers, stateless people or people in refugee camps.

The literature surveyed emphasises the fact that trafficking occurs in a wider context of increasing instances of human rights violation against women. These include the violation of their reproductive rights and the rights of female infants and foetuses to live; domestic violence against women, custodial violence against women, violence against women in markets and other public places; the violation of women's rights to decision-making and to land assets and other resources (Warburton and Maria, 1996; Sanghera 1999; Karmakar 2001; ADB 2002; Raymond et al). In 'cases where their families or guardians push women or girls into trafficked circumstances, many do not consider this as harmful, as they are considered chattels of their father or guardian and further protection from their community would be inappropriate' (ADB 2002: 15). Instances of male relatives making periodic visits to collect a girl's earnings have been reported (Nirmala Niketan, College of Social Work, 2003). Thus, there is a non-recognition and non-acceptance of such practices as being exploitative. Early marriage, lack of choice regarding marriage partner and their socialisation into women who remain servile and bear injustice silently are other factors that render them more vulnerable (ADB 2002: 42).

Sanghera (1999) elaborates how the feminisation of poverty and migration increases vulnerability to traffickers. Driven by the pressing need for gainful employment, with scarcity of jobs in their home bases, women and children are easy prey for the designs of unscrupulous agents, offering 'choices' and assistance with travel, particularly across borders, for jobs.

Spatial location of vulnerable groups

Vulnerable groups and their spatial or geographical locations have been analysed in relation to women. Though the list is not exhaustive, places where poor women in India (rural and urban) are located have been identified (DWCD 1996; Sanghera 1999; Murthy and Sankaran 2001). Contrary to the general perception, a study from Orissa found that 'developed areas with improved infrastructure have invariably been the source as well as the destination of trafficking in women', though in these areas 80 per cent of the population or victims still belonged to landless households and families dependent on wage labour for survival (Pandey, 2002). This suggests that a further examination of the spaces where there is an intersection of the affluent and the not-so-affluent maybe needed to fully understand and explain vulnerability.

Street children and those living in slums; the orphaned and the disabled; children living in brothels or in communities practicing religious and cultural prostitution; children who have been stigmatised by abuse or molestation; children born to victims of aids; children in custodial and educational institutions away from families; and children of bonded labourers and those working as domestic help have been identified as those at risk (DWCD 1996).

Perpetuating factors

Alison Phinney puts forward the notion of a trafficking triangle, which refers to the space created by the demand, supply and impunity with which trafficking occurs. According to her, 'sex trafficking is driven by a demand for women's and children's bodies in the sex industry, fuelled by a supply of women denied equal rights and opportunities for education and economic advancement and perpetuated by traffickers who are able to exploit human misfortune with near impunity' (Phinney 2001).

Insufficient or inadequate laws, poor enforcement, ineffective penalties, minimal chances of prosecution, the relatively low risks involved, corruption and complacency, invisibility of the issue, the failure of governments to implement policies and provide adequate services for victims — all play a role in perpetuating trafficking (Warburton 1996; DWCD 1996; Refugee Reports 2000; Phinney 2001; UNDP 2002; Nirmala Niketan, College of Social Work, 2003).

A view that is often not highlighted is that ‘people who protest trafficking are in a minority. It is very difficult to fight because everyone is unified — all are involved in trafficking in one way or another. The families are profiting so no one will talk’ (HRW 1995). In the context of sexual exploitation of children, a consultation workshop found that the absence of reliable data leads some to emphasise the speculative nature of the problem. This creates a lack of seriousness about the issue, which provides an opportunity for the crime to flourish (DWCD 1996).

Process/organisation of trafficking

Central to the organisation of trafficking are the people who become “highly profitably, low risk, expendable, reusable and resellable commodities” (Richard 1999). This trade in human beings as chattels and treatment of their bodies as commodities becomes possible because of the incremental link between body and money, the end objective of this process always being instrumentalisation for gains. According to Truong (2001) this is a reflection of the ‘ongoing, cultural decomposition of the human being through gradual removal of its spirit, personhood, vitality down to bare body parts.’

Notwithstanding the problems of conceptual clarity in the definitions of trafficking, there is broad agreement on the stages involved throughout the literature surveyed. They are listed as recruitment of people from a village or city; transportation to a designated location/transit point; possible shift to a central location; before the move to their ultimate destination. Sometimes the trafficked persons are shifted several times before they arrive at their final destination, where the ‘sale’ takes place. The different elements involved in this process seem to create an impossible number of permutations and combinations. Thus, most of the research on trafficking resorts to case studies in an attempt to reflect its variations. However, at the regional level, some patterns in these processes can be discerned (ILO 2002a: 14–15).

Recruitment

Place: People are reportedly recruited at places like cinema halls, bus stops, railway stations, airports, streets and their homes. Other places mentioned are cafes, restaurants, beauty contests and beauty parlours. State and national highways, quarry and construction work sites, and areas where locals are displaced without proper rehabilitation may also be sites for potential victims.

Time: Some studies report that traffickers choose special times for recruitment. They take advantage of difficult periods, either before the harvesting season or during a drought, when many locals look elsewhere for income to survive (HRW 1995). Traffickers also keep themselves informed about severely impoverished areas or those which have suffered climatic, economic or political disasters (Johnston and Khan 1998: 53; ISS 2003a). They also reportedly recruit people during festivals (ISS 2003a, and 2003c).

Methods: The range of the tactics or strategies reportedly used vary from the extremely violent (drugging, kidnapping and abduction) to persuasion, material inducements, befriending and deception.

People are lured with fake job offers or false marriages. In the South Asian region, offers of marriage without dowries are welcomed; thus, it is easy to arrange fake marriages.

Most studies on prostitution offer some information on the recruitment techniques that are used. (Rozario 1988; ATSEC 2001; SOS 2001; Joshi 2002; ADB 2002: 15). In the CSWB study, 11.90 per cent of the respondents listed deception by someone as a cause for entry into prostitution. The percentages were 23.15 and 27.2 (Mukherjee and Das, 1996: 42). According to another study, 11 per cent of the women were lured, 11 per cent were abducted, and 9.2 per cent were sold and resold (Rozario 1988: 76).

Traffickers approach women and girls in groups as it helps them to win their trust (Sangroula 2001). In India, recent news stories have shown a trend of traffickers using marriage bureaus and placement and tutorial agencies as a front for luring people.

Recruiters/Procurers: Recruiters can be neighbours, friends of families, relatives of friends, acquaintances returned from abroad; women who have migrated or who have been trafficked, women friends returned from abroad; husbands, fathers, boyfriends or lovers. Some recruiters were gay men who were trusted by women because of their sex orientation (Raymond 2002). They can be drug peddlers, head masons at construction sites, even band leaders in dancing/live bars (ISS 2003a), motorcycle pilots as in Goa (CRG 2003) or labour contractors (ISS 2003c). They either use friends and acquaintances to recruit or rely on word of mouth. Terms like *dalal* or *dalali* are used, to refer to traffickers (Nirmala Niketan, College of Social Work, 2003; Gupta 2003).

Characteristics of traffickers: Traffickers are usually young men and middle-aged women who are significantly older than the young women/children they recruit. They are natives and agents who travel back and forth from home countries/regions to receiving regions and generally have links with the villages to which the victims belong. Procurers are reportedly substance abusers or gamblers. Many of the traffickers are older women, who are either former prostitutes or are themselves in forced prostitution, trying to escape abuse and bondage by providing a substitute. Often, these agents speak several languages (Giri 1999: 77, Tumlin 2000). They may have multiple roles. For instance, those who fuel migration, with its outcome in trafficking, may often also be the people who facilitate other, less exploitative, forms of migration, as in the case of refugees (Tumlin 2000). The 'use of words like "mafia" or the depiction of traffickers as villain outsiders do not correspond to the actual garb taken by most traffickers' (Blanchet 2002).

Players: Trafficking is said to involve a range of players 'along the road from acquisition to exploitation' (ILO 2002a: 13). They are generally found in the context of organised trafficking. Networks may involve the police, visa/passport officials, railway/bus authorities and employees, taxi/autorickshaw drivers or rickshaw pullers (DWCD 1996). The various roles have been classified as financiers or investors; procurers or recruiters; organisers; document forgers; corrupt public officials or protectors; brothel operators and the owners and managers of sex establishments; escorts, guides or travel companions and crew members (Richard 1999; Scholenhardt 1999; Raymond 2002). There is also the category of an initial spotter, which is called *choghat/arkathi* in Bengali (ISS 2003a).

Some additional categories are given by Scholenhardt (1999: 18–20) in the context of smuggling and trafficking, especially cross-border operations. These are informers, enforcers,

supporting personnel and specialists, debt-collectors, money-movers and transporters who gather information on matters such as border surveillance, immigration and transit procedures, asylum systems, and law enforcement activities. There are also agents, who pay the recruiter, arrange for travel documents, hold the women until they are ready to leave; and brokers who meet the women on arrival and pay the agent for delivering them.

DWCD (1996) has identified two types of traffickers: primary and secondary. The latter are said to operate behind the scenes with connections in government circles, which are used to provide themselves with protection. Pimps and procurers are the primary traffickers.

Types of operations: People can be trafficked via organised international networks, through local trafficking rings or by occasional traffickers. Thus, traffickers may operate alone, in small gangs or as part of organised crime groups (Richard 1999; Kelly 2001; Icduygu and Toktas 2002). The last two are reportedly the dominant modes of trafficking in South Asia (Government of Sweden 2001; Sanghera 2002; Nirmala Niketan, College of Social Work, 2003). However, a Joint Women's Programme (JWP) study indicates the presence of systematic organised trafficking of girls for profit, for the greatest number of girls brought, transported and sold within and outside India (Shalini and Lalitha 1996: 38). When part of an organised network, traffickers have less freedom and make smaller profits compared to a scenario where they operate on a more independent basis.

Trafficking and organised crime: An organised crime group is defined by the United Nations Convention on Organised Crime as a structured group of three or more, existing for a period of time and 'acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this convention in order to obtain directly or indirectly a financial or other material benefit' (United Nations 2000: 4).

Richard (1999) draws a vivid picture of the involvement of organised crime groups in trafficking in the international context. She notes that in most cases, the operations are sophisticated and global in scale (facilitated by modern technology) with a few exceptions, where trafficking is localised cottage industry. The information that is available on the involvement of organised crime groups, in the literature on trafficking in India, amounts to unsubstantiated references. The involvement is indicated by case studies covered by news reports (Ghosh 1993: 132; Nair 2002: 114). Traffickers operate within zones which are marked and do not usually violate the zone norms. Consequently, when moving from one zone to another, entirely different sets of people take over the activities (ISS 2003a). They also frequently change their area of residence — to not only avoid the police but also to widen their field of operation (ibid.)

Movement/Transportation

Trafficking 'patterns and routes are often highly complex, ranging from trafficking within one country and cross-border flows between neighbouring countries to inter-continental and globalised trade' (Tumlin 2000). The general movement of trafficked people is from less developed areas to more developed regions. Thus, the flow of trafficked women and children moves from South to North or East to West, with the former being characterised by poverty and the latter by relative affluence; or from countries in economic, social and political crises to more socially and politically stable countries; or from rural to urban areas. People have been trafficked from South-East Asia and South America to the United Kingdom, Italy, US, etc. They are also being moved towards the

Middle East. Some cases of trafficking from India to South-East Asia have been reported. Delhi and Mumbai are said to be the main transit zones for international movement (Haq 2001).

Routes are usually divided into origin, transit and destination points; some reports also mention collection and dispersal points. Correspondingly, countries are categorised as sending, transit or destination countries. They may belong to more than one category as in the case of India, which is destination as well as a source, a transit point. Studies identify routes and districts and discuss the problems faced in finding effective solutions to cross-border trafficking. In the Indian context, Nepal and Bangladesh are the two main suppliers. There have been news reports that after the disintegration of USSR, girls from Russia and other CIS countries, like Uzbekistan, were trafficked into India.⁶

Bangladesh: Bangladesh shares a 4,156 km border with 30 districts on the Indian side. India has 20 official checkpoints manned by the Border Security Force (BSF). Being few and widely dispersed, they are ineffective in maintaining strict vigilance over movements across the border. Crossing the border between Bangladesh and West Bengal is a daily routine for many. Thus, keeping track of the movement of people is very difficult. Illegal entries by traffickers are a matter of common knowledge, and there is a perception that they are protected. A number of businesses have developed to facilitate these cross-border movements; each trip may cost no more than Rs. 50 per person (ADB 2002: 16,23). A well-organised bribe system also helps people to cross over the flat terrain (BNWLA 1998). Further, a multiple passports system 'facilitates easy entry of Bangladesh; girls into Kolkata brothels and a close nexus exists between traffickers and border village communities' (DWCD 1996).

Once the women enter India, they are kept in West Bengal and Orissa. After being 'sorted and graded', they may be sold to pimps or sent to the Middle East, Kolkata, Bashirghat, Delhi, Mumbai or Agra. Studies conducted by ADB (2002), BNWLA (1998) and Shamim (2001) list detailed trafficking routes in this area.

Nepal: The Indo-Nepal border is a long and porous one with 14 legal entry points along the entire stretch (ADB 2002: 24), which facilitate illegal cross-border movements. 'Under the 1950 Treaty with India, citizens of each country are guaranteed equal treatment, including the same privileges in the matter of residence, participation in trade and commerce. This means in practice that there is no immigration control for Nepalese travelling or migrating to India, and hence no records are maintained' (ibid.:18). The ADB study on Nepal lists the districts through which this movement takes place and identifies the entry and exit points as well as the major border regions used by traffickers between Nepal and India.

Internal: Trafficking from neighbouring countries accounts for only 10 per cent of the coerced migration, with approximately 2.17 per cent from Bangladesh and 2.6 per cent from Nepal. The share of interstate trafficking is estimated to be around 89 per cent (ADB 2002: 8). Studies by Rozario (1988), Gathia (1999), Mukherjee (1997), CSWB (1991), SAP (2001) and Haq (2000) provide details of the internal trafficking routes in India, where centres of commercial sexual exploitation are located and the interstate flesh trade triangles. These studies also identify geographical belts of exploitation; for instance, the pink triangle between Agra, Jaipur and Delhi.

⁶ *Times of India*, 24 June 2002.

Andhra Pradesh, Bihar, Karnataka, Madhya Pradesh, Rajasthan, West Bengal, Uttar Pradesh and Maharashtra appear to be the main states from where trafficked persons are sourced. The metro cities are the most frequent destination points. Rozario et al. (1988) also trace various sellers and market centres. Interstate movement for prostitution was found to be high between Mumbai and Karnataka. Women from Karnataka constitute 45.6 per cent of the prostitutes in Mumbai. Interstate movement in case of women in Bangalore was as high as 72.11 per cent, and 93.60 per cent of the prostitutes in Hyderabad were from within Andhra Pradesh (Mukherjee and Das, 1996: 34–35).

Destinations

Once they are brought to their destinations, the women maybe ‘sold’ or ‘transferred’. Rozario et al. (1988) have identified the market areas in various states and describe the characteristics of the girls being ‘sold’. In some places, they are ‘resold’. The ‘rates’ for women range from Rs. 400 to Rs. 70,000 based on criteria such as looks, age, etc. (ibid.:83).

Mechanisms of control: The aim of trafficking is to transfer a person to another place for purposes of exploitation. Thus, various control mechanisms are used to ensure compliance with the exploiters’ demands. Trafficked persons maybe subjected to three forms of control: physical confinement; monetary control; and all kinds of violence and threats. In fact, violence is an integral part of this process and is used as a means of initiation, intimidation, punishment and control. It ‘is the tool by which slavery is achieved, the aim of slavery is profit’ (Bales 1999: 246). Thus, situations and circumstances are created where trafficked people have little or no control over their bodies and lives.

Rozario reports up to 18 forms of violence faced by women trafficked for prostitution. They may be starved, locked up in a dark room, beaten, burnt with cigarette butts, bound, forced to drink, strangled, stabbed or killed or not trading their bodies. The women face threats of torture and physical abuse (even their families are not spared), and they maybe murdered if they do not cooperate. Attempts are made to create dependency on drugs and alcohol among the victims. Most ‘children relent within 7 to 10 days under psychological pressure’ and the other tactics used by their exploiters (Nirmala Niketan, College of Social Work, 2003).

The women are often in debt bondage because money is withheld as payback for the purchase price. Bales (1999: 18) refers to this as ‘contract’ slavery and it is considered extremely profitable. They have little money for sustenance and most report living off tips received. This leads to dependence on traffickers for money, food, clothes and other necessities. The resulting emotional and physical manipulation ensures that the traffickers’ activities are kept secret and allows them to maintain control over the victim. Rescued trafficked women fear reprisals by traffickers to whom they are indebted (Raymond 2002; Rozario 1988; Karmakar 2001; Mukherjee 1997; Richard 1999).

Bonded labour: Extraction of labour on the basis of debt bondage is widely prevalent in the sectors served by trafficking. This is especially true of India.⁷ In his work on slavery, Bales (1999: 8-9) estimates that the number of slaves in the world is around 27 million, of which 15 to 20 million

⁷ ‘Up to March 1999, 290,340 bonded labourers had been identified by the state governments; of these, 243,375 had been released and rehabilitated, some 20,000 had either died or migrated to other parts, and 17,000 were in the process of being rehabilitated’ (ILO 2002b).

constitute bonded labour in India, Pakistan, Nepal and Bangladesh. Bonded labour is said to be prevalent in over 20 states of India. Migrant workers have been found to be working under conditions similar to the bonded labour system in fish processing units of Gujarat, stone quarries of Haryana and brick kilns of Punjab (ILO 2001c).

According to Human Rights Watch, at least 15 million children are working as virtual slaves (HRW 1996). Agriculture accounts for 52 to 87 per cent of the population of bonded child labourers. They can also be in bondage working as domestic help; in the domestic, export industries (silk and silk saris, beedi, silver jewellery, synthetic and precious gemstones, footwear and sporting goods, and handwoven wool carpets); and in services like small restaurants, truck stops and tea shops. Other instances of children in forced labour are found in prostitution, begging, drug selling and petty crime. Trafficking of children is specifically reported from the carpet industry (HRW 1996; HRW 2003: 6).

Destination sectors

The demand for trafficked persons comes from various sectors. The broad divisions given below have been borrowed from the Haq study on child trafficking.

Commercial sexual exploitation

Trafficking for purposes of commercial sexual exploitation has been widely reported and studied. The relationship between these two processes is a matter of some major confusion and contention, resulting in diverse perspectives and opinions. The different forms that commercial sexual exploitation takes are prostitution, pornography, cybersex and sex tourism.

Prostitution: Prostitution is mainly an economic phenomenon that is grounded in deeply patriarchal values. It involves moral, religious, health and human rights issues. The sector is characterised by economic exploitation, corruption, links with crime and is one which governments find difficult to deal with (Lim 1998). The 'large-scale accumulation of capital takes place through a progressive appropriation and decimation of women's and children's bodies, sexuality and entire beings' (Raymond et. al. 2002). The majority of the victims are women and young children, mainly girls.

In India, the most quoted figures to depict the magnitude of prostitution are from the CSWB survey of six metropolitan cities conducted in 1990. According to the study, the total population of prostitutes in all the cities put together is between 70,000 and 100,000 (Mukherjee and Das, 1996). Another report estimates the number of prostitutes to be 900,000 (Gathia 1999). According to the 1992 estimates of the Indian Association for the Rescue of Fallen Women, there are 8 million brothel workers in India and another 7.5 million call girls.

In 1996, the UN Special Rapporteur on Sale of Children, Child Prostitution and Child Pornography stated that 'all reports indicate a dramatic escalation of the number of sexually exploited children all over the world' (Baker 1999). Children are preferred as they are more likely to go along with practices which older prostitutes may refuse. Then there are myths relating to them that feed this preference. For instance, it is believed that sexually transmitted diseases, including HIV infection, can be cured and virility can be increased by having sex with younger girls. Younger girls are also preferred because they can put in more years of work as prostitutes, with high economic gains to be generated from their exploitation (Nirmala Niketan, College of Social Work 2003). These assertions and beliefs are repeated in almost every report on prostitution.

Different organisational structures and hierarchies, modes of operation, and types of prostitutes are described in the available literature (Mukherjee and Das, 1996; Mukherjee 1997; DWCD 1998; ADB 2002). Prostitution is carried out from rooms, apartments, small hotels, exclusive clubs, under the guise of call centres, friendship clubs,⁸ and beauty and massage parlours; along national highways. A new category that seems to be emerging is that of 'flying prostitutes'. Based on rough estimates, a workshop report concluded that in Delhi "the number of prostitutes operating outside the purview of regular brothel system would be several times more, since GB Road accommodates only about 3,000 prostitutes and police sources state that there are 'around 10,000 to 15,000 female prostitutes in Delhi' (Gupta 2003). Thus, commercial sexual exploitation takes place at various locations, which keep shifting. The working conditions may depend on the type of establishment.

Other players in the sector are pimps who are considered to be the 'pillars of the sex industry, viewed as protectors and more welcome than police' (DWCD 1996). Clients are profiled as men separated from their families, visitors in tourist and religious centres other abusers, businessmen, politicians, transport operators, drivers, cleaners, migrant labourers, students and tourists (Shalini and Lalitha 1996). The nexus between prostitution, politicians and government officials is frequently revealed by press reports.⁹

The degree of financial independence they enjoy varies among prostitutes (Karmakar 2001; Shalini and Lalitha 1996; Mukherjee and Das, 1996). Regarding overall profits, Kamathipura (in Mumbai) alone generates at least US \$400 million per year, with 100,000 prostitutes servicing men 365 days per year, averaging 6 customers per day, at \$2 per customer. Another study estimated that transactions in prostitution were worth Rs. 185,000,000 in a day and Rs. 37,000 crores per year (Gathia 1999: 20). Children as young as nine years of age are purchased for Rs. 60,000 at auctions where Arab bid against Indian men (SOS 2001). Quoting from various studies, classifies prostitutes according to the degree of control they have over the money they earn. Around 117 were totally dependent, 158 were practically dependent and 65 were independent. A study on GB road in Delhi found that 15.4 per cent of the prostitutes had no idea of their earnings, as controlling agents cornered all their earnings (Shalini and Lalitha 1996). The sharing of income forms an integral part of the sex business. This 'sharing of income makes the nexus between procurers, pimps, brothel keepers, local goondas and police so strong that they together promote prostitution' (Mukherjee and Das, 1996: 67).

Two main patterns of trafficking for commercial sexual exploitation have been documented. The 'traditional "two-step" pattern targets women already working in prostitution to be trafficked abroad, whereas the more aggressive "one-step" pattern targets women and young girls directly in their villages to be trafficked for prostitution abroad. With the increased demand for younger women arising from the fear of HIV infection, the "one-step" pattern is beginning to dominate' (United Nations 2000).

Unique to India are the traditions of devadasis and jogin. Some communities induct their daughters into prostitution, and the boys start pimping for family members at the age of 15. These

⁸ *Pioneer* 24 June 2002.

⁹ See *Indian Express* (Delhi) edition 16 and 30 May 2003; *Hindustan Times*, 17 June 2003; *The Hindu*, 17 February 2003; *Statesman*, 13 May 2003.

well-documented recruitment practices have an element of coercion (Gathia 1999; DWCD 1998; Giri 1999; IDS 2003; SAKHI 2003; ISS 2003c).

Usually women and girls belonging to the most disadvantaged sections of society are found in prostitution. Nearly 50 per cent are from Scheduled Castes and Scheduled Tribes and 12 to 27 per cent from Other Backward Classes (DWCD 1998). Recent press reports indicate a trend of girls from affluent backgrounds being lured into the sex trade; married women too enter the trade for short periods (two months), with the consent of their husbands.¹⁰ The plight of children of prostitutes is reported to be dismal (Nirmala Niketan, College of Social Work 2003).

Sex tourism: The growth of the tourism industry has contributed to the increase in the sexual exploitation of children, which often assumes intolerable forms. Sex tourism, or tourism for purposes of sex, has found its way into the mainstream tourism market (DWCD 1998; CRG 2003). Tourism creates conditions which facilitate an easy indulgence. The benefit of anonymity offered by the host country reduces the element of the external inhibitory factors to the minimum. South Asian countries are preferred because of the lax law enforcement. Sex tourism involves travel agencies, tour operators, hotels and others in the tourism industry; some companies even openly 'advertise availability of child prostitutes' (Nirmala Niketan, College of Social Work, 2003). Paedophiles are said to be the dominant 'clientele' in sex tourism (Desai 2001: 38, 41; NCW 1997).

A recent study found that children who had 'direct interaction with customers features high on the list of children who were sexually exploited by tourists'. The commercial sexual exploitation of children 'differs based on the type of tourism that exists' (Equations 2002: 46). Sex tourism is reportedly prevalent in the states of Rajasthan, Goa (a major destination) and Kerala in India, while Mumbai is believed to be the 'biggest centre for paedophiliac commerce in India' (Nirmala Niketan, College of Social Work 2003). A study on tourism-related commercial sexual exploitation of children on the eastern coast of India found that out of a sample of 150 children, 60 per cent had come to the tourist area on being promised a better job, accompanied by a 'neighbourhood uncle'. It also found that 40 per cent of the children interviewed mentioned 'force' as the means used for instance, moneylenders forcing parents to sell their children to repay debts (Equations 2002: 33). Another report states that 'hotels have contacts with adult sex workers, pimps and other middlemen — rickshaw pullers, van pullers, petty traders. These people make contact with street children and bring them to tourist lodges and hotels as per the demand placed by customers' (Equations 2003: 28).

Labour exploitation

The problem of labour exploitation is widely prevalent in India. According to the Supreme Court definition, all those who are paid less than the stipulated minimum wages fall within the category of bonded labourers. 'At present there are 35 crore workers in the unorganised sector who are not paid the prescribed minimum wages. Besides there are 12 crore children of the age 6 to 14 who are not going to schools. Thus 47 crore people a little less than half of the population of India are in the State of bondage' (Iyer 2003: 436). Estimates of the number of child labourers in India vary from 60 million to 115 million.

¹⁰ *The Hindustan Times*, 20 June 2003.

Trafficking for purposes of labour exploitation has not been sufficiently researched. Among the few studies conducted, an important one by ILO on trafficking in Nepal, and sexual abuse among street children in Kathmandu, found that all the 14 victims were trafficked either for purposes of domestic child labour, or to work as hotel boys or as labour in the carpet weaving industry (Subedi 2002: iii) Children trafficked for labour exploitation may also be subjected to sexual abuse and exploitation. Employers prefer to hire children because they cost less, are easier to cheat, exploit and intimidate, and are hard-working (Nirmala Niketan, College of Social Work, 2003; ISS 2003b).

Besides being forced to work as domestic labour or being exploited by the small-scale sector, people are trafficked for agricultural, construction or industrial work (organised and unorganised). They may be trafficked for performing illegal activities — like drug peddling, organ trading, forced marriages, begging — or be sold off by adoption rackets. Trafficking for entertainment and sports, like camel racing, for exotic dancing or the circus is also reported.

Impact of trafficking

The impact of the experience of trafficking on the physical and mental health of the victims has not been properly documented and analysed (Government of Sweden 2001). Reports about the consequences vary, depending on whether the end purpose is included in the adopted definition of trafficking. Thus, some studies may include instances of human rights violation that occur at the destinations; others may not. Trafficking has health, social, legal and economic effects on the victims (Wennerholm 2002).

Individual

Trafficked persons are reportedly traumatised by their experiences. Depression and suicidal thoughts are commonly reported. The mental and emotional state of the survivors may include malevolence, helplessness and withdrawal; disassociation; self-blame and identification with the aggressor; distraction; a foreshortened view of time; normalisation and shaping, whereby the victims convince themselves that their experiences had to happen instead of viewing them as traumatic (Saarthak 2002: 3–6). Some of the psychiatric disorders among survivors of trafficking are listed as post-traumatic stress disorder, depressive disorder, dissociative disorders, psychotic disorders and eating disorders (ibid.: 7). Girls are made to bear the responsibility of upholding the family honour through their sexual purity/chastity (ISS 2003c). If they are trafficked into CSE (commercial sexual exploitation), they face additional stress because of the prevalent morality.

Besides being stigmatised as outcasts and facing moral and legal isolation (Giri 1999: 68), trafficked people are vulnerable to HIV/AIDS infection;¹¹ drug addiction; and high-risk abortions and teenage pregnancies, which may affect their reproductive health for life. A study by an NGO in Dhaka found that ‘more than 20 per cent of street children prostitutes die before reaching adulthood.... Almost 22 per cent become physically invalid and are fit only for begging’ (SOS 2001: 22). Psychological trauma permeates all aspects of their lives. Since it usually remains unaddressed and unresolved, ‘the abused turn into abusers’ (ibid.), with a high probability of them becoming criminals. The consequences of being in ‘child labour’ and its adverse impact on the development of children are well documented.

¹¹ There is an integral connection between HIV/AIDS, gender and trafficking (UNDP 2002).

The victims of trafficking are compelled to lead illegal lives. Illegality taints every dimension of their lives, converting into criminals. Their criminalisation as workers and persons severely stigmatizes them. It intensifies their victimization several folds and leaves them with no recourse for redress (Sanghera 2002: 8–9).

There is also a viewpoint which is generally not expressed in the literature on trafficking. It argues that

there are conflicting aspects to the social impacts of trafficking, as for many women, trafficking episodes, while causing harm, also removed them from otherwise oppressive circumstances. Thousands of women, who have returned, but remain silent about their experiences, especially concerning CSW, may have brought back not only some savings, but also more experience of the world. Some of these women have managed to turn these experiences into personal empowerment within their communities (ADB 2002: 46).

Society

The crime of trafficking involves the violation of a whole gamut of laws and human rights. It becomes a threat to society because traffickers operate across borders with impunity, with the growing involvement of organised criminals and by generally undermining the rule of law. Trafficking ‘threatens the very fabric of society’ because it involves not only criminals but also law enforcers. It manifests and perpetuates patriarchal attitudes and behaviour, which undermine the efforts to promote gender equality and eradicate discrimination against women and children (ADB 2002: 45). This is illustrated by reports from Albania, which ‘document villages where nine in 10 girls over 14 stay away from school because they are afraid of being trafficked’. Thus, this fear ‘alters the choices that girls make about their futures’ (ILO 2002a: 29). Similar instances have been reported in the survey by BNWLA.

A study by Asian Development Bank notes that the ‘economic losses to communities and governments are enormous if considered in terms of lost returns on human or social capital investments. The cost of countering criminal trafficking activities puts additional strain on the already limited government resources for law enforcement. A vast amount of potential income from trafficked labour is lost in ‘hidden’ sectors’ (ADB 2002: 46). Specific communities may become known as potential sources for people if following each other’s example, communities start a trend of sending their children and women out.

The loss of future productivity and earning power through low educational levels, ill health and potentially premature death is also felt at the country and regional level. Poor nations can ill afford to lose their young people, whose present and future productive capacity is essential to growth.... The ravage of disease, including HIV/AIDS, is also an enormous burden on such countries and causes further imbalances between the young and middle-aged potential workforce (most likely to be affected) and older people dependent on them (ILO 2002a: 29).

Magnitude of trafficking

The scale of the phenomenon is difficult to judge. It is very difficult to collect data on trafficking because of the clandestine nature of the operations. The 'trade is secretive, the women are silenced, the traffickers are dangerous and not many agencies are counting' (Hughes 2000). Among the most quoted figures are the United Nations estimates that '4 million people are year are traded against their will to work in some form of slavery, many of them children' and believes that 'in the last 30 years, trafficking in women and children for sexual exploitation in Asia alone has victimised more than 30 million people' (Westwood n.d.).

A study by Congressional Research Service for the US Congress cites the following estimates of trafficked people worldwide: South-East Asia — 225,000; South Asia — 15,000; former Soviet Union — 100,000; East Europe — 75,000; Latin America — 10,000; Africa — 50 crores (CRS 2001). Recent ILO figures for children in the worst forms of labour worldwide are: trafficking (1.2 million); forced and bonded labour 5.7 million); armed conflict (0.3 million); prostitution and pornography (1.8 million); and illicit activities (0.6 million) (ILO 2002).

Indian estimates

Calculations of trafficked people are generally made with reference to CSE. In India, the stigma attached to prostitution and the clandestine nature of operations make it doubly difficult to arrive at authentic numbers (Gupta 2003). To give a sense of the total magnitude of the problem, estimates of adult and child sex workers in India are quoted. All minors in commercial sex work are generally classified as cases of trafficking. The figures quoted show a high degree of discrepancy, and the possibility of ascertaining the authenticity of the quoted figures is almost nil. The original sources, or how these figures have been arrived at, are rarely stated. Around 30 to 90 per cent of women and girls are under 18 at the time of entry in to prostitution (Mukherjee and Das, 1996; UNICEF 1994: 10; YMCA 1995: 10; Gathia 1999; Gathia 2003: 9, SOS 2001).

The population of women and children in sex work in India is stated to be between 70,000 and 1 million. Of these, 30 per cent are 20 years of age. Nearly 15 per cent began sex work when they were below 15, and 25 per cent entered between 15 and 18 years (Mukherjee and Das, 1996). A news item published in *Statesman* (12 August 2002) states that roughly 2 million children are abused and forced into prostitution every year in India. A rough estimate prepared by an NGO called End Children's Prostitution in Asian Tourism reveals that there are around 2 million prostitutes in India; 20 per cent among them are minors. A study conducted in 1992 estimates that any one time, 20,000 girls are being transported from one part of the country to another (Gupta 2003).

NGO estimates of sex work are however much higher (UNICEF 1994). A CEDPA report states that in 1997, approximately 200 girls and women in India entered prostitution on a daily basis and 80 per cent were coerced into it (SOS 2001). There are reportedly 300,000 to 500,000 children in prostitution in India (Patkar, Praveen and Priti, Patkar 2001: 11). A UNICEF study on Maharashtra states that at any given time, approximately 40 per cent of the victims of CSE and trafficking are found to be below 18 years (ibid.).

According to NCRB data, in 1999 there were 9,368 cases of trafficked women and children in India.¹² The incidence of trafficking has shown a steady increase since 1997, with an increase

¹² For an analysis of the latest NCRB data, see Chapter 17.

of 7.7 per cent over the 1998 rate. Reported crimes against women were highest in Tamil Nadu (10.5 per cent). Further, the total number of cases of kidnapping and abduction registered in 1999 was 15,956. Among the total female victims, 1,960 females were reported kidnapped or abducted for marriage and 9,159 for prostitution purposes (ADB 2002: 19). There are gaps in the national crime data collection systems in relation to cross-border flows (ibid.: 31).

Another study quotes figures, according to which 80 per cent of the women in commercial sexual exploitation are from within the country and only 10 per cent each are from Bangladesh and Nepal.

Women trafficked from Nepal and Bangladesh

There is almost no accurate data available on cross-border flows because of the complexities in regulations, which vary from country to country. There is no law on repatriation, no NCRB category under which it is documented and no government enforcement agency which has been able to collect verifiable data. Only NGOs working in the field are able to provide data on this aspect (ADB 2002: 22). The combined estimates for Nepal and Bangladesh range from 500 a year (ibid.: 24) to around 7,000 a year (SOS 2001: 25) to 10,000 girls (UNDP 2002: 8) to 5,000 and 7,000 girls being annually trafficked (Tumlin 2000) to more than 200,000 over a period of seven years (SOS 2001: 15). A study by UNDP (2002: 8) shows that the average age of trafficked girls from Nepal to India fell from 14–16 years in the 1980s to 10–14 years in 1994.

The Asian Development Bank report also quotes a data on the number of women trafficked in to Indian brothels collected by various sources. For instance, of the 1,000 to 10,000 women found in Kolkata brothels, 70 per cent are from Bangladesh as reported by Sanlaap (ADB 2002: 21). There are 100,000 to 160,000 Nepali girls in Indian brothels, with about 5,000 to 7,000 being sold every year (Joshi 2002). Other estimates put the figure at 200,000 Nepalese women in Indian brothels (ADB 2002: 21). According to Reuters, 30,000 women in Kolkata brothels are from Bangladesh and another 10,000 are in Mumbai and Goa. The percentage of trafficked Bangladeshi women is 13.5 in Kolkata, 0.2 in Mumbai and 2.6 in Delhi (Joshi 2002). A study of bar girls in Mumbai found that 42 per cent were from Bangladesh (SOS 2001).

The ADB study also cites data on rescue and repatriation operations. As per STOP figures, 70 child victims were repatriated to Nepal during August–February 2002. According to Sanlaap, 65 women were rescued and repatriated from Delhi to Bangladesh in 2001 (ADB 2002: 27–28).

Trafficking revenues

Almost all the studies quote the United Nation figures, which estimate trafficking to be a US \$5–7 billion operation annually. Richard (1999) points out that profits from trafficking are a major source of income for crime rings. To increase profits, inflated prices for various services and documents are charged in cases of cross-border trafficking. The women are kept in poor, crowded conditions to cut down costs. Some Thai traffickers who incarcerated Thai women and men in sweatshops are estimated to have made \$8 million over six years (Richard 2001). Indian estimates of revenues from trafficking are not available; usually only figures for selling and purchasing girls are mentioned. According to one estimate, girls are sold to brothels for Rs. 15,000–40,000 (HRW 1995: 2). Commercial sexual exploitation of children ‘accounts for Rs. 11000 crores of the Rs. 40,000 crore commercial sex industry’ in India (Gupta 2003).

Difficulties in studying trafficking

The relative lack of information and quantitative data on trafficking stems from various dimensions of the problem, which make accurate assessments difficult. The clientele wish to remain anonymous, the clandestine nature of the traffickers' activities, the low visibility of exploitation itself, and the victims fear of the police and their exploiters — all ensure that few details are revealed. Thus, researchers find it difficult to locate sources and face non-cooperation from most of the entities involved (Phinney 2001: 3; Blanchet 2002; Pandey, Jena and Mohanty, 2002; DWCD 1998). This probably explains why a majority of the studies have very small sample sizes. Their emphasis on qualitative rather than quantitative data limits the emergence of patterns and trends.

To date, the only study to be conducted on trafficking at an all-India level based on field research is by Rozario (1988). Many reports use news stories, law enforcement agencies and anti-trafficking programmes as their sources of information, which influence the conclusions they arrive at. As Blanchet observes, 'studies on the trafficking in women carried out from such establishments (rehabilitation homes) do not adequately represent the life path of most "trafficked" women'.

The complexity of the cases makes it difficult to apply standard definitions to specific instances. Trafficking 'stories are difficult to squeeze in [to] little boxes' (Blanchet 2002). In the context of slavery, Bales notes that 'people are inventive and flexible, and the permutations of human violence and exploitation are infinite' (1999:19). This is equally applicable to the concept of trafficking.

Approaches to trafficking

The multi-faceted nature of trafficking is also reflected in the different approaches, that have been adopted to understand and combat trafficking. They represent the intersection points between trafficking and other phenomenon, occurring at various junctures of the trafficking process. Most of the approaches have overlapping elements. For instance, an approach will generally bring a gender or labour perspective to the problem. At the same time, the problem will be also be discussed within the framework of human rights. This is the most inclusive, covering the maximum range of issues raised by trafficking.

Adopted approaches and perspectives influence the strategies that are designed for combating trafficking. Sanghera (1997: 27) states that in South Asia, trafficking is addressed as a problem of crime and violence against women, exploitation of children and child labour, or within a sociological framework. Only recently attempts have begun to view it from a human rights perspective'. Trafficking may be approached as an issue of labour, crime, migration, human rights, development, children's rights or gender (Derks 2000; Wijers 2002).

When approached as a moral or a prostitution issues in India, two distinct camps exist. One supports legalisation of prostitution as a profession through self-regulatory boards constituted by sex workers, which will check the inflow of new entrants, especially with respect to age and health. The anti-legislation lobby believes that legalisation will merely legitimise an exploitative sector and strengthen the position of brothel owners and pimps. Moreover, guardians will justify their acts by pointing out that their wards have joined a legitimate profession (Shalini and Lalitha 1996). There have been recent attempts at unionisation among women in prostitution. The Mahila Samanwaya Committee in Calcutta came together in a national conference of sex workers in 1997.

However, the JWP study by Shalini and Lalitha found that organisations have underlying political and vested interests in the formation of such groups. Barring the demands for crèche services and education of their women, the other demands are a betrayal of the interests of women.

Response to trafficking

The board areas of intervention in trafficking have been laid down in the UN protocol as prevention, protection and assistance. The report of the United Nations High Commissioner goes on to recommend principles and guidelines under these very broad divisions (UNESCAP 2002).

Most reports on trafficking devote more than half the space to interventions and recommendations. The two broad areas under which these are covered are the criminal justice system and social welfare policies (United Nations 2001). The former includes national laws and international instruments that are relevant to trafficking. Usually, the role of the implementation agencies and the policies and programmes of the government and non-government agencies are discussed. Two studies sponsored by the UNICEF, which are presently underway, have as their main objectives, the assessment of rescue and rehabilitation measures and facilities. One of them is an all-India study, which looks at government rehabilitation institutions for trafficked people in all the 35 states and UTs.

The ‘four primary reasons for inappropriate or inadequate responses’ to trafficking are denial of the problem; objectifying the victims and failing to consider their human rights; conflation of trafficking with undocumented migration; and an improper definition of the crime (Jordon 2002).

Legal framework

In her critique of the trafficking laws in South Asia, Sanghera (1999) argues that the legal system is disempowering trafficked persons through an erosion of their constitutional and human rights in an ostensible attempt to protect them from harm and abuse — an impact that is contrary to aims of anti-trafficking measures. She also points out that the laws do not address cases of women rescued as adults but those who may have been trafficked as children, thereby infantilising women (Sanghera 1999).

Judiciary: Two widely mentioned Supreme Court judgements — *Vishal Jeet v. Union of India in 1990* and *Gaurav Jain v. Union of India in 1997* — are considered instrumental in initiating government action on the issue of commercial sexual exploitation (DWCD 1998).

On the other hand, the judiciary is accused of playing a role in secondary victimization through its mode of questioning during court procedures and the long and tedious processes involved. The legal system is perceived to be formidable by the victims rather than being a deterrent to those who commit offences (DWCD 1996). Depending on the sensitivity of the judges, judgements, range from supporting the victims to aggravating their harassment (United Nations 2001).

Generally, Indian courts send rescued girls who are foreign nationals, for example Nepalese or Bangladeshis, back to their countries with the help of NGOs; sometimes, they are sent to government homes. Beyond that, there is hardly any activism or inquiry. ‘Very little action is taken by the police or the judiciary against the traffickers and those who are initially responsible for the violation of the rights of these women.... With regard to the evidentiary procedures involved in

trafficking cases, the women and girls who are victims of the trafficking are the primary witnesses against the perpetrators. In cases involving organised crime, they are extremely vulnerable and in fear for their lives' (United Nations 2001: 16).

Police: In the SAARC region, the police forces of the respective countries meant to be are 'the most important institutions in the struggle to eradicate trafficking' (United Nations 2001: 15). In reality though, police involvement in trafficking is indicated in all the reports and corruption within the force is said to be 'endemic' (ibid.).

In the literature surveyed, the police are accused of supporting brothel owners, being in complicity with traffickers and according the crime of trafficking a low priority (HRW 1995; DWCD 1996; DWCD 1998; United Nations 2001). The conduct and management of rescue operations has been severely criticised. Reports are critical about the behaviour of police personnel, age verification procedures and the lack of appropriate networking with other concerned agencies; for instance, protective homes (STOP 2002a: 26; ADB 2002b: 32; Nirmala Niketan, College of Social Work 2003).

Prostitutes prefer to be under the protection of a brothel owner, as the latter negotiate with policemen who are seen as tormentors and are looked upon with hatred in the sex industry (DWCD 1996). STOP (2002a) elaborates on some very detailed deficiencies in the investigations, which results in the acquittal of the accused. Legislation requires the police force to play a more proactive role, as they have been given preventive responsibility. However, they usually limit their involvement to taking reactive measures and addressing the manifestations of the crime, rather than its roots (DWCD 1996).

The problems faced by police personnel have also been highlighted. They fear levelling of allegations and victimisation by brothel owners who use their political links. The police experience difficulties in sending children to juvenile homes due to poor facilities and in communicating with them. Understaffing, especially in rural areas, does not allow them to devote sufficient attention to trafficking in terms of surveillance and prevention. Victims generally turn hostile (DWCD 1996). The lack of infrastructure and resources; and the powerful political and business connections of trafficking are also mentioned as inhibiting the law enforcement machinery (DWCD 1998). Rapid prosecution is also hindered by the lack of any authority to investigate a crime beyond the state level; the CBI is said to face many challenges. The working and living conditions of the constabulary are reported to be dismal (ADB 2002: 63). There is 'lack of per capita time for the constable or sub inspector at the grassroots (i.e. police constable per thousand is low) due to other law/order priorities' (ibid.).

Other factors: Trafficked people also come into contact with immigration officials and border forces. Some reportedly collaborate with the traffickers. Many trafficked women allege that immigration officials are involved in the process of their transfer because of a noticeable lack of questioning and examination of their documents (Raymond et al. 2002). They may support trafficking by selling visas (GSN 1997).

The literature from other regions is concerned with the use of new technologies in trafficking, which is generally not expressed in Indian literature. From the point of view of prosecution, 'developments in methods of detection and prevention have not kept pace with the creation of new

forms of trafficking' (Giri 1999: 72) A few studies do indicate that trafficking may call for more sophisticated and innovative investigation techniques because of the use of these communication tools and the role of organised crime involving international syndicates (ADB 2002: 63; Nair 2002).

Protection and assistance: Policies, programme and initiatives

The main government body dealing with protection and assistance policies and programmes is the department of women and child development (DWCD) under the ministry of human resource development. It is the national focal point for combating trafficking in women and children in India. DWCD has corresponding departments in each state government (ADB 2002: 48). The 1990 Supreme Court judgement in the *Vishal Jeet v. Union of India* case directed the government to ensure care, protection, development, treatment and rehabilitation of the victims of commercial sexual exploitation and the setting up of a central advisory committee. It was constituted in the same year and a national seminar was also held. The Central Social Welfare Board initiated a survey, which led to a national consultation in 1994. This was followed by six regional workshops, organised to formulate strategies involving the various stakeholders (DWCD 1998).

National plan: In 1998 a national action plan was formulated by DWCD to combat trafficking and the commercial sexual exploitation of women (DWCD 1998a). The plan covered various aspects, such as prevention, awareness raising, economic empowerment, rescue and rehabilitation. Coomarasamy notes that it contained innovative ideas, with the social welfare component being dealt with in detail — from rescue and rehabilitation, to education of the children of prostitutes, to housing and shelter. She commends 'the effort to include psychological counselling as an aspect to health care' and observes that health services have been adequately covered (United Nations 2001: 32).

However, the plan has been criticised for lacking an 'integrated perspective on intelligence relating to trafficking-rescue-rehabilitation-reintegration' (SAP 2001: 54). The other shortcomings are that it lacks details of funding, does not cover child pornography and is likely to run into implementation bottlenecks (ibid: 53). The 'suggestion that the children of prostitutes be removed from their mothers to more health environments' is a 'disturbing violation of the right to family even if it is done with good intentions' (United Nations 2001: 32). The method of 'social surveillance' to combat trafficking is not considered advisory and the rapporteur comments that 'accountable state institutions are better vehicles for enforcement than social surveillance'. The plan is silent on 'laws and strategies for finding and punishing traffickers' (ibid.).

Prevention: The ADB country report on India describes various poverty alleviation and pro-women schemes launched by different ministries that may prevent vulnerable sections from being trafficked. The report acknowledges that effective source area programming calls for a holistic outlook, as adopted by the Working Women's Forum (ADB 2002: 78). Among the government initiatives mentioned are the Integrated Child Development Scheme (ICDS) and Swarn Jayanthi Swa Rozgar Yojana.

The Swadhar scheme, which was initiated in December 2001, is meant for women in difficult circumstances, including rescued victims of trafficking (Department of Women and Child Development 2001). The DWCD also plans to formulate a national media strategy. State level

initiatives are being handled by the state partners. The Jabali scheme in Madhya Pradesh addresses the Bhedia, Bhancadara and Sansui tribes and brings a holistic approach to programmes for the children of victims (ibid.: 57).

Rehabilitation: The process of rehabilitation mainly involves sending women to government-run homes for protective custody until their cases are heard or they are sent back to their original homes. These government run homes have been criticised for a host of short comings — corruption, poor infrastructure facilities, meager budgets, inadequate provisions for psychological care, ineffective skill building (DWCD 1996). Most women end up doing nothing for long periods, while those who do not wish to be rescued view the home as a prison. They are confined to the vicinity of the homes. ‘Protective custody as practised in South Asia is a serious violation of women’s rights and it is important that Governments of the region re-examine this concept, as well as the conditions in the government homes where women are kept’ (United Nations 2001: 12).

Apparently, the Bombay High Court has ordered that these homes be supervised by outside authorities (ADB 2002: 61). States like Haryana have failed to provide short-stay homes for minor girls.¹³ The lack of appropriate facilities has meant that the rescued girls are forced to stay in nari niketans, which is illegal. Short-stay homes with the help of the DWCD and juvenile homes are supposed to be set up under the Juvenile Justice Act for the protection and rehabilitation of minor girls (Gupta 2003). Though all the required states are to provide such homes, only some have done so. The homes that have been set up are overcrowded and are not sufficiently equipped to address basic primary needs. The Juvenile Welfare Board has also been criticised for functioning in relative isolation (Nirmala Niketan, College of Social Work 2003).

The rehabilitation of victims of trafficking can be a complex business. For instance a minor girl who became pregnant refused to have an abortion after being ‘rescued’.¹⁴ In cases where the parents are considered unfit or unreliable, these children need to be institutionalised. However, there are very few foster homes. In the absence of a special court to take up the issue, charge of the child is relinquished to the parents. This is problematic as the child is likely to be re trafficked (Nirmala Niketan, College of Social Work 2003). There have also been cases of victims of CSE having organised themselves, continuously resist against eviction and closure of brothels, and demanding appropriate rehabilitation facilities before any such action is taken.

Reintegration: Social stigma and non-acceptability are said to be the greatest obstacles to reintegration (DWCD 1998; United Nations 2001; ADB 2002: 65; Shah 2003). Besides the difficulties in finding alternative employment because of the stigma, any livelihood option which pays less than Rs. 2,000 to 3,000 a month is not viable and the rescued girls often lapse back into commercial sex work (ADB 2002: 65).

Some studies have concluded that there are not enough models of recovery, repatriation and reintegration based on prioritising the preference and interests of trafficked women and children (Sanghera 1999: 24; ADB 2002: 65). There is also a dearth of holistic rehabilitation programme and a lack of support mechanisms.

¹³ *Tribune*, 5 July 2003.

¹⁴ *India Today*, 28 July 2003.

The media hinders the process of rehabilitation by sensationalising the issue and exposing the identities of the victims.

Patterns of media coverage: ‘Media coverage as far as the problem of trafficking of women and children is concerned concentrates on activities related to commercial sexual exploitation of women and children’ and not the entire process of trafficking. Media reports focus on ‘exploitation of sex workers in the hands of brothel owners, pimps, law enforcement agencies; nexus between politicians, traffickers and enforcement agencies; initiatives taken by NGOs and other civil society organisations; case studies of particular victims; incidents of police raids on brothel houses and arrests of people caught during the raids; and events, seminars, workshops organised on the problem of trafficking’ (ibid.).

Rescued foreign women: There are no laws in India covering repatriation for trafficked persons to Bangladesh and Nepal. It is carried out by NGOs which ‘have built relationships with several NGOs across the border to liaise with the Nepal Embassy and Bangladesh High Commission in repatriation of trafficked women and children’ (ADB 2002: 26). There are reportedly around 200 women waiting to be repatriated to Bangladesh (ibid.: 27). Girls are rescued and left at the borders or languish in hoes and are invariably pushed back into prostitution (DWCD 1998). Besides this, not much information is available on the problems faced in reintegrating Bangladeshi or Nepali women and children. NGOs and partner organisations only facilitate repatriation across the national border of India to Nepal and Bangladesh, not within the country itself.

Other agencies: The ministry of home affairs of the Government of India (centre–state division), the National Commission for Women, the National Human Rights Commission and National Aids Control Society are some of the government bodies engaged in activities to combat trafficking. Their initiatives are covered in detail by the literature on trafficking. Over 80 NGOs are working in the area of child trafficking and commercial sexual exploitation. Some of the prominent ones are YMCA, ECPAT, JWP, Sanlaap, Prerna, STOP, Prajwala, CACT and Haq. On the political front, ‘national politicians and public health officials seem to be in a state of denial of the seriousness of the problem’ (Nirmala Niketan, College of Social Work 2003).

Sanghera has called for greater clarity on the concept of trafficking pointing to the need to broaden it to include other purposes besides prostitution. The absence of reliable data, inadequate advocacy efforts, the lack of analysis of laws, insufficient understanding of the human rights framework, limited interventions for prevention, and the lack of human standards for the treatment of victims are some of the gaps in the anti-trafficking initiatives that she has pointed out (1999: 23–24). Brian (2001: 1) describes trafficking as a crime whose victims have to be rescued and protected. However, anti-trafficking initiatives are usually dressed up as anti-migration programmes, adopting strategies for preventive or safe migration. It has also been observed that ‘sex workers and migrants are the groups currently challenging the impact of anti-trafficking measures on their rights, which also testifies to the fact that anti-trafficking measures are not dealing with the problems that they set out to address’ (Kapur 2001).

Trends in trafficking

Some of the trends reported in the literature suggest that there is not only a significant rise in trafficking but also an increase in its magnitude. Trafficking is said to be ‘acquiring grave dimensions

worldwide in the recent context of globalisation' (United Nations: 2000; D'Cunha 2002; US Report 2002). This trend is 'alongside an increase in illegal and undocumented migration within the region' (Sanghera 1999). The flows have widened to include most countries of the globe with new sources and destination sites (ibid.; D'Cunha 2002: 3). There is a rise in the 'global sophistication, complexity and consolidation of trafficking networks' which is said to incorporate diverse and sophisticated mechanisms (Richard 1999; Raymond 2002; D'Cunha 2002); there is also a greater penetration by organised crime syndicates (Sanghera 1999; Richard 1999).

While people are trafficked for other purposes commercial sexual exploitation remains the most dominant driver (D'Cunha 2002: 3). Attention has also been drawn to 'its complex socio-economic and political basis underscored by class, gender and ethnic concerns' (ibid.). There is a reported preference for very young children and the inclusion of men (DWCD 1996; Government of Sweden 2001; D'Cunha 2002: 3). Other trends summarised by D'Cunha, and covered by almost all the reports, are 'hefty profits, which according to some estimates exceed that of the underground narcotics and arms trade...strong connections between trafficking networks and public officials...vertical and horizontal linkages between trafficking networks and sectors of the crime industry and corporate enterprise, including transport, tourism' (ibid.). It has also been observed that 'in the present context of globalisation and migration, fewer victims are being kidnapped or abducted. In fact, an overwhelming majority are being trafficked through deception and false promises' (United Nations 2001; Sanghera 1999).

Gaps in the literature

The literature on trafficking reflects the dilemma of writing on a subject that is not easy to research and document and yet is too grave an issue to ignore. Considering the hidden and criminal nature of the problem, the data presented by most reports is valuable in face of this scarcity. While the adopted definitions, perspectives and approaches to the problem of trafficking may vary the concern with finding effective solutions is common to these studies.

The content and format of the majority of the studies are repetitive and appear to be recycled; so much so that the reports are indistinguishable from one another. Their objectives appear to be: establishing the occurrence of trafficking, reporting the lacunae in the responses by different agencies and making recommendations. The information on trafficking is presented in a narrative form or is a recording of incidents, events and cases. Much of the literature on trafficking reflects a high degree of outrage.

Most of the reports are on trafficking for commercial sexual exploitation, which is a reflection of the general understanding, till recently, of the association between trafficking and commercial sexual exploitation. The issues in the literature on trafficking echo the debates and concerns about commercial sexual exploitation. Thus, one finds that a seemingly new idea being pursued is invariably an offshoot of the fundamental debate about consent in commercial sexual exploitation.

Generally, the studies focus on children and some even club women and children together. Those focusing on women are few in numbers, and any including men are non-existent.

So far, there have been no studies which have dealt exclusively with the issue of trafficking for labour exploitation. This is understandable given the recent inclusion of this purpose in the definition of trafficking. Numerous studies on child labour and labour exploitation fail to focus on

the recruitment practices of the problem. They merely mention that there is exploitation by dalals and children work for agents. These studies consistently report cases that fall within the purview of trafficking. However, since the concept seems to be unfamiliar or unclear, these cases are grouped under the broader notion of exploitation.

According to Sanghera, the discourse on trafficking in South Asia is dominated by 15 myths. The reason they are myths is that none of the assumptions made is founded on any evidence-based data or research. She states that there is an 'urgent need to develop and fine tune methodological aspects such as theoretical constructs, methodological principles, research techniques and tools, and methods for collecting data on trafficking' (Sanghera 1999: 27).

One of the major gaps is the lack of studies on trafficking in India based on primary data. The data collected over the past decades is woefully inadequate. There has been no systematic attempt to gather information in an innovative manner at any significant level. Much of the data that is based on news reports differs only in the incidence reported from various regions.

The information available is in bits and pieces, thereby reducing its value and undermining the efforts to combat trafficking. There is a need to organise, collate and analyse the available information and knowledge. Even with the available database, an analysis of the various dimensions of trafficking is possible, but most studies fail to do so. In the absence of an in-depth analysis of the issues and aspects involved, they have failed to arrive at a realistic picture of the scope of the trafficking problem, what sustains it, and why it occurs. The varied dimensions and aspects of trafficking and their interrelationships need to be examined at length instead of being accorded superficial treatment, be it trafficking and migration or trafficking and organised crime.

An important question that needs to be addressed is, why among people in similar positions of vulnerability only some get trafficked while others don't? There is not enough data on how traffickers select their targets. While exploring vulnerability, the role of influential people in a victim's life has not been looked at. The involvement of local communities needs to be studied. To what extent does poor awareness render people vulnerable to the traffickers' designs requires to be explored.

Adequate information on the involvement of organised crime is not available; it is merely hinted at. Nor is there enough knowledge about traffickers, their networks and organisations. There is insufficient clarity about the role of various players in trafficking networks. The characteristics of traffickers, including their socio-economic profiles, have not been thoroughly studied. Nor has the organised nature of trafficking, where the power equations are against the victim, been dealt with. Sanghera (1999: 27) has urged that methodological guidelines to be developed on how to study an underground phenomenon and to fill the gaps in the data on traffickers and organised crime syndicates.

The demand (patterns and trends) side of trafficking has not been adequately examined, and hardly any attempts have been made to understand it. Another important question that needs to be answered is whether 'the demand side of the equation is driven by customer interest or merely that trafficked women are more profitable for sex industry entrepreneurs' or are both factors operating simultaneously, 'serving a mutual interest between suppliers and customers' (Kelly 2002: 33). Maybe the perspectives of the 'clientele' need to be studied.

While there are reference to the nexus between politicians and the police force in media reports, there are no studies to corroborate these stories.

Information on the government and NGOs responses to trafficking, and the measures taken, including preventive steps to combat it, is scanty; for instance data on anti-trafficking networks and their activities. The judgements of various courts that have relevance to trafficking have not been looked at. Nor have the counter-trafficking initiatives been critically analysed in terms of their impact — whether and to what extent do the programmes address the felt needs of the potential victims. The long-term records of women who have been reintegrated are not available. Not much is known about re-trafficking. There is a lack of clarity on the issues dealt with in respect of interstate and international trafficking. Interception is another area that has not been sufficiently covered. Studies raise the question of rescue but not of recovering trafficked persons in transit. The circumstances that compel women to enter commercial sexual exploitation are different, and rehabilitation measures need to be sensitive to these variations. This awareness is not reflected in the studies on commercial sexual exploitation and the official responses to the problem.

The existing literature on trafficking does not discuss the complexities of the issue. For instance, if people are trafficked for various purposes and separate laws already exist to address these different forms of exploitation, then does combating trafficking require a special law that will cover all the dimensions of the problem. Examining this question will also help clarify the concept of trafficking, as it brings to fore its intersections with other forms of exploitation. Trafficked persons should be rescued at the sites of exploitation and various provisions may already exist for their rehabilitation. However, these may not be sensitive to the specific problems that trafficked people face in addition to the exploitative purpose for which they have been trafficked.

There is an absence of the understanding that the purpose of trafficking is to put people in slave-like conditions or conditions of forced labour. This could be in various sectors, be it begging or domestic work. Thus, the literature on trafficking manages to establish its occurrence and the steps involved. But it lacks an in-depth analysis of the problem in all its dimensions and the responses of various agencies.

Conclusion

Being a complex phenomenon, trafficking can be viewed from different perspectives. Thus, it is important to acknowledge the standpoint from which it is being approached from. The problem is deeply rooted in the socio-economic, political and cultural reality of the context in which it occurs, although this may not be its immediate cause. The culprits are the traffickers about whom relatively little is known. This gap has to be urgently addressed, along with the demand factors which drive trafficking. It is a fundamental violation of the rights of human beings and shows a blatant disregard for the dignity of a person.

Trafficking is a phenomenon shrouded in ambiguities involving issues which most would prefer to avoid. As suggested by a UNDP study, it is a subject wrapped in layers of silence. The process of clarity will involve numerous debates and arguments. This search is an indicators of the attempts, some successful, of various agencies to bring this issue on the agenda of governments and other concerned authorities. One may say that it is in the inception stage, offering an opportunity for all to deeply reflect on the problem and keeping in mind the people are most affected.

The concern with prevention and redressal reflected in the literature has not been concretised in to policies and programmes, as seen in the responses of government agencies or civil society. While plenty of recommendations have been made, translating them into programmes on the around has not been an easy task. Formulating effective policies becomes all the more difficult because of the association of trafficking with other extreme forms of exploitation. This requires a much greater effort on the part of the concerned agencies than what has been reported in the literature. The biggest hindrance to this, we believe, is the lack of a baseline study for the country, which makes an in-depth analysis of the issues involved.

Literature on trafficking in India is completely dominated by the issue of commercial sexual exploitation, so much so that trafficking as a distinct separate crime does not get highlighted. At times is almost reduced to insignificance in comparison to commercial sexual exploitation. Even though there seems to be considerable information available, one is unable to form a picture which reflects the reality of trafficking in women and children in India.



Methodology

This study on trafficking in women and children (henceforward trafficking) in India is pioneering and exploratory. It attempts to explore an ostracised, murky, underground world. The methodology has, therefore, responded innovatively in devising and evolving instruments and strategies of research.

It is not surprising that reliability and authenticity of existing data is a matter of concern. The broad objectives of our study follow from this major concern. These are:

- a. To understand the trends and patterns of trafficking, and the structural and functional mechanism that reproduces and reinforces the processes that perpetuate the phenomenon.
- b. To analyse the roles and functions of the formal and voluntary agencies that were involved in containing and combating this phenomenon.
- c. To prepare a comprehensive database.
- d. Since the study was conceived in a human rights perspective and sponsored by NHRC, the project also took upon itself an active advocacy role of orientation and training directed towards relevant agencies. It also involved awareness generation among the vulnerable sections and the target audience.

Framework of Study

Areas of Investigation

Trafficking is a complex, multidimensional phenomenon, with a variety of – often inter-related – aspects covering large geographic spaces. It is not possible to address all the areas simultaneously. Broadly, our study focuses on: the crime of trafficking and the responses engaged in preventing and countering it. The study of the existing anti-trafficking law — the Immoral Traffic (Prevention) Act, 1956 (ITPA) — was also a focal area. Given this, the stages in the process of trafficking were comprehensively examined. The events in a trafficking chain from the source areas to their destinations, including the factors that caused re-trafficking, were carefully followed.

The role played by the demand factor in trafficking for different purposes, which had received scant attention earlier, was also studied in detail. This was primarily examined from the ‘client’ angle of the commercial sexual exploitation ‘sector’. The sources and scale of profitability from this ‘sector’ were also examined to find out the motivations behind the demand – the causal mechanism that reproduces the system.

The study took into account the perspective of all the trafficked persons, whether they were being subjected to commercial sexual exploitation or other kinds of abuse.

The present study encompasses the major areas of trafficking. Trafficking in its manifestations, can be broadly categorised as:

- i. Trafficking for sex-based exploitation, i.e. for brothel based and non-brothel based commercial sexual exploitation, pornography, paedophilia, sex tourism, mail-order bride system, disguised sexual abuse in the garb of massage parlours, beauty parlours, bartending, friendship clubs, etc. and
- ii. Trafficking for non-sex-based exploitation, including a vast area of servitude, slavery and exploitation, which were commonly seen in bonded or forced labour; domestic servitude, industrial servitude, servitude in the entertainment industry (e.g. camel racing, circuses, etc.) drug peddling, begging, adoption, trading in human organs, trafficking for false marriages, and other similar exploitative practices.

Prevention, protection and prosecution were the three main areas covered in our second objective. This involved critical examination of the existing legal framework for combating trafficking, including constitutional provisions, national and international laws, conventions and protocols. Special emphasis was laid on analysing the Immoral Traffic Prevention Act, 1956 (ITPA), with a view to search for the lacunae that could contribute to the ongoing discussion and reformulation of the law. The next logical step was to move from identification of lacunae in the law to the law enforcement process and the role of the police and other enforcement agencies in protection and prosecution. Focus group discussions were held to understand the role of judicial officers, prosecutors, doctors and others concerned. The judicial response and community response were studied. Finally, the study gave us valuable insights into the rehabilitation efforts by various agencies – international, governmental and non-governmental and also the processes involved in the area of prevention.

To be able to come to grips with the variability in the factors and practices in trafficking, the common core of the actors: (i) the women and children under varying degrees of vulnerability; (ii) the traffickers, who were always one step ahead in the parallel economy, geared to subversion of the legal framework, and defiant of collective social conscience; (iii) the civil society organisations (CSOs) and NGOs committed to respond to the misery of the victims; and (iv) the organs of the state that provide the law enforcement and justice delivery mechanisms, including the social welfare ministries/departments and agencies, formed the various units of study.

Three broad categories of respondents were interviewed – victims, exploiters and perpetrators, and those who are combating trafficking.

- Victims included women and girl children *rescued* from commercial sexual exploitation (survivors); children trafficked for labour and other types of exploitation and who had been subsequently *rescued*; and trafficked victims who were *still captive* to commercial sexual exploitation.
- Traffickers, brothel owners and clientele were selected from the category of exploiters and perpetrators.
- Police officials were selected from the last group.

The individuals from these categories constituted the ultimate units of inquiry. In addition to these, a limited number of case studies could be conducted in depth in the areas of trafficking for organ transplants, begging, adoption, camel racing and trafficking for false marriages. Some judicial officers could also be interviewed. However, these interviews were done over and above our main thrust areas of research.

The Study Area

Research was carried out in the states/UTs of Tamil Nadu, Pondicherry, Karnataka, Andhra Pradesh, Goa, Maharashtra, Rajasthan, Delhi, Uttar Pradesh, Bihar, West Bengal, Meghalaya and Assam. Special attention was given to the metropolitan cities of Bangalore, Hyderabad, Mumbai, Kolkata, Delhi and Chennai. The selection of these states was made on the basis of available literature/information on trafficking in the country.

Consultation Meetings

Once the research partners were selected, the first task at hand was to identify the exact locations in the concerned states where field work was to be carried out and the specific issues of the concerned state/UT/city, which needed to be focused on. This was necessary because of the large population and diversity between the various states. Two consultations for this purpose were held where the researchers from the respective regions participated. These research sessions helped to gain a comprehensive understanding of the trafficking scenario in the country and also to imbibe the human rights perspective that was called for in the proposed research. Considering the fact that no previous research of this dimension had been undertaken in this field and because the subject of research falls in the domain of crime, the task at hand was highly challenging. Moreover, methodology depends upon the problem and the field situation. In this case, both were sensitive in nature. This was, therefore, a special case. Besides the known tools of social research, gender sensitivity, child sensitivity and human rights perspective had to be incorporated in the process of research. This research had, therefore, an evolving methodology. The initial consultation meetings facilitated this process.

Carrying out the research

Sources of data

Both primary and secondary source data were used. Primary data was obtained through canvassing interview schedules, focus group discussions, case studies and non-participant observation. Secondary sources were provided by formal and voluntary institutions.

For collecting primary data, interview schedules, carefully prepared and pre-tested, were administered to 4006 respondents belonging to seven categories in the 13 states/UTs as per the table given below:

<i>States</i>	<i>Rescued trafficked victims of CSE (Survivors)</i>	<i>Non-rescued victims of CSE</i>	<i>Clientele</i>	<i>Brothel owners</i>	<i>Rescued trafficked child labourers</i>	<i>Traffickers</i>	<i>Police officials</i>	<i>Total</i>
Andhra Pradesh	104	103	61	60	77	20	111	536
Bihar	10	99	55	35	42	20	35	296
Delhi	81	87	50	17	41	10	57	343
Goa	30	63	42	31	03	16	91	276
Karnataka	59	64	31	35	68	22	95	374
Maharashtra	86	118	50	44	61	18	86	463
Meghalaya & Assam	03	38	59	15	34	05	68	222
Rajasthan	08	100	60	30	02	10	60	270
Tamil Nadu & Pondicherry	80	108	59	53	94	15	111	520
Uttar Pradesh	46	90	55	50	43	13	60	357
West Bengal	54	59	60	42	45	11	78	349
Total	561	929	582	412	510	160	852	4006

Sampling

The size of the sample varied from state to state. The sample, although stratified, did not permit randomisation. This was in view of the criminal nature of trafficking. The researchers were given freedom for purposive selection of the relevant units of their sample. They adopted both purposive and convenience sampling.

Units of inquiry

Interview schedules were developed for each of the following seven categories of respondents: (1) Survivors (rescued trafficked victims of CSE), (2) Trafficked non-rescued victims of commercial sexual exploitation, (3) Traffickers, (4) Brothel owners, (5) Clientele, (6) Rescued trafficked child labourer, and (7) Police officials. Different schedules were necessitated by the vastly different roles played by these categories.

Stratification principle for the units of inquiry

Some principle of stratification was applied in the unique circumstances that defined the field. Since the traffickers were the most elusive category, snowball sampling was the primary method of selection. The selection of sample is diagrammatically represented on the following page.

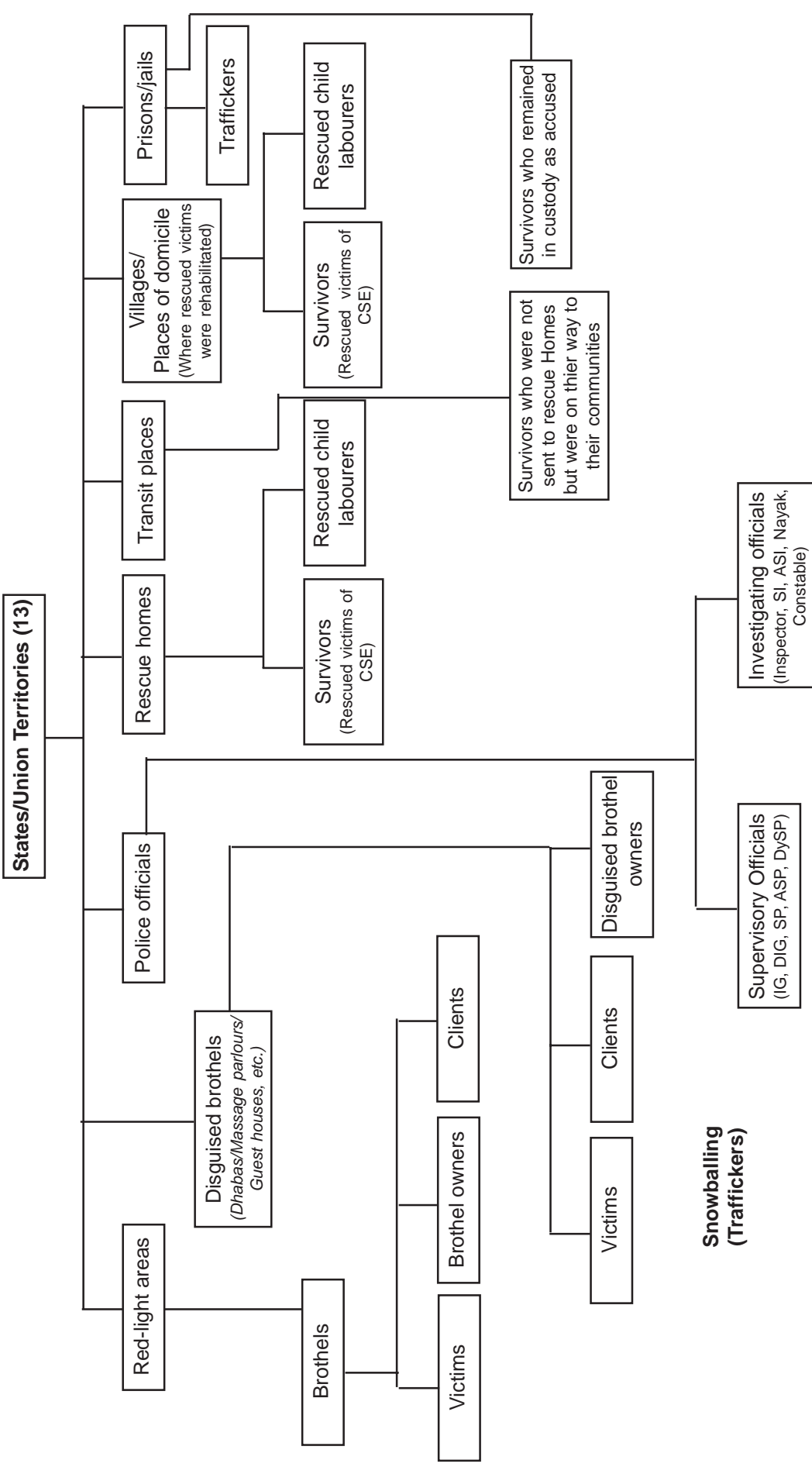
Interviews were conducted by teams, each of which consisted of two persons – with at least one female. In view of the sensitive nature of the data to be collected from the respondents, the interviewers were given adequate orientation to facilitate their work.

The data collected from the 13 states and union territories by separate teams of investigators from different categories of respondents shows a remarkable degree of internal consistency, providing massive support to the main findings of the study.

Secondary data

Material was collected from published and unpublished sources. Interaction with NGOs and law enforcement agencies in different states also provided a lot of valuable information. Moreover, the research involved critical study of the legal provisions and judicial pronouncements.

Stratification principle for units of inquiry



Data on missing persons

The literature review gave us enough indication about a strong linkage between missing persons and trafficking. Since no central agency had all the required data, extra efforts had to be made to get data from the individual states about the details of persons (sex and age disaggregated), who are reported missing and those among them, who could not be traced. NHRC had requested the state government agencies to provide this data. It was possible to obtain some data on this also.

Case studies

155 case studies have been prepared as a part of the research, dealing in depth with the various facets of trafficking. The case studies have been categorised into five themes, as follows:

1. Trends and dimensions in trafficking
2. Profiling the extent and types of exploitation
3. Understanding the vulnerabilities that cause/perpetuate trafficking
4. Prevention and other proactive responses to trafficking
5. Law enforcement and other reactive responses to trafficking

Case studies often reinforced findings arrived through quantitative analysis.

Analysis of Data

Once the data had been collected from the partners, codebooks were developed, based on the responses in the interview schedules. Thereupon, the data in all the schedules, which had been duly filled in, were coded. The coded data was processed using the SPSS package. The task included feeding in the data, verification, computation, validation and presentation of tables to facilitate data analysis and interpretation. The interpretation of the primary data was carried out keeping in view the overall perspective of the study and by comparing, correlating or regressing data, wherever possible. This quantitative data was now ready for interpretation and chapter writing. Efforts were made to integrate the data received from the different categories of schedules and also to achieve a harmonious blend of quantitative and qualitative data. The enclosed chart speaks about the task undertaken by the various members of the study team in drafting the report.

Action Programmes

The research had a very strong action orientation, which was manifested as several spin-offs. Many action programmes were undertaken simultaneously with the research study. A number of them brought together police officials, judicial officers, correctional officers, media persons and NGOs in order to sensitise them to the issue of trafficking in women and children. The information obtained from them was of great value in planning and executing the study. NHRC organised a sensitisation programme for hoteliers and other stakeholders in the tourism industry on sex tourism and trafficking. Several public awareness programmes in the vulnerable areas, and intervention programmes with respect to the various concerned agencies were also held. NHRC and UNIFEM organised a national meet of the Nodal Officers (on anti-trafficking) of all the states in India to sensitise them to the issues concerned and also to build up a national network of government agencies to strengthen the anti-trafficking movement. The action aspect of the research also extended to imparting appropriate orientation/training to the law-enforcement agencies in order to facilitate sensitive handling of these issues. Several debates were organised and discussions were held to promote a better understanding of the law in theory and in practice. Moreover, members of the NST facilitated the government to plan and carry out schemes aimed at prevention of trafficking and protection of the victims.

Chapters and authors

<i>Chapter No.</i>	<i>Title</i>	<i>Author</i>	<i>Researchers</i>
1.	Introduction	George Mathew	Farah Y. Abdullah
2.	Review of Literature	Anita Lodhi (Supervised by Prof. Baviskar)	
3.	Methodology	George Mathew	Farah Y. Abdullah
4.	Profile of the Study Area	P.M. Nair	Itishree, Usha
5.	Survivors (Rescued from CSE)	P.M. Nair	Hasina & Habibur
6.	Victims in CSE	P.M. Nair	Hasina & Habibur
7.	Clientele	P.M. Nair	Hasina & Habibur
8.	Brothel Owners	P.M. Nair	Hasina & Habibur
9.	Traffickers	P.M. Nair	Hasina & Habibur
10.	Rescued children trafficked for labour and other exploitation	P.M. Nair Sankar Sen	Hasina & Habibur Itishree
11.	Migration and Trafficking	Anita Lodhi (Supervised by Prof. Baviskar)	
12.	Tourism and Trafficking	Sankar Sen	Itishree
13.	Culturally sanctioned practices	Savita Bhakhry	-
14.	Missing persons versus trafficking	P.M. Nair	Itishree
15.	Mind of the survivor: Psychosocial impacts and Interventions for the survivor of Trafficking	Achal Bhagat	-
16.	The Legal Framework	P.M. Nair	Swagata Raha
17.	The Status of Law Enforcement	P.M. Nair	Itishree
18.	The response by Police Officials	P.M. Nair	Hasina & Habib
19.	The Judicial Response	P.M. Nair	-
20.	The Government Response	P.M. Nair	Itishree & Farah
21.	Community Response	P.M. Nair	Madhulika Mitra
22.	International Response	Nandita Baruah	S.Chitrahar
23.	Prevention of Trafficking	P.M. Nair	Itishree
24.	Spin-offs in the Action Research	P.M. Nair	-
25.	Findings and conclusions	P.M. Nair	Hasina & Habibur
26.	Recommendations and suggestions	P.M. Nair	-
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	Consolidated Bibliography	Itishree Mohanty	Anita Lodhi
	List of abbreviations	Itishree Mohanty	

Profile of the Study Area

Introduction

A major multidimensional study like this action-oriented research will be meaningful only if it is related to the general context. It is with this purpose that this chapter has been prepared. The chapter has been divided into three sections.

Section A provides a bird's eye-view of the general profile of the country and that of the 13 states where the survey was carried out. This part is an attempt to understand the ground realities, with a specific focus on those aspects which can throw light on the social spectrum that would have some bearing on the issues of gender and child rights which are cardinal/central to this research.

Section B presents the trafficking map of the study area based on the information that the researchers collected during field work. It is impossible to encompass all the aspects of trafficking in one map. Therefore, in addition to an all-India map, maps of the 13 states of study, as presented by the research partners, have been separately appended to this chapter. Effort has been made to put details regarding trafficking for all types of exploitation in the same map. However, wherever possible, different maps have been presented with respect to sex-based and non-sex-based trafficking.

Section C presents the flow chart of the existing trafficking scenario in the country, prepared from the primary data collected through interview schedules. This flow chart provides a geographical profiling of the source points, transit points and destination points with respect to trafficking from and to the states concerned. In addition, flow charts for each state have been separately incorporated.

General profile of India

India covers an area of 3.29 million sq. km. (1.27 million sq. miles). Although it occupies only 2.4 per cent of the world's land area, India supports a population of 1.05 billion, which is over 15 per cent of the world's population. The density of population, as of 2003, is 319 persons per sq. km and the annual population growth rate is 1.6 per cent. According to the Census of India, 2001, the female sex ratio is 933, which was 927 in the year 1991. The female child sex ratio (0-6 years) was 945 during 1991, which has come down to 927 in 2001. Sex selective abortions, female foeticide, female infanticide, and high female mortality rate have been generally ascribed to the larger issue of gender discrimination prevalent in the society.

The female literacy rate, as of 2001, is 54.16 per cent, which is much below the total all-India literacy rate of 65.38 per cent. Despite governmental efforts at universalisation of elementary education, about one-third of the Indian adult population continues to be illiterate and nearly half

of the female population is illiterate. Educational status is a pertinent factor for the development of society. Clearly, the issue of women's status, level of empowerment, and ability to respond to new opportunities or cope with adverse circumstances is a complex one and cannot be adequately captured by any statistical profile.

The majority of women workers in the country are employed in rural areas, primarily as labourers and cultivators. In the urban areas, the majority of them are employed in the unorganised sector $\frac{3}{4}$ in household industries, petty trades and services, buildings and construction, etc. The Female Work Participation Rate (FWPR) was as low as 22.3 in 1991 against 51.6 for males. The provisional result of the Census 2001 has shown a moderate rise of FWPR to 25.6 per cent. Again, the problem of child labour is a major social concern. The number of working children in the country declined from 2 per cent of the total population and 6 per cent of the total work force in 1981 to 1.34 per cent of the population and 3.59 per cent of the total work force in 1991. The estimated number of working children in the country as per the 55th Round of the NSSO Survey (1999-2000) is 10.4 million. Children continue to be employed in unorganised home-based industries and domestic services. The states with the highest child labour population, of more than a million (as per the 1991 Census), are Madhya Pradesh, Maharashtra and Uttar Pradesh.

India has made considerable progress on the health front since independence. At 63 years, life expectancy at birth has nearly doubled since 1951, when it was 32 years. There has been tremendous decrease in the infant mortality rate, from 146 in 1951 to 71 in 2001, as shown in Table 4.1.

Table 4.1: Changing health parameters in India: Some trends

Year	Life expectancy at birth (years)	Literacy rate (per cent)	Birth rate per '000	Death rate per '000	infant mortality rate per '000
1951	32.1	18.3	39.9	27.4	146
1997	62.4 ^a	62.0 ^b	27.2	8.9	71
2001*	63	65.38	25.8	8.5	71

^a refers to 1996 ^b provisional Source: Economic Survey, 1999-2000, Table 10.3, p.167

* Economic Survey, 2002-2003

Despite such improvements, there exist areas of grave concern in the health sector. This is largely due to widespread malnutrition and poor infrastructure, which is responsible for the high mortality rates among the poor, particularly among mothers and children (UNDP, 2003: 64). Though between 1992-93 and 1997-98, infant mortality declined in all states except Madhya Pradesh and Rajasthan, the rates continue to be high in rural areas. High immunisation rates are an almost exclusive characteristic of states in the South and Southwest, with the Hindi speaking heartland being far behind. In numerous areas, particularly in the North and Northeast, less than one-third of children were immunised in 1999.

Economic indicators are important in measuring the development of the country. The comparative trends in the growth rate of GDP over the years may be seen in Table 4.2.

**Table 4.2: Trends in rates of growth in gross state domestic product at current prices—
Decades of eighties and nineties in the states covered in the study**

States	Gross States Domestic Product	
	1980–81 to 1990–91	1993–94 to 1998–99
Andhra Pradesh	4.3	4.9
Assam	3.6	2.7
Bihar	4.7	4.2
Delhi	7.6	6.7
Goa	5.5	8.3
Karnataka	5.4	8.2
Maharashtra	6.0	7.1
Rajasthan	5.9	7.7
Tamil Nadu	5.4	6.8
Uttar Pradesh	4.9	4.5
West Bengal	4.8	6.8

Source: Central Statistical Organisation.

The real GDP growth, which was 4.3 per cent in 2002–03, is expected to be around 6.5 per cent in the current fiscal year, i.e., 2003–2004. While its GDP is low in dollar terms, India has the world's 13th largest GNP. About 62 per cent of the population depend directly on agriculture for their livelihood. Industry and service sectors are growing in importance and account for 26 per cent and 49 per cent of GDP respectively, while agriculture contributes about 25 per cent of GDP. Still, more than 25 per cent of the population lives below the poverty line. (Parikh and Radhakrishnan, 2002) Details may be seen in Table 4.3.

Table 4.3: Percentage of population below poverty line

State	Percentage of population below poverty line		
	1973–74	1993–94	1999–2000
Andhra Pradesh	48.86	22.19	15.77
Assam	51.21	40.86	36.09
Bihar	61.91	54.96	42.60
Delhi	49.61	14.69	8.23
Goa	44.26	14.92	4.40
Karnataka	54.47	33.16	20.04
Maharashtra	53.24	36.86	25.02
Meghalaya	50.20	37.92	33.87
Rajasthan	46.14	27.41	15.28
Tamil Nadu	54.94	35.03	21.12
Uttar Pradesh	57.07	40.85	31.15
West Bengal	63.43	35.66	27.02

Source: Planning Commission.

Along with the socio-economic indicators of the country, it is pertinent to know the crime pattern. As this study is on women and children, the discussions that follow relate only to crimes against women and children. There has been a steady increase in the incidence of crime committed against women, which rose from 1,31,475 cases in 1998 to 1,43,795 in 2001. However, the total incidence of crime declined to 1,33,915 during 2002, registering a decline of 6.9 per cent as compared to 2001, as reported in *Crime in India 2002*. It is a known fact that a large number of crimes go unreported and, therefore, these figures may not present the true picture.

India shares a large border with Nepal and Bangladesh. Nepal and India have porous borders allowing free migration. It is known that trafficking takes place under the umbrella of migration. Bangladesh has a total land border of 4510 kilometres, of which 4222 kilometres cover 28 districts

of India. The terrain is such that it cannot be manned at all places. This is taken advantage of by the traffickers. According to the Centre for Women and Children's Studies, Bangladesh (Ishrat, Shamin, 1998), there are 51 Bangladeshi enclaves in India and 111 Indian enclaves in Bangladesh, which have no patrol or control by any law enforcement agency. As a result, the traffickers can easily use these enclaves as recruitment and collection sites. Under the garb of migration, the traffickers have become active and a large number of young girls are being trafficked from both Bangladesh and Nepal to various places in India, especially to Kolkata, Mumbai and Delhi.

General profile of the states where survey was carried out

Tamil Nadu is situated on the southern tip of the Indian peninsula. According to the 2001 Census, Tamil Nadu covers an area of 130,058 sq. km, with a total population of 62,110,839 persons. Thus, the density of population is 478 persons per sq. km. The sex ratio is 986 females per 1000 males. The total literacy rate is 73.47 per cent $\frac{3}{4}$ 82.33 per cent among males and 64.55 per cent among females. When compared with the all-India female literacy rate of 54.16 per cent, Tamil Nadu is in a much better position. In 1961, the male literacy rate was 51.54 per cent and female literacy rate only 21.06 per cent, but now the wide gap has been bridged substantially. Though there have been remarkable achievements, the dropout rate of school children, particularly girls, is high. At the primary level, it is 14.31 per cent, going up to 35.07 per cent at the middle level, 57.56 per cent at the high school level and 71.51 per cent at the higher secondary level (Department of School Education Report, 2003).

Compared to boys, more girls are dropping out of school at the primary level. However, there is a wide variation among the number of dropouts at the middle, high school and higher secondary level. Around 50 per cent of the children do not go to school after the middle level. They mostly get absorbed into the informal workforce. The percentage of women in the labour force is much less than their male counterparts. Another interesting feature is that it is rural areas which provide more jobs to women. Since education and employment opportunities have a considerable bearing on deciding the vulnerability of a person, these parameters are important in the context of the present study.

The economy of the state depends largely on the agricultural sector, with more than 70 per cent of the population being engaged in agriculture. The state gross domestic product has increased from 5.4 in 1990–91 to 6.8 in 1998–99 (refer Table 4.2). The population in Tamil Nadu living below the poverty line has decreased from 54.94 per cent in 1973–74 to 21.12 per cent in 1999–2000 (refer Table 4.3). This shows that though there has been improvement in the state, more than a fifth of the population is still living below the poverty line.

Crime against women in Tamil Nadu has increased considerably during the last decade, with a rate of growth of 65 per cent during 1991 and 2001. According to the statistics quoted in the *Policy paper on Gender* prepared by the Women Development Corporation of Tamil Nadu, there were 5,748 crimes against women in 1999 and it increased to 6,486 cases during the year 2000, thereby recording more than 12 per cent increase in one year. The overall scenario of high reporting of crimes against women in Tamil Nadu finds its resonance in the reporting of cases under the Immoral Traffic Prevention Act also (see discussions in the chapter on law enforcement).

West Bengal has international borders with Nepal, Bangladesh and Bhutan, and has state borders with Sikkim, Bihar, Orissa, Jharkhand and Assam. Kolkata, the capital city of West Bengal, is not only the trade and cultural hub of eastern India but also of the northeastern part of the country. On the other hand, Siliguri, the most important urban centre of North Bengal, acts as the gateway to Nepal, Sikkim, Bhutan and also the North-East, due to its strategic location. The total area of West Bengal is 88,752 sq. kms. Though it is one of the smaller states in the country, it has a dense concentration of population. According to Census 2001, the total population of the state is 80,221,171, which is fourth in rank after Uttar Pradesh, Maharashtra and Bihar, but the population density is the highest in West Bengal, with 90.4 persons per sq. km. The population pressure in the state is the outcome of its socio-economic and political history. Migration from Bangladesh to India, especially to West Bengal, has been in existence for long. The sex ratio is 934, which is slightly higher than the all-India sex ratio.

According to Census 2001, among the top ten populous districts of the country, five districts belong to West Bengal and out of the five, three districts $\frac{3}{4}$ North 24 Parganas, South 24 Parganas and Murshidabad $\frac{3}{4}$ which share the international border with Bangladesh, are reported to be trafficking-prone areas. In West Bengal, during the last decade, female literacy has increased from 46.6 per cent in 1991 to 60.22 per cent in 2001. According to NFHS II, 1998–99, literacy among Hindu women is higher than that of Muslim women by 15 per cent. It is seen that with increasing age, school attendance for females falls significantly, as the dropout rate is higher among females than males. In the age group of 6–10 years, there is not much male/female disparity, with 83.7 per cent male children and 82.1 per cent female children attending school. But, in the age group of 11–14 years and 15–17 years, only 68.7 per cent and 36.9 per cent females respectively, attend school, compared to 75.4 per cent and 51.4 per cent males in the corresponding age group.

Agriculture is the mainstay of the economy. The gross state domestic product has increased from 4.8 in 1990–91 to 6.8 in the year 1998–99 (refer Table 4.2). The population below poverty line has also shown a decrease, coming down from 63.43 in the year 1973–74 to 35.66 in the year 1993–94 and 27.02 in the year 1999–2000 (refer Table 4.3). As per the Sanhita Report (2002), the overall incidence of crime in West Bengal has decreased while that of crimes against women has increased from 3,947 crimes reported in 1990 to 7,589 reported in 1998. Despite higher levels of literacy, South 24 Parganas has the highest reportage of crimes with 938 crimes reported in 1999 (NCRB, 1999). On the other hand, the northern and western parts of West Bengal, which have a higher gap in literacy between the genders, shows lesser incidence of crime reporting. Also, the Sanhita Report (2002) observes that while the reporting of dowry deaths and cruelty by husbands in West Bengal has increased a great deal, especially in the rural areas, instances of trafficking are highly under-reported compared with the actual situation, which has come out in studies conducted by NGOs. The incidence of buying and selling of minor girls was the highest in West Bengal during 1998. Moreover, the outcome of registration of crimes is not very encouraging, with the rate of conviction decreasing from 1.66 to 0.24 per cent between 1992 and 1998.

Rajasthan is the largest state in India, stretching over an area of 3.42 lakh sq. kms. It is situated in the northwestern region and shares a major portion of the international border with Pakistan. The Census of India 2001 reveals that Rajasthan has maintained its record of registering one of the highest population growth rates in the country since independence. A population of 5.65 crores

has been estimated as on 1 March 2001, with a density of 165 persons per sq. km. The Census also recorded an improvement in sex ratio. It increased from 910 females for every 1000 males a decade ago to 922 in 2001. However, the decline in the child sex ratio (0–6 years) from 916 in the year 1991 to 909 in the year 2001 is an area of critical concern. (Census of India, 2001).

The 2001 Census of India and the National Family Health Survey 2 (NFHS 2) for Rajasthan reveals some positive changes in the condition of women. The state registered one of the highest growth in female literacy among the major states of the country, with its literacy rate going up from 20 per cent in 1991 to over 44 per cent in 2001. Though the overall literacy has increased, it still continues to be lower than the all-India average. Women's literacy has more than doubled during the decade 1991–2001, from 20.4 per cent in 1991 to 44.3 per cent in 2001, but female literacy continues to be much lower than that of men as well as the national average. The figures for 2001 show that while the literacy rate is 76.5 per cent for males, it is 44.3 for females in Rajasthan, as against the all-India female literacy rate of 54.2 per cent. The school dropout rate is also quite high in this state.

Women in Rajasthan have always had a difficult time providing for the survival needs of their families due to the harsh climatic conditions prevalent there. A large majority of women are engaged in the primary sector, i.e., agriculture and animal husbandry, and are mainly self-employed. According to NFHS 2, three-quarters of the women who work are agricultural workers and account for more than four out of five working women in rural areas. There is greater occupational diversity in urban areas. Twenty per cent of the urban employed are agricultural workers, 40 per cent are production workers and 14 per cent are professionals. A significant feature of women's work participation in Rajasthan is their substantial contribution to family earnings. In both rural and urban areas, almost one-third of women who worked and earned cash in the past 12 months report that the family is entirely dependent on their earnings.

As regards the position of women in governance, the panchayat legislation enacted in the wake of the 73rd Amendment has facilitated the presence of rural women in the institutions of local governance. The economy of the state is also on the upswing. According to the Tenth Five-Year Plan, 2002–2007, the gross state domestic product has increased from 5.9 in 1980–1990 to 7.7 in 1993–99. The population below poverty line has also gone down from 46.14 in the year 1973–74 to 27.41 in the year 1993–94 to 15.28 in the year 1999–2000.

The modern state of Rajasthan was formed by disbanding the feudal states, but feudalism as a socio-cultural legacy still dominates the lives of women in many parts. Female infanticide has been reported in western Rajasthan. In such a situation, women tend to get caught in the vicious circle of mutually reinforcing gender inequalities and patriarchal practices. Various forms of inequalities continue to be enforced, reinforced and extended through social control and devaluation of women. The disadvantage that starts before birth continues throughout the life of girls and women. Thus, crime against women is highly visible in this state.

Andhra Pradesh is the fifth largest state in India, both in terms of area and population. It is bound by Tamil Nadu on the south, Orissa and Chhattisgarh on the north, Maharashtra and Karnataka on the west and on the east by the Bay of Bengal. The northern area of Andhra Pradesh is mountainous. Andhra Pradesh consists of three regions: the coastal region (Andhra), the interior region

(Rayalseema) and the Telengana region (Hyderabad and the nine adjoining districts), which were formerly in the Nizam's dominion. It covers a total area of 2,75,068 sq. kms. The state is divided into 23 districts, with Hyderabad as the capital.

The Census of India 2001 shows that a population of 7.57 crores has been estimated in the state of Andhra Pradesh. The growth rate from 1991 to 2001 is 13.86 per cent and the density of population is 275 persons per sq. km. The sex ratio in the state is 978 women per 1000 men. The child sex ratio has gone down from 975 in the year 1991 to 964 in 2001. The literacy rate is 61.11 per cent, with the male literacy rate being 70.85 per cent and female literacy rate, 51.17 per cent. A large number of school dropouts are seen in the younger age group, with the dropout children being engaged in the workforce. The problem of child labour is a major social concern in this state. According to the Economic Survey, 2002–03, Andhra Pradesh is the state with the highest child labour population in the country. The economy of the state determines the status and lifestyle of the people living in that particular state. The gross state domestic product in this state does not show any significant improvement over the years. It was 4.3 in 1980–91 and went up to 4.9 during 1993–99 (refer Table 4.2). But the population below poverty line has shown a substantial improvement (refer Table 4.3).

Crime against women has increased from the previous years in this state. The total number of crimes under ITPA reported in 2001 was 1,332 as against 482 cases in 2000. There was thus an increase of 176 per cent in these crimes in 2001 as against the previous year.

Uttar Pradesh (UP) occupies the central position in the northern Great Plains of India. It is surrounded by Tibet and Nepal in the north, Himachal Pradesh and Uttaranchal in the north-west, Haryana in the west, Madhya Pradesh and Chhattisgarh in the south and Bihar in the east. UP has a long but porous border with Nepal, running into 845 kms. UP can be divided into two distinct regions $\frac{3}{4}$ the Gangetic plains and the southern hills plateau. Its total area is 2,94,411 sq. kms. It is the most populous state in the country, with a total population of 166,052,859 persons, with 87,466,301 males and 78,586,558 females. The density of population is 689 persons per sq. km. The sex ratio in UP is much less as compared to the all-India figures, with only 898 females for 1000 males. But the child sex ratio is better $\frac{3}{4}$ with 916 in 2001.

According to the 2001 Census, the literacy rate in this state is 57.36 per cent, with the male literacy rate being 70.23 per cent and female literacy rate, only 42.98 per cent. The number of school dropouts is also higher in case of girls as compared to boys.

The economy of the state mainly depends on agriculture. The gross state domestic product has decreased from 4.9 in 1990–91 to 4.5 in 1998–99 (refer Table 4.2). The growth rate is also much below the all-India GDP growth. As much as 31.15 per cent of UP's population lives below the poverty line (refer Table 4.3).

Crime against women is quite high in the state of Uttar Pradesh. In 2002, the highest number of kidnapping and abduction cases in India was reported from UP. Crime against women increased from 2000 to 2001, but the reported figures show decreasing trends in the year 2002. Crime committed against children is also very high in this state. It is seen that in the year 2001, (NCRB 2001), nearly one-third (34.3 per cent) of crimes committed against children were reported from UP.

Delhi, the capital of the country, is situated in the National Capital Territory region and is bound by Haryana and Uttar Pradesh on its sides. It is one of the important industrial centres, and being the capital of the country, is the hub of many activities. Therefore, people from different parts of the country migrate to Delhi in search of employment, business, tourism, etc. Delhi is a major transit point for migrant labourers and tourists from within India and even from outside. It covers a total area of 1,483 sq. km. According to the 2001 Census, the total population of Delhi is 13,782,976, out of which 7,570,890 are males and 6,212,086 are females. Thus, the density of population is 9,294 persons per sq. km. and the decadal population growth rate is 46.31 per cent. The sex ratio is 821 females per 1000 males, which is very low as compared to the all-India ratio. The child sex ratio is even more disappointing $\frac{3}{4}$ 915 in 1991 and 865 in 2001.

The literacy rate is 81.82 per cent $\frac{3}{4}$ with the male literacy rate, 87.37 per cent, and female literacy rate, about 75 per cent. This is quite high as compared to the all-India literacy rate. The gap in the literacy rate between male and female over a decade, i.e. from 1991 to 2001, also shows a tendency of narrowing.

Though the state shows a decrease in the gross state domestic product, from 7.6 during 1980–90 to 6.7 during 1993–99 (refer Table 4.2), the population below poverty line has shown a marked decrease. While it was 49.61 per cent in 1973–74, it has come down to 8.23 in the year 1999–2000 (refer Table 4.3).

The crime rate in Delhi is very high in comparison to other cities in India. This is particularly so with respect to crimes against women and children. In the year 2001, about 42 per cent of child victims of kidnapping and abduction belonged to Delhi.

Bihar is situated in the northern part of the country, bound by West Bengal in the east, Jharkhand in the south, Uttar Pradesh in the west and bordering Nepal in the north. It occupies a total area of 94,163 sq. kms. As per the 2001 Census, the total population in Bihar is 82,878,796, out of which 43,153,964 are males and 39,724,832 are females. The density of population is 880 persons per sq. km. In Bihar, the sex ratio was 921 in 2001, which has increased compared to 1991, when it was 907. But the child sex ratio has decreased over the same period of time. The child sex ratio was 953 in 1991, but came down to 938 in the year 2001. The literacy rate is 47.53 per cent, which is much lower than the all-India rate. Again, the female literacy rate, at 33.57 is much less than the male literacy rate of 60.32. The number of illiterates has increased from 31,986,516 to 34,968,650 (a difference of 2,982,134), negatively contributing by 9.33 per cent to the kitty of illiterates (Census of India, 2001). The school dropout rate is also quite high, with these children getting absorbed into the workforce. Bihar remains backward with respect to the economy. The gross state domestic product has gone down from 4.7 during 1980–90 to 4.2 in 1993–99 (refer Table 4.2). It is one of the poorest states among the major states of India, with 42.60 per cent of the population still living below the poverty line (refer Table 4.3).

Over the last five years, crime against women has decreased to a large extent on all heads except the 'importation of girls'. While the reporting under importation of girls was zero in 1999, it increased to 40 in the year 2000 and 83 in the year 2001. In 2001, it is also estimated that 73 per cent cases of importation of girls have been reported from this state.

Meghalaya is one of the 'seven sisters' in the northeastern part of the country. It is bound by Assam in the north and east, and Bangladesh in the south and west. It is a hilly area, mostly dominated by the Khasi, Garo and Jaintia tribes. It covers a total area of 22,429 sq. kms. The total population is 2,306,069, with 1,167,840 males and 1,138,229 females. Thus, the density of population is 103 persons per sq. km. The sex ratio is 975, which is much higher than the all-India sex ratio. However, the child sex ratio has decreased from 986 in the year 1999 to 975 in 2001, but it is still equal to the all-India child sex ratio. The literacy rate is 63.31 per cent, with the male literacy rate being 66.14 per cent and female literacy rate, 60.41. As the figures show, the female literacy rate is quite high in Meghalaya. The society is matrilineal and women command a good status in the society. They were the main workforce in the traditional society, but the trends are changing now.

The economy of the state is basically agricultural. There is not much improvement in the industrial sector. The percentage of population living below the poverty line, at 33.87 per cent, is still very high as compared to other states, although it has come down from 50.20 in 1973–74 (refer Table 4.3).

The crime trends, as per the published data, show less number of crimes under various heads. The crime graph is not very high in the northeastern states. However, child labour is prevalent due to poverty. These children are also vulnerable to trafficking. There are no reports of organised crime gangs operating in the area especially for kidnapping/trafficking of women and children. As the northeastern states of India share a large border with Bangladesh, infiltration is a big issue, regularly disturbing the peace in the area.

Karnataka, situated in the southern part of the country, lies to the south of Goa and Maharashtra, west of Andhra Pradesh, northwest of Tamil Nadu and to the north of Kerala. It covers a total area of 1,91,791 sq. kms. The total population of Karnataka as per the 2001 Census is 52,733,958, out of which 26,856,343 are males and 25,877,615 are females. The density of population is 275 persons per sq. km. The sex ratio is 964, which is better than the all-India ratio. The child sex ratio is more than the adult sex ratio. The child sex ratio was 975 in 2001, which is quite high when compared with the all-India ratio of 927, but the infant mortality rate, at 58, is still a matter of concern. The literacy rate is slightly higher than the all-India literacy rate. It is 67.04 per cent, with the male literacy rate being 76.29 per cent and female literacy rate, 57.45 per cent.

Karnataka is predominantly rural and agrarian. Agriculture and allied activities account for nearly two-thirds of the workforce in the state. However, it is one of the leading industrialised states, contributing 4 per cent of the national production in the industrial sector and 20 per cent of the state income. The geographical distribution of resources shows a distinct disparity between different parts of Karnataka. Generally speaking, people in the northern part of Karnataka are poorer, whereas the districts in the southern half are populated by relatively affluent people.

The economy of the state has shown drastic improvement over a period of time. The gross state domestic product was 5.4 during 1980–90, increasing to 8.2 during 1993–99 (refer Table 4.2). The percentage of population living below the poverty line has decreased from 54.47 in 1973–74 to 20.04 in 1999–2000 (refer Table 4.3).

In Karnataka, crimes against women like kidnapping/abduction, cruelty by husbands, dowry deaths and molestation have been increasing over the years, but crimes like rape and sexual harassment show a decreasing trend from 1999 to 2002 (NCRB, 2002).

Maharashtra is bound by Gujarat and Madhya Pradesh in the north, Chhattisgarh in the east, Andhra Pradesh, Karnataka and Goa in the south, and the Arabian Sea in the west. It consists of 36 districts. It is one of the biggest trade centres of the country, with Mumbai, the capital of the state, popularly known as the financial capital of India. The total area of Maharashtra is 3,07,713 sq. kms. The total population is 96,752,247, with 50,334,270 males and 46,417,977 females keeping, the density of population at 314 persons per sq. km. The sex ratio is 922 and the child sex ratio, at 917, is even worse. The literacy rate, at 77.27 per cent, is quite high $\frac{3}{4}$ with 86.27 per cent for males and 67.51 per cent for females.

The economy of the state has shown improvement over the decades. The gross state domestic product has increased from 6.0 during 1980–90 to 7.1 during 1993–99 (refer Table 4.2). The percentage of population below poverty line has also gone down from 53.24 in the year 1973–74 to 25.02 in 1999–2000 (refer Table 4.3).

Crime against women is increasing over the years, although crimes like rape, molestation and cruelty by husband have decreased marginally during 2001. Maharashtra recorded the highest number of reports on procurement of minor girls in the year 2000.

Goa, a small state in the southwest of the Indian subcontinent, is bound by Karnataka in the south and east, Maharashtra in the north and the Arabian Sea in the west. The total area covered is only 3,702 sq. kms. The total population of Goa is 1,343,998, with 685,617 males and 658,381 females. The density of population is 363 persons per sq. km. The sex ratio in Goa, which was 1,128 in the year 1951 (Tenth Five Year Plan, 2002–07, Volume-III), has nose-dived to 960 in 2001. This is quite a disappointing figure. The child sex ratio is even lesser $\frac{3}{4}$ it was 933 in 2001 (Census of India, 2001). The infant mortality rate has shown improvement over the years. It was 57 in 1961, going down to 51 in 1981 and 36 in 2001. The literacy rate has increased from 23 per cent in 1951 to 82.3 per cent in 2001. Among the literates, 88.88 per cent are males and 75.51 per cent are females. This shows quite a positive trend.

With regard to the economy, the gross state domestic product has shown a substantial improvement of growth rate from 5.5 during 1980–90 to 8.3 during 1993–94 (refer Table 4.2). The population living below the poverty line has also decreased from 44.26 in 1973–74 to 4.40 in 1999–2000 (refer Table 4.3). Goa has the second lowest percentage of people living below the poverty line in the country, after Jammu and Kashmir.

Being a state with very high literacy rate and quite a good economy, women enjoy much better social status as compared to other states of the country. The incidence of crime against women is also less. As compared to 1999, crimes against women decreased in 2002.

Trafficking maps of the study area

During the field research, the researchers in all the 13 states of study tried to map the geographical distribution of the source areas, transit areas and demand areas with respect to trafficking for commercial sexual exploitation. It is impossible to arrive at an all-India map of trafficking because

the study did not cover all states in India. Based on the information and inputs gathered during the fieldwork, the researchers have compiled these trafficking maps. These maps have been prepared based on secondary sources and, therefore, are subject to further amendments depending on the field situation. Moreover, the survey was conducted in selected places/districts in the states and could not, for want of resources, cover each and every district/village in any given state. Nevertheless, efforts have been made to make the map as realistic as possible by value addition with the inputs received during interviews, focus group discussions, interactive sessions, etc. Accordingly, the trafficking scenario for the whole of India is presented in Appendix 1.1, followed by the trafficking maps for the concerned states in the Appendices 1.2 to 1.12.

It may be noted that the Source Points (SP) indicate the place of recruitment. Demand Point (DP) indicates the place where the trafficked victim is exploited. Transit Point (TP) means the major hub of transit, which is usually the convergence point of many small routes. There is every possibility that a demand area could be a transit area for onward movement and a transit point could be a demand area too. Similarly, source points could also be demand areas. Therefore, the categorisation of the areas have been done based on the inputs that were available during the research and is open to further amendments.

Flow chart of source-transit-destination points of trafficking for commercial sexual exploitation

This section presents the dimensions of the flow of persons who have been trafficked. Therefore, this indicates the movement of the traffickers too. For purposes of analysis, the data received from the interview of survivors and victims of CSE have been combined and flow charts have been prepared separately for all the states where the study was carried out. Since the data shows instances of trans-border trafficking from Nepal and Bangladesh to India, these details have been captured in a separate map. The analysis below presents the data collected from a total number of 1,402 persons interviewed. The statewise breakup is: Andhra Pradesh —194; Rajasthan — 106; Uttar Pradesh — 133; Assam and Meghalaya — 41; Goa — 89; Karnataka — 113; Delhi —169; Tamil Nadu —181; West Bengal —94; Maharashtra —181 and Bihar —101.

The analysis is based on the frequency distribution of the data given by the respondents. After tabulating the data, the frequency numbers and their corresponding percentages were calculated. This gave rise to two types of flow charts, one relates to trafficking of women and children from one particular state to other states. The second flow chart presents the trafficking in the reverse direction, i.e., trafficking of women and children from different states to a particular state. The analysis of the data compiled in these two types of charts (in-flow chart and out-flow chart) lead to the following findings.

- It is seen that maximum percentage of interviewed women and children have been trafficked from the states of Andhra Pradesh (25.9 per cent), Karnataka (15 per cent), West Bengal (12.5 per cent) and Tamil Nadu (12.3 per cent). In most states, intra-state trafficking is a common phenomenon. This is particularly true for a state like Tamil Nadu, where, out of a total of 156 interviewed trafficked victims, 148 (94.8 per cent) had been subjected to intra-state trafficking. Similarly, in Rajasthan, intra-state trafficking is 88.5 per cent, followed by Assam and Meghalaya at 88.4 per cent, Bihar at 80.26 per cent, and Uttar Pradesh at 73.5 per cent.

- The in-flow chart shows that in most of the states, trafficking within the state is quite high. This is true for states like Andhra Pradesh, Rajasthan, Uttar Pradesh, Assam and Meghalaya, Karnataka, Tamil Nadu, and West Bengal. On the other hand, there are a few exceptions like Delhi and Goa where intra-state trafficking is very minimal, with only 0.4 percentage and 0.6 percentage respectively.
- Based on the data gleaned from the interviewed respondents, it is obvious that trans-border trafficking from Nepal and Bangladesh to India seems to be almost one-way traffic, without any instance of reverse trafficking to these countries having been noticed. Between the two countries, trafficking from Nepal is on a larger dimension. Among the 55 interviewed persons who were trafficked from Nepal, the majority were trafficked to UP (41.8 per cent), followed by Delhi (40 per cent). Here, it is important to note that out of the 169 interviewed respondents in Delhi, 22 were from Nepal. Similarly, among the 15 interviewed persons trafficked from Bangladesh, a large majority were trafficked to West Bengal. This shows that the contiguous borders of Nepal with UP and Bangladesh with West Bengal have been effectively capitalised on by the traffickers for trafficking women and children to adjoining places. Moreover, language also makes a lot of difference. It would be impossible to detect the presence of Bengali-speaking traffickers and trafficked victims in West Bengal, even if they are of foreign origin.

However, the study suffers from certain limitations, which are as follows:

- Many respondents were unable to state the names of the source and transit districts due to various reasons. In many of the schedules, only the names of the villages/blocks were mentioned. For this, the 1991 Census and atlas had to be referred to in order to identify the respective districts. However, all the districts could not be identified and hence, the source districts and the total number of women and children from that particular state may have some discrepancy.
- Likewise, in the case of transit districts also, there may be a few discrepancies because a victim may have one or more transits during the process of trafficking. In a few cases, there has been no transit at all.
- Some schedules were in regional languages, which posed a barrier in calculation and hence, could not be tabulated.
- During the field survey, the interviewer may have interviewed people in some particular brothels where the concentration of women and children of a particular state may be high. The percentages calculated (as indicated in the flow charts) are only indicative and do not represent the actual picture of trafficked women and children from that state.
- The study represents only 13 states. For the remaining states, the transit points quoted by the respondents may actually be the destinations.

Appendix 1: Trafficking maps of commercial sexual exploitation (based on secondary sources)

- 1.1 India
- 1.2 Andhra Pradesh
- 1.3 Bihar

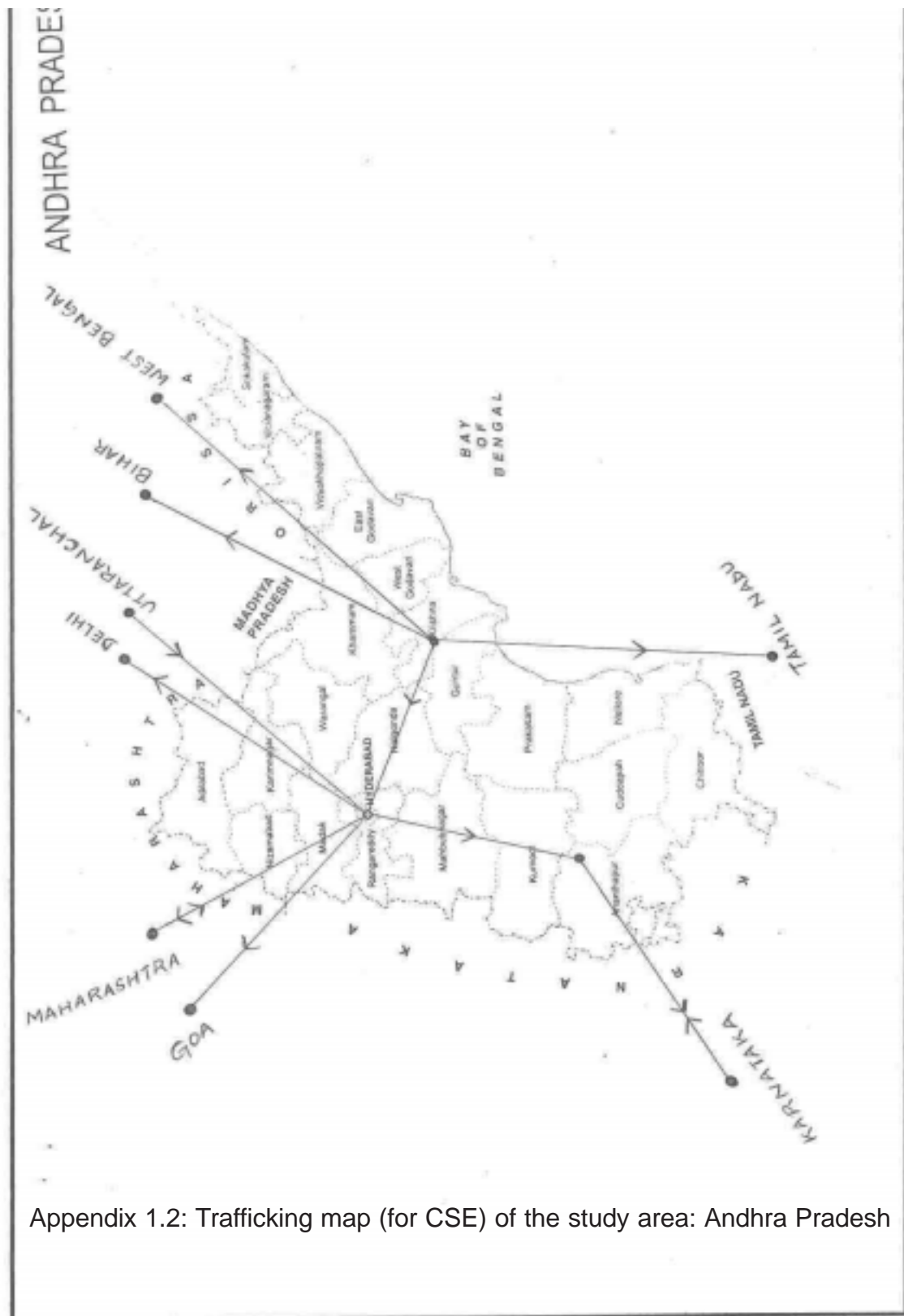
- 1.4 Delhi
- 1.5 Goa
- 1.6 Karnataka
- 1.7 Maharashtra
- 1.8 Meghalaya and Assam
- 1.9 Rajasthan
- 1.10 Tamil Nadu
- 1.11 Uttar Pradesh
- 1.12 West Bengal

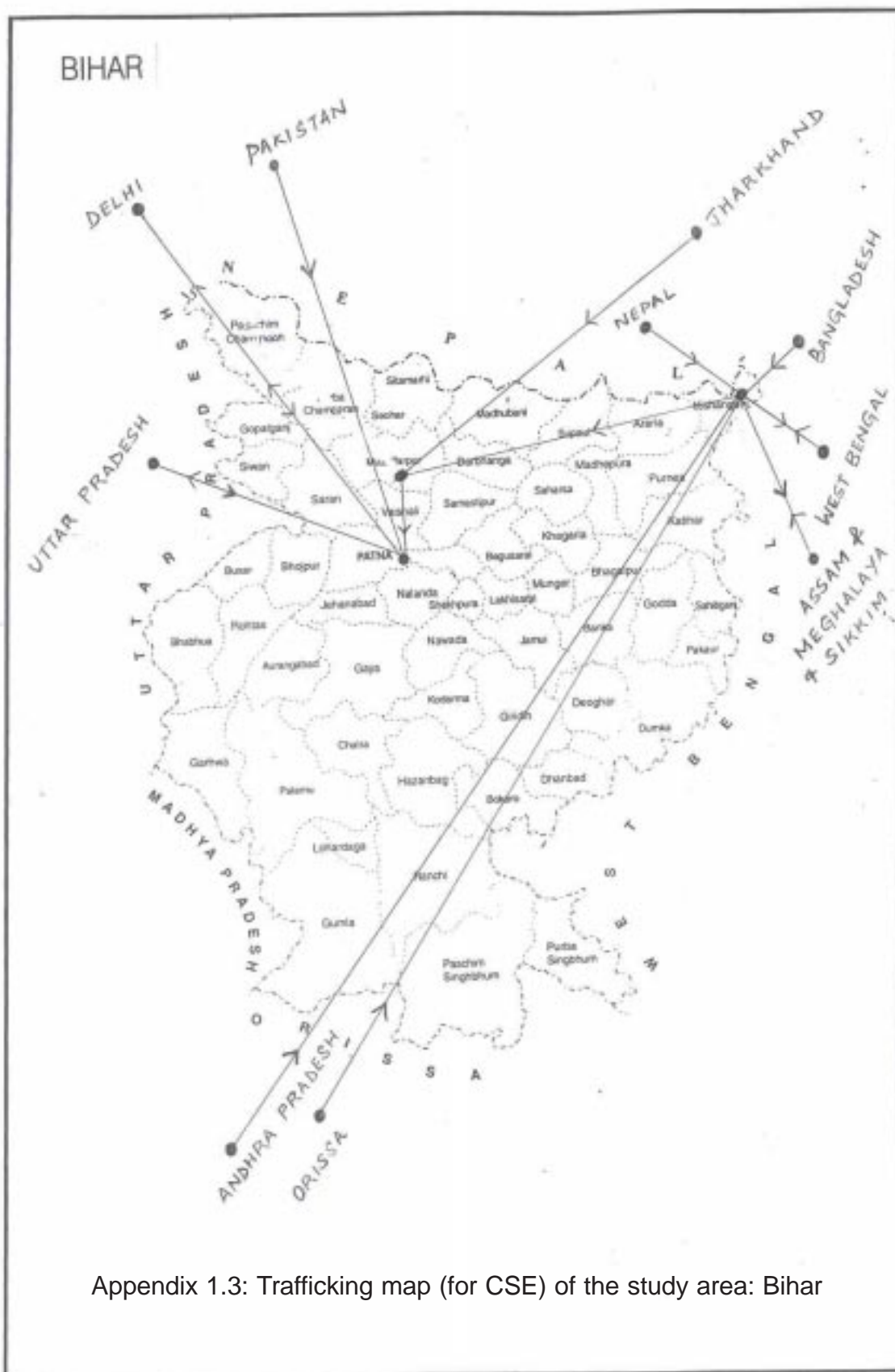
Appendix 2: Flow charts of source, transit and destination points of trafficking for commercial sexual exploitation (based on primary data)

- 2.1 Andhra Pradesh
- 2.2 Bihar
- 2.3 Delhi
- 2.4 Goa
- 2.5 Karnataka
- 2.6 Maharashtra
- 2.7 Meghalaya and Assam
- 2.8 Rajasthan
- 2.9 Tamil Nadu
- 2.10 Uttar Pradesh
- 2.11 West Bengal
- 2.12 Trans-border trafficking

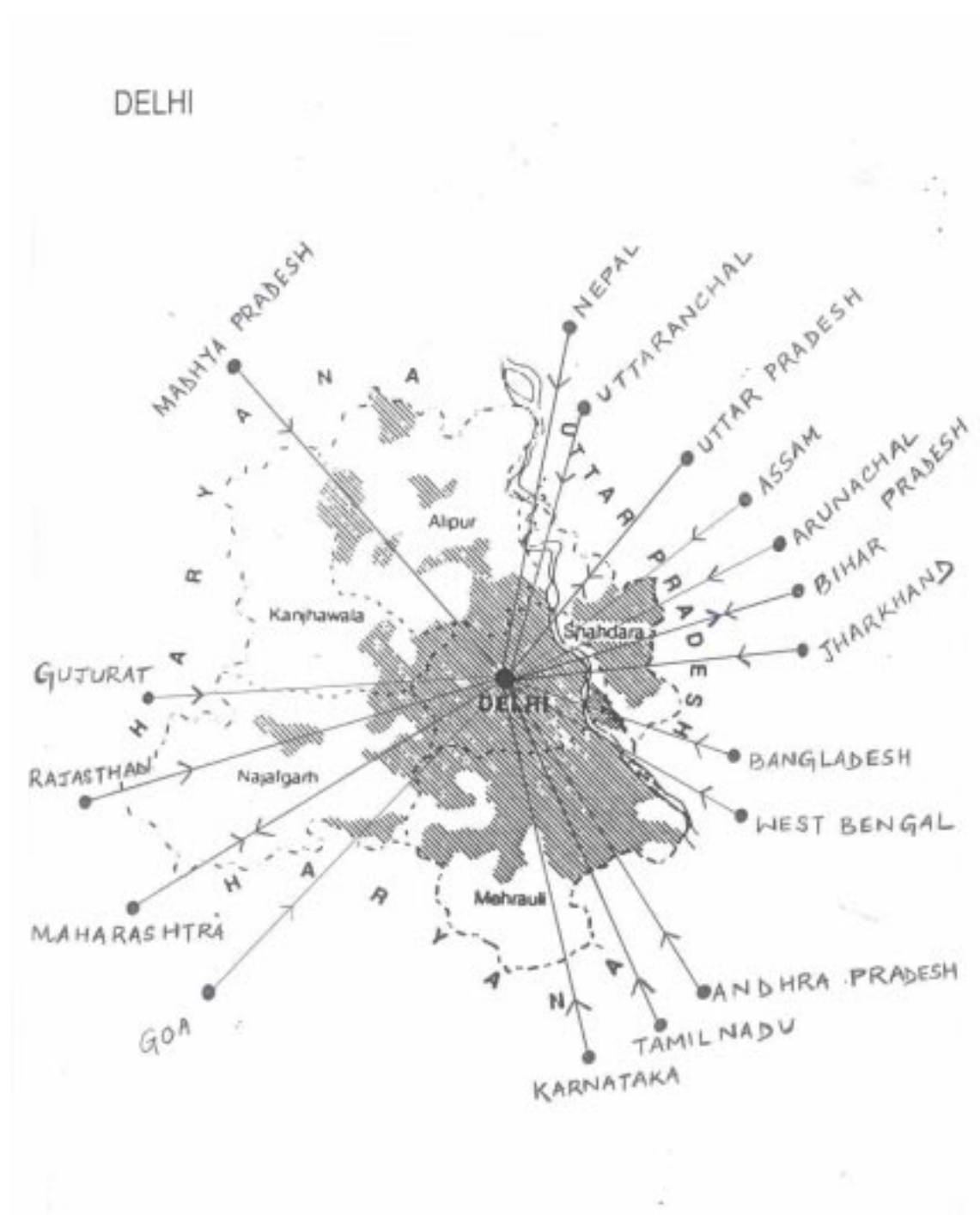


Appendix 1.1: Trafficking map (for CSE) of the study area: All-India





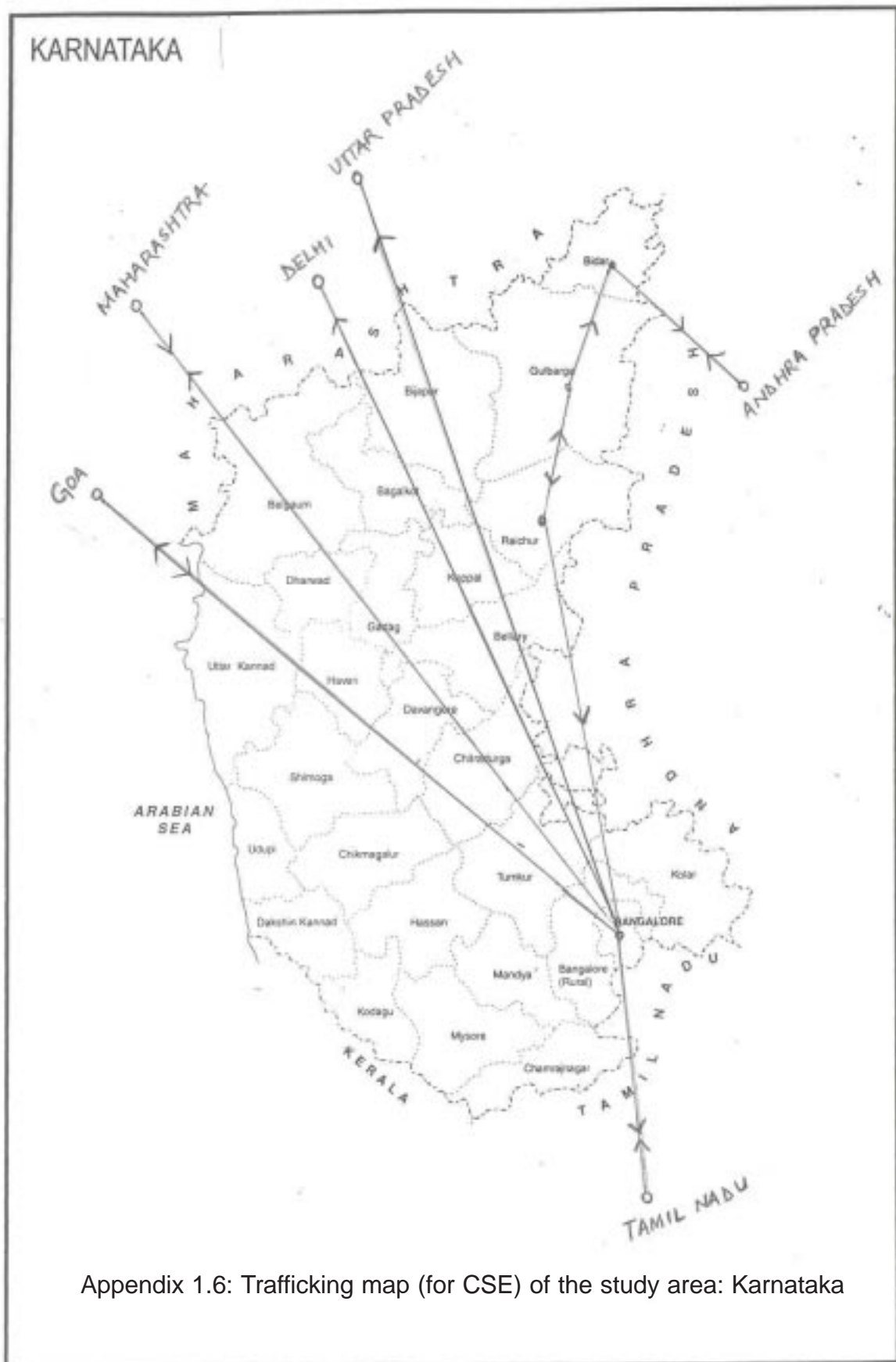
Appendix 1.3: Trafficking map (for CSE) of the study area: Bihar



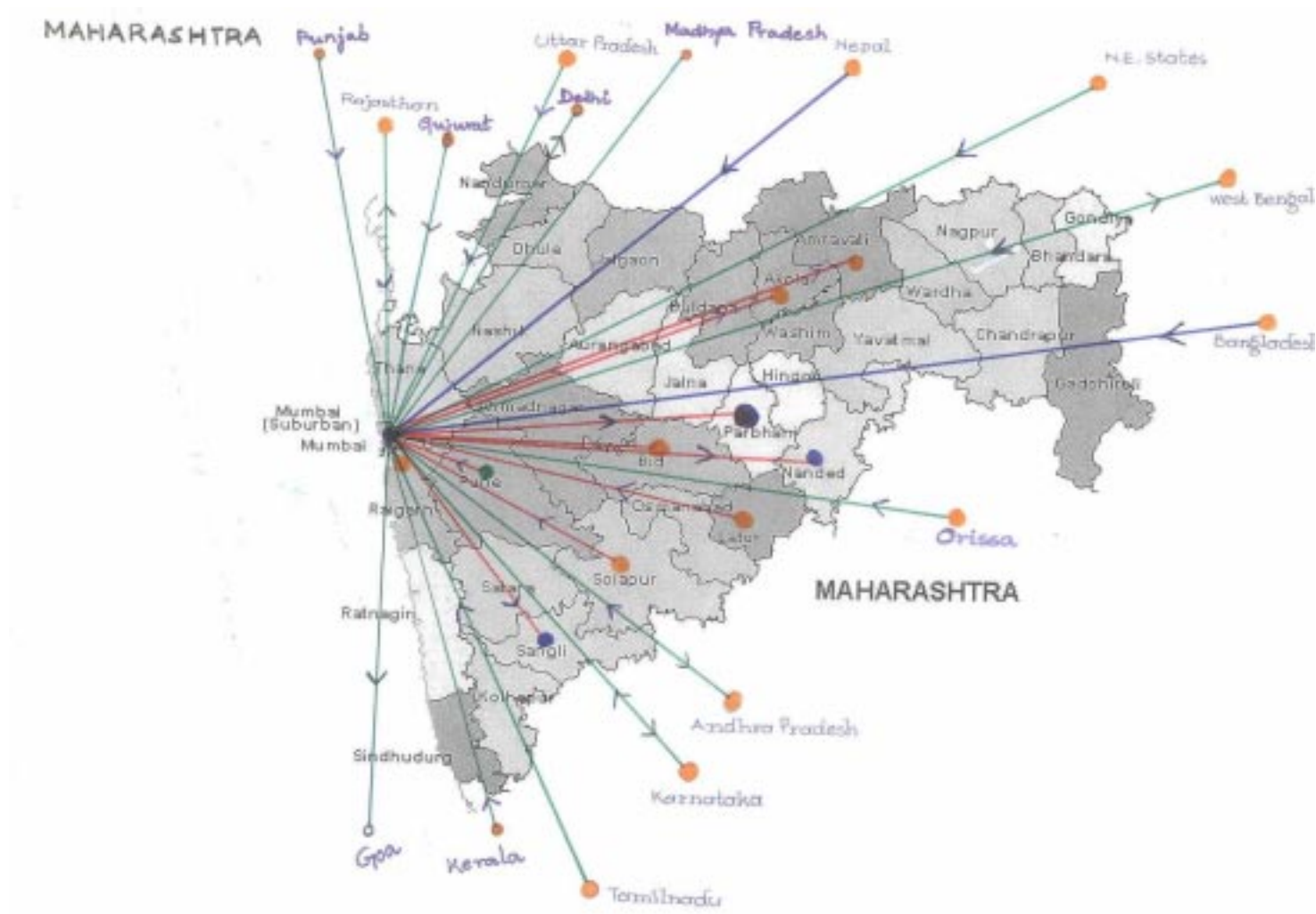
Appendix 1.4: Trafficking map (for CSE) of the study area: Delhi



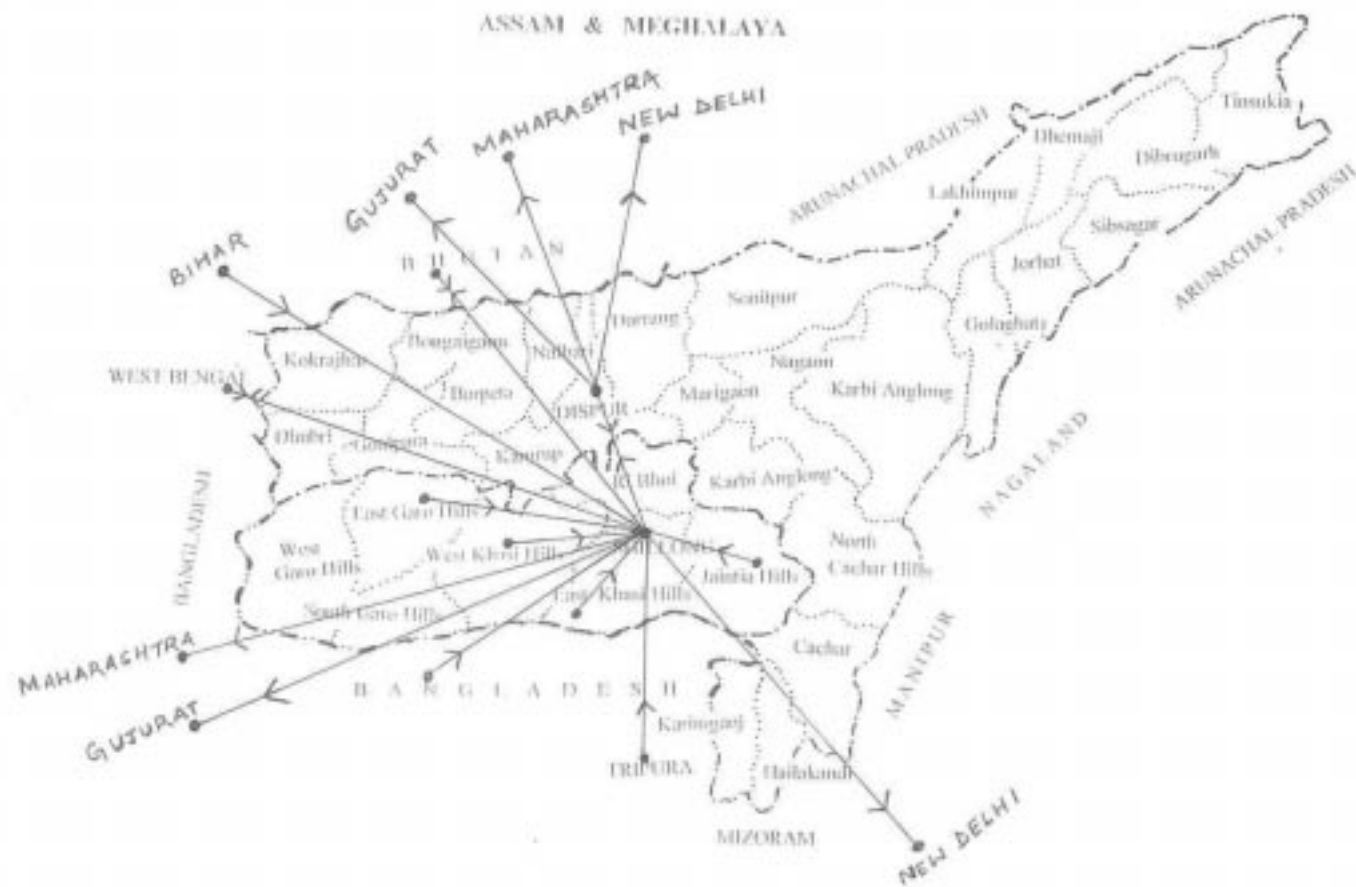
Appendix 1.11: Trafficking map (for CSE) of the study area: Goa



Appendix 1.6: Trafficking map (for CSE) of the study area: Karnataka

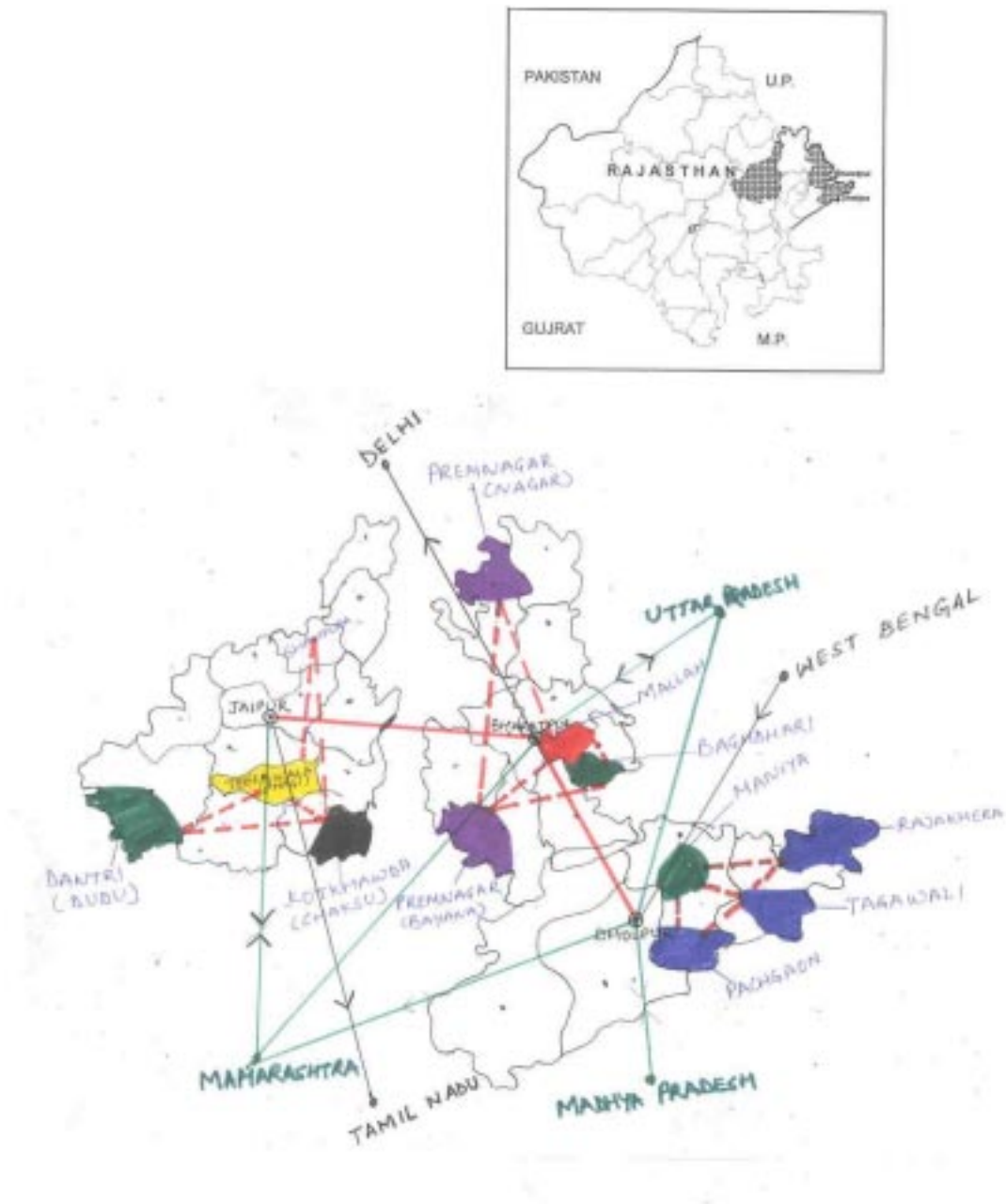


Appendix 1.5: Trafficking map (for CSE) of the study area: Maharashtra

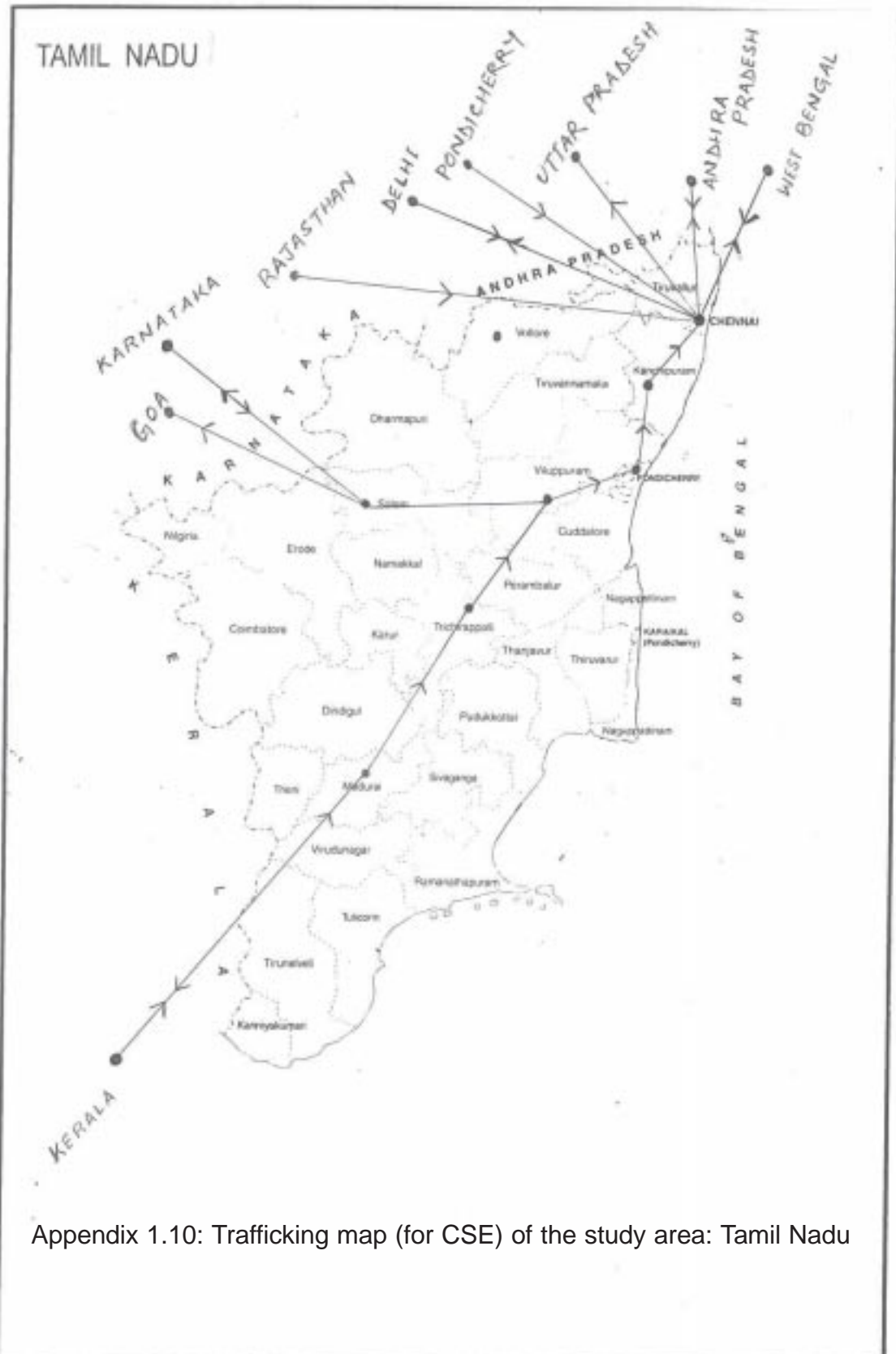


Appendix 1.8: Trafficking map (for CSE) of the study area: Assam & Meghalaya

Location map of the study areas

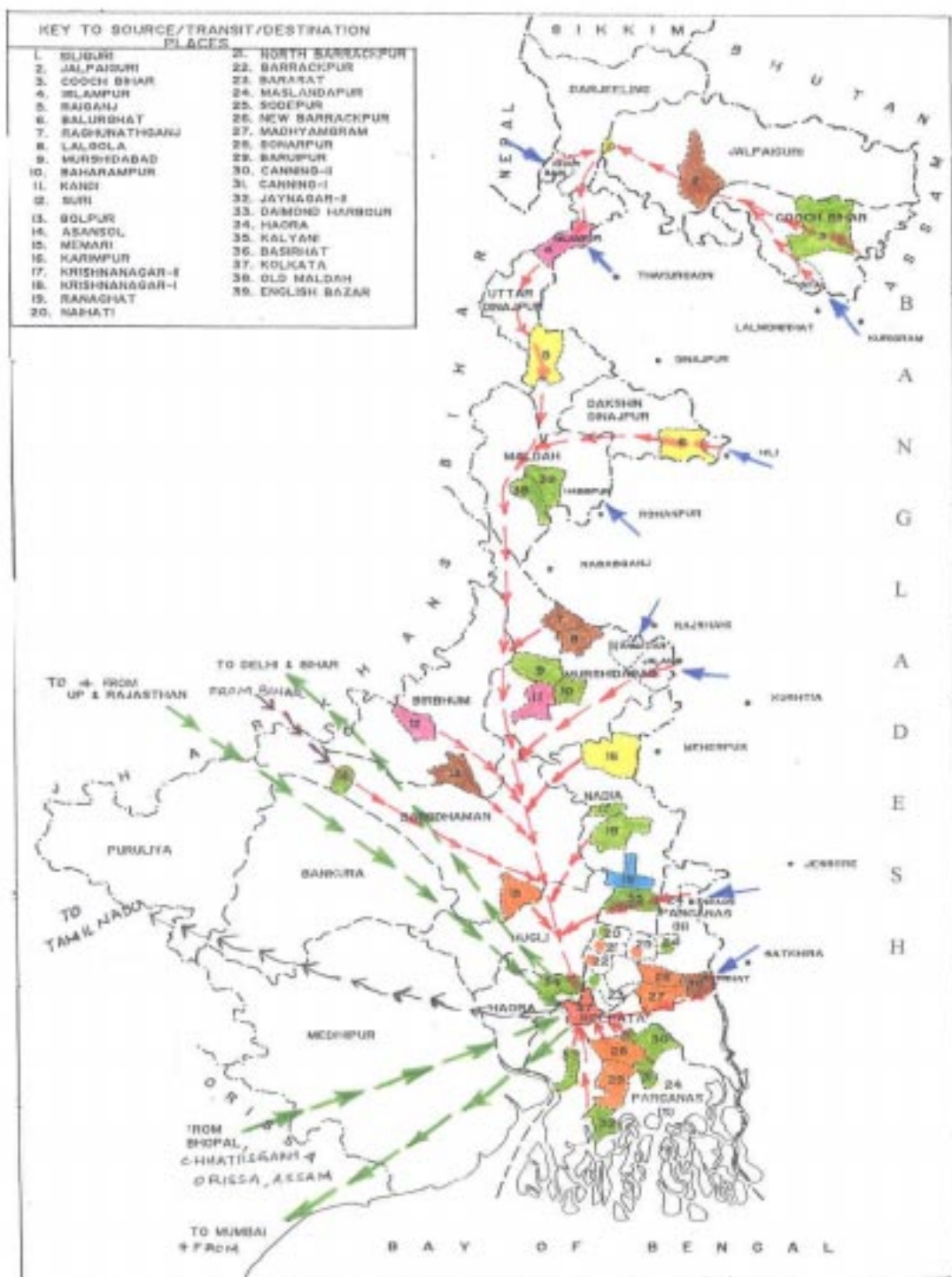


Appendix 1.9: Trafficking map (for CSE) of the study area: Rajasthan



Appendix 1.10: Trafficking map (for CSE) of the study area: Tamil Nadu

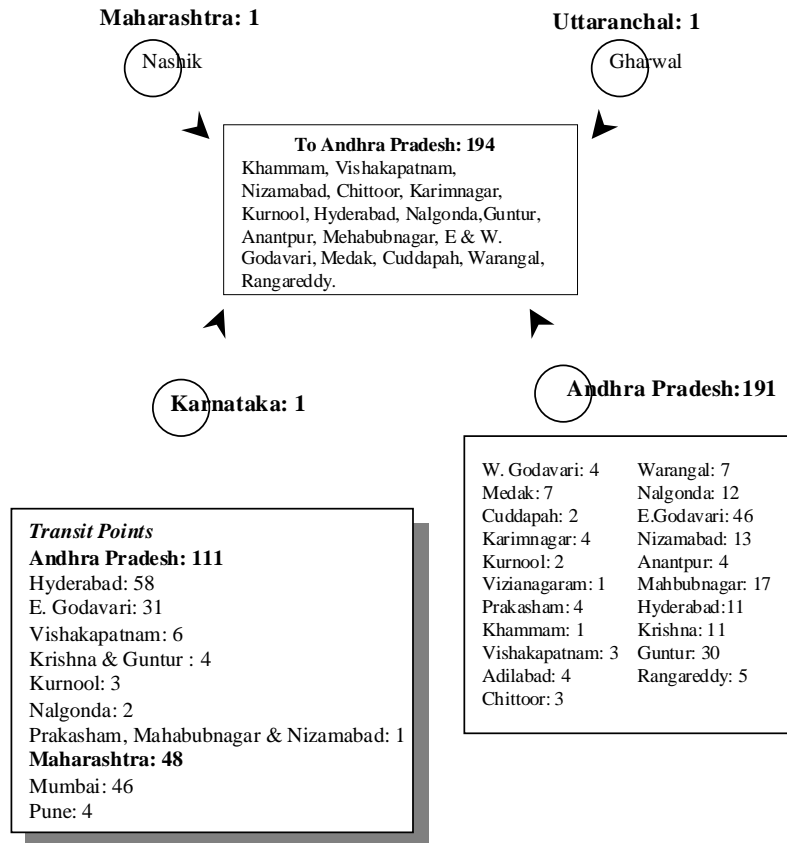




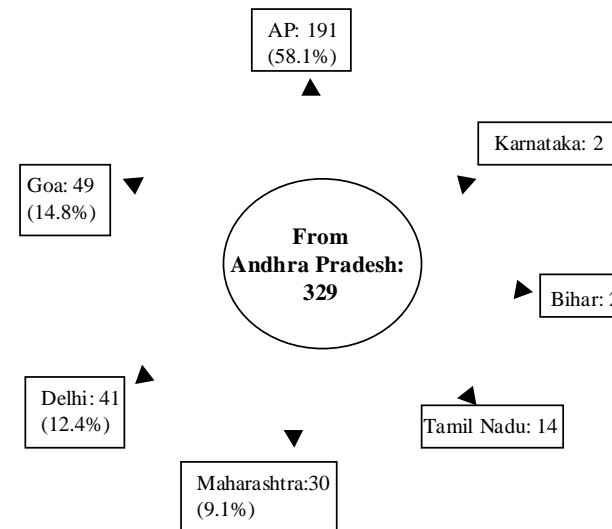
Appendix 1.12: Trafficking map (for CSE) of the study area: West Bengal

Appendix 2.1: Flow chart of Source, Transit and Destination points of trafficking for CSE:To and From Andhra Pradesh

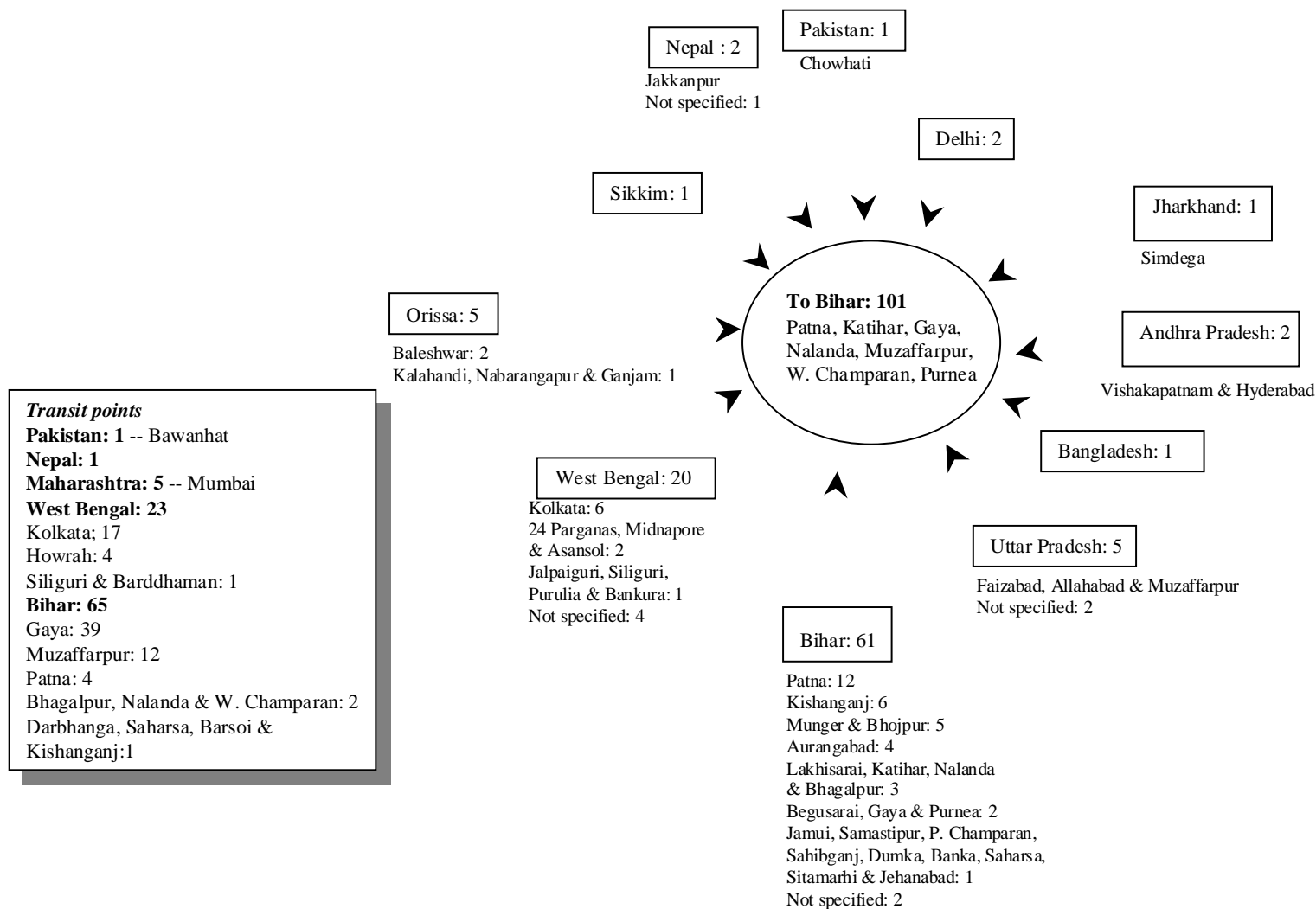
Part A: In-flow of trafficking to Andhra Pradesh



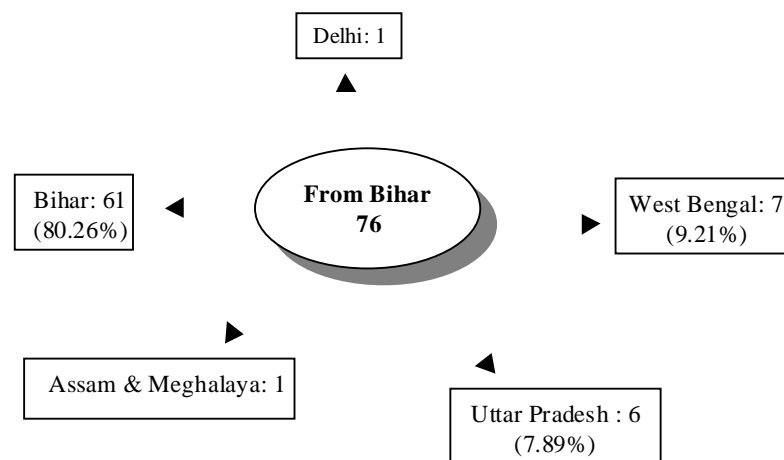
Part B: Out-flow of trafficking from Andhra Pradesh



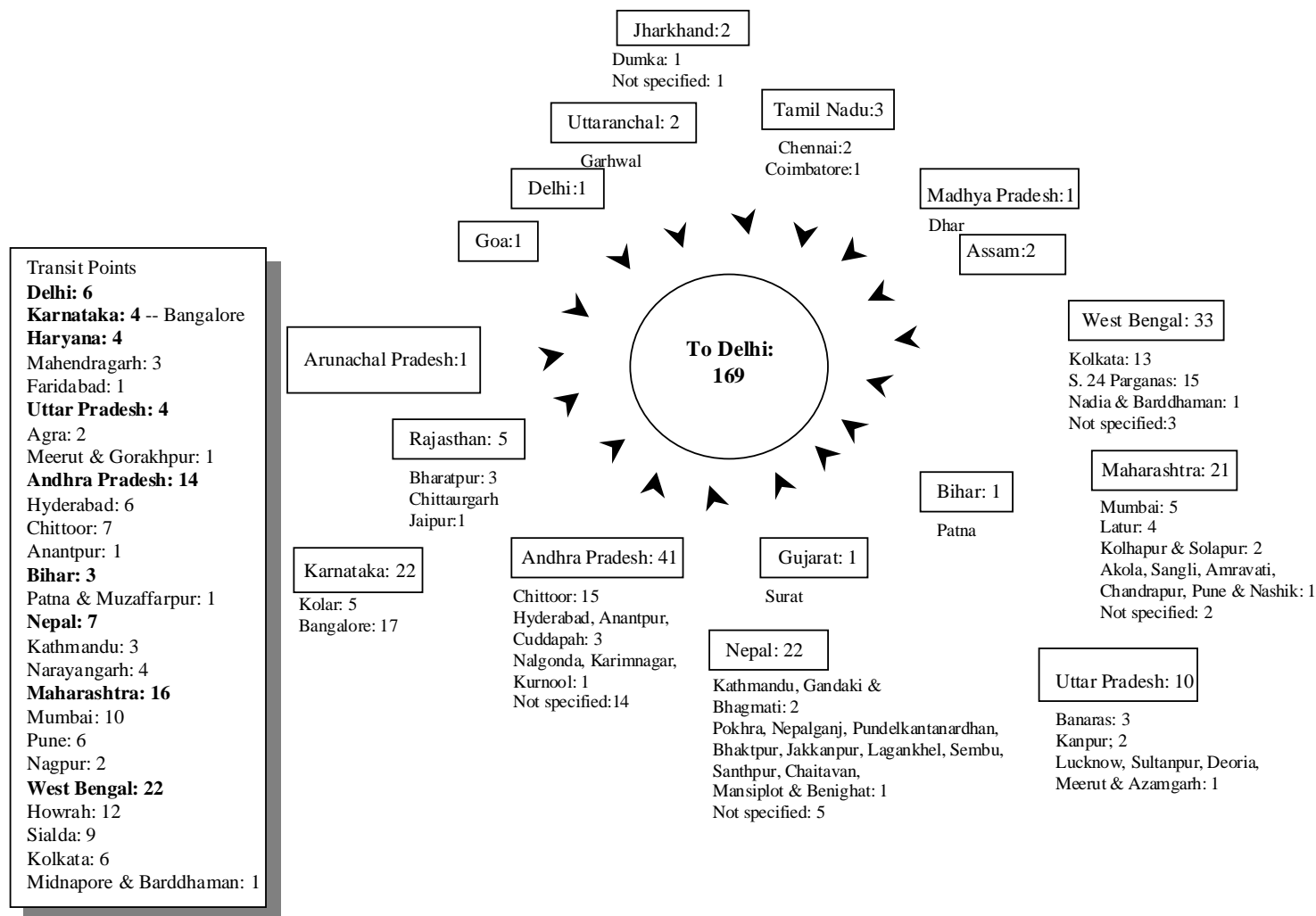
Appendix 2.2: Flow chart of Source, Transit and Destination points of trafficking for CSE:To Bihar



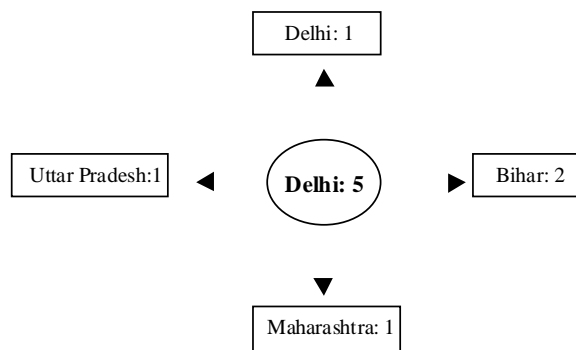
Flow chart of Source, Transit and Destination points of trafficking for CSE: From Bihar



Appendix 2.3: Flow chart of Source, Transit and Destination points of trafficking for CSE:To Delhi

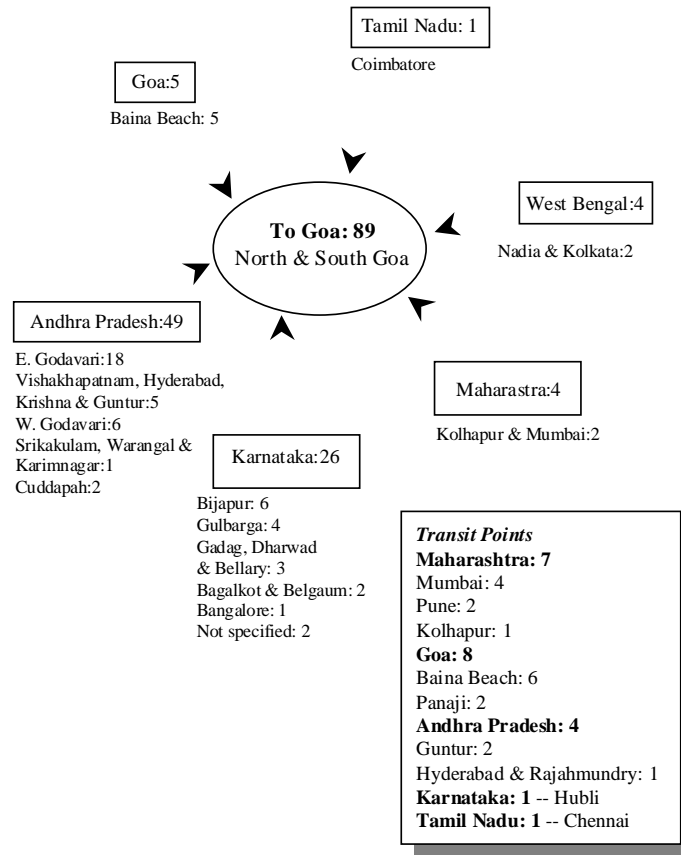


Flow chart of Source, Transit and Destination points of trafficking for CSE:From Delhi

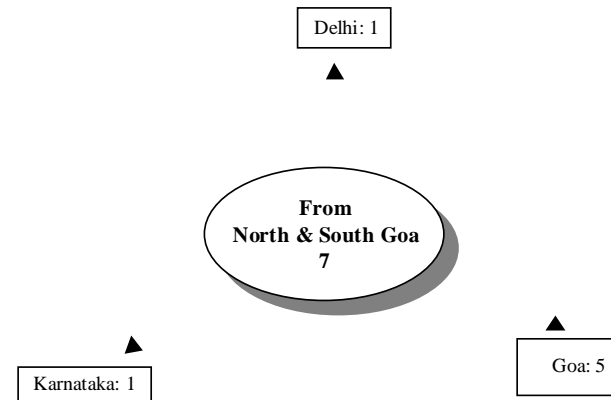


Appendix 2.4: Flow chart of Source, Transit and Destination points of trafficking for CSE:To and From Goa

Part A: In-flow of trafficking to Goa

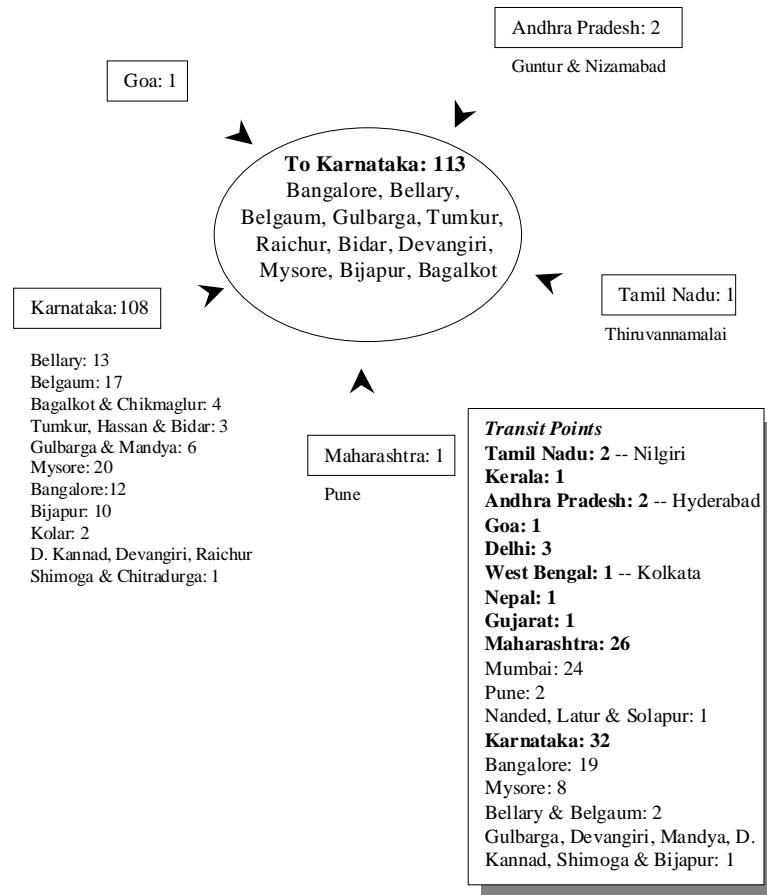


Part B: Out-flow of trafficking from Goa

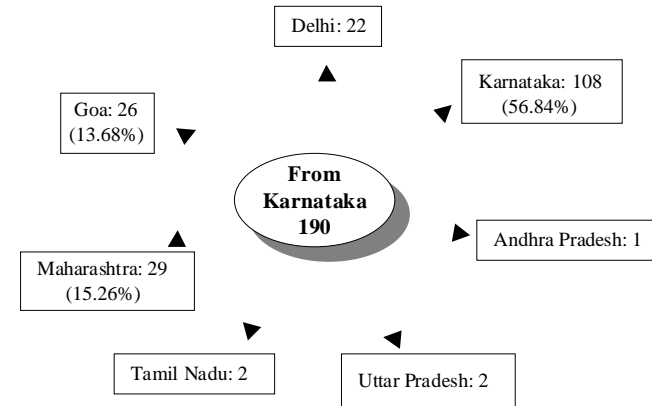


Appendix 2.5: Flow chart of Source, Transit and Destination points of trafficking for CSE:To and From Karnataka

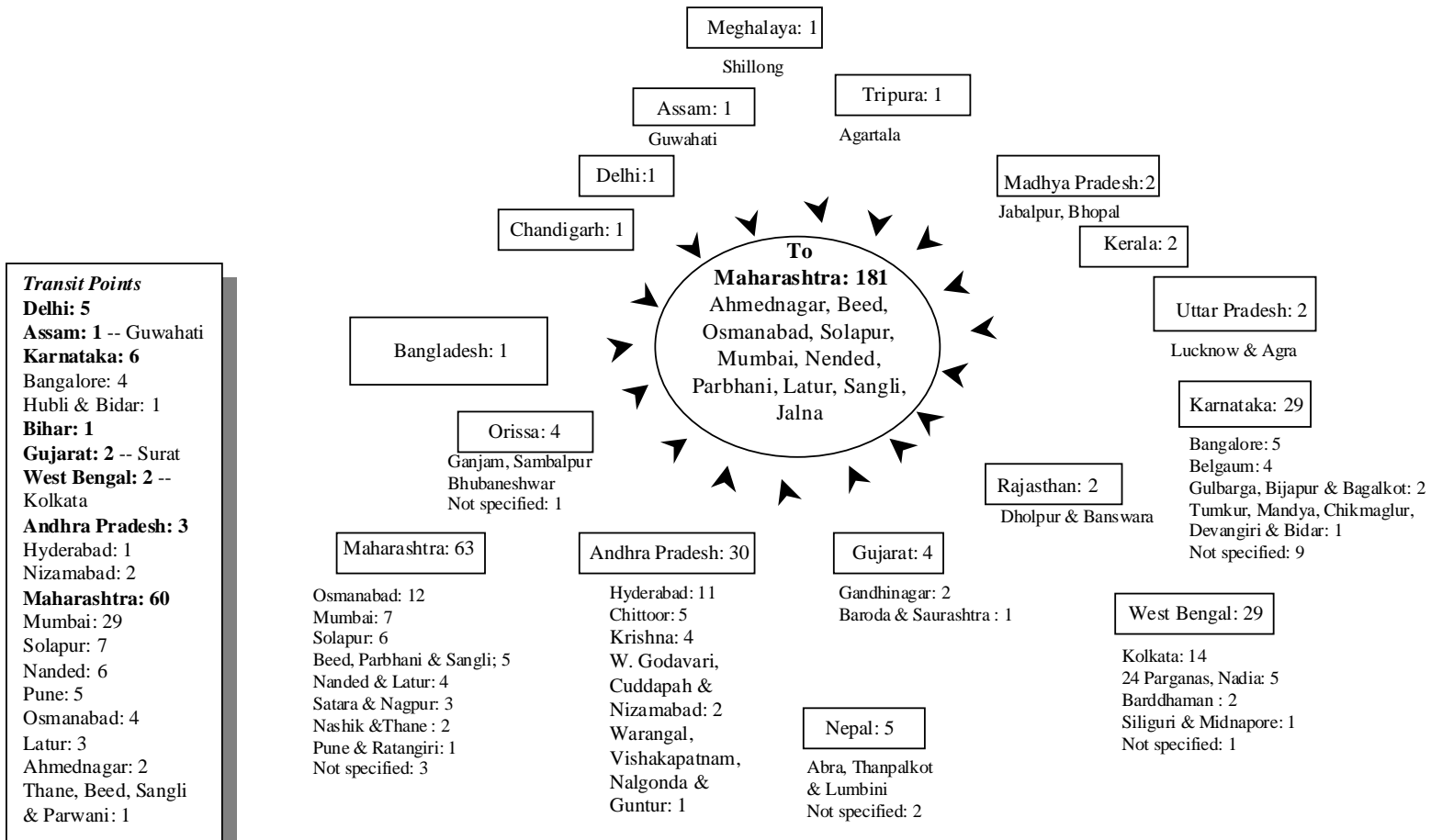
Part A: In-flow of trafficking to Karnataka



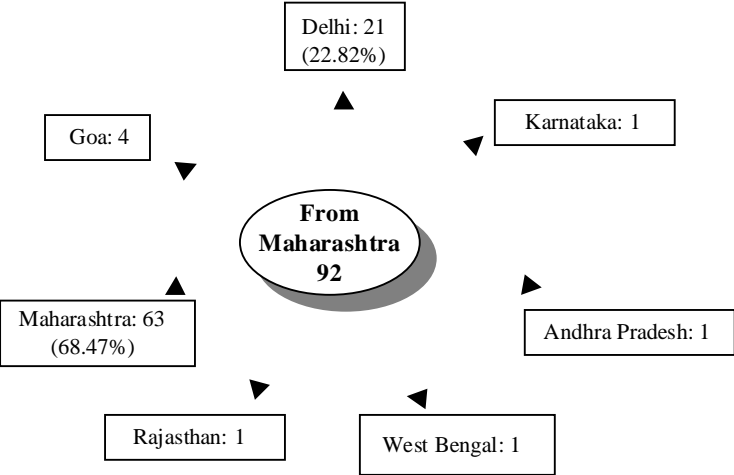
Part B: Out-flow of trafficking from Karnataka



Appendix 2.6: Flow chart of Source, Transit and Destination points of trafficking for CSE:To Maharashtra

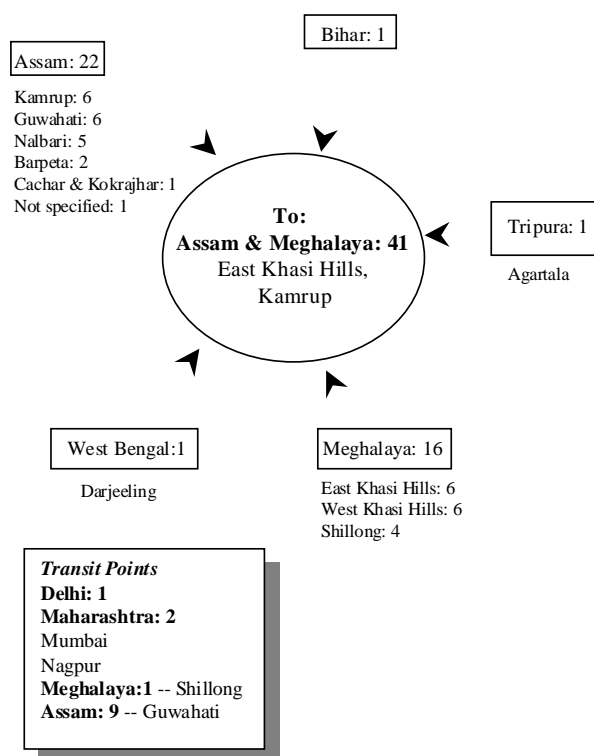


Flow chart of Source, Transit and Destination points of trafficking for CSE: From Maharashtra

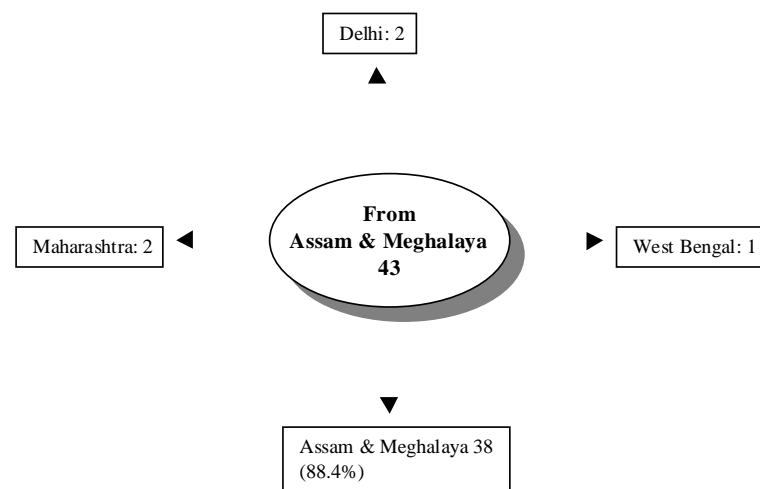


Appendix 2.7: Flow chart of Source, Transit and Destination points of trafficking for CSE:To and From Assam & Meghalaya

Part A: In-flow of trafficking to Assam & Meghalaya

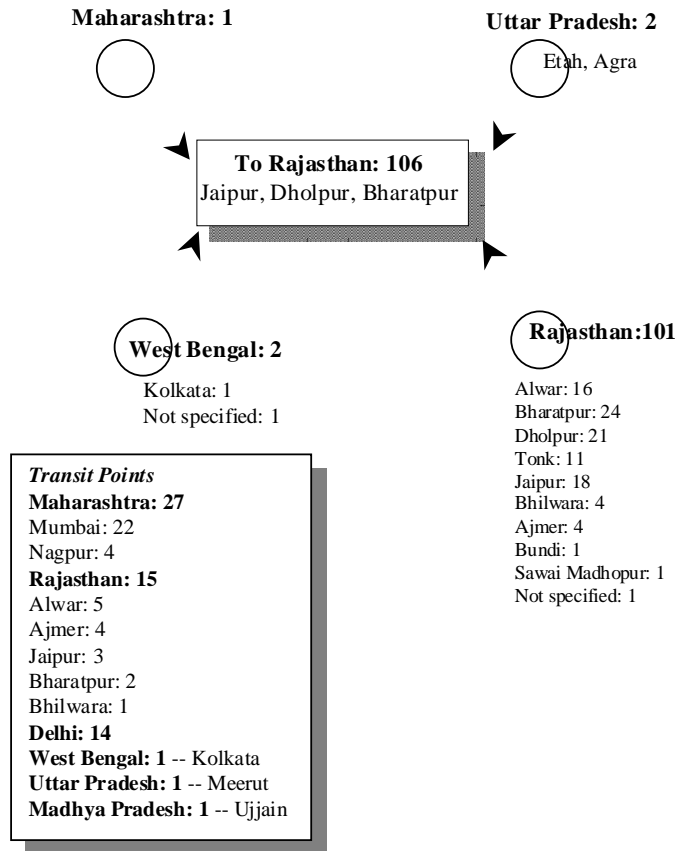


Part B: Out-flow of trafficking from Assam & Meghalaya

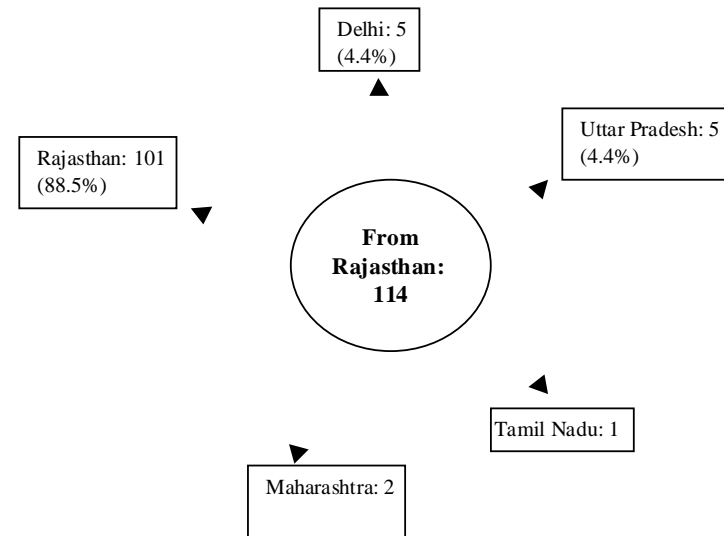


Appendix 2.8: Flow chart of Source, Transit and Destination points of trafficking for CSE:To and From Rajasthan

Part A: In-flow of trafficking to Rajasthan

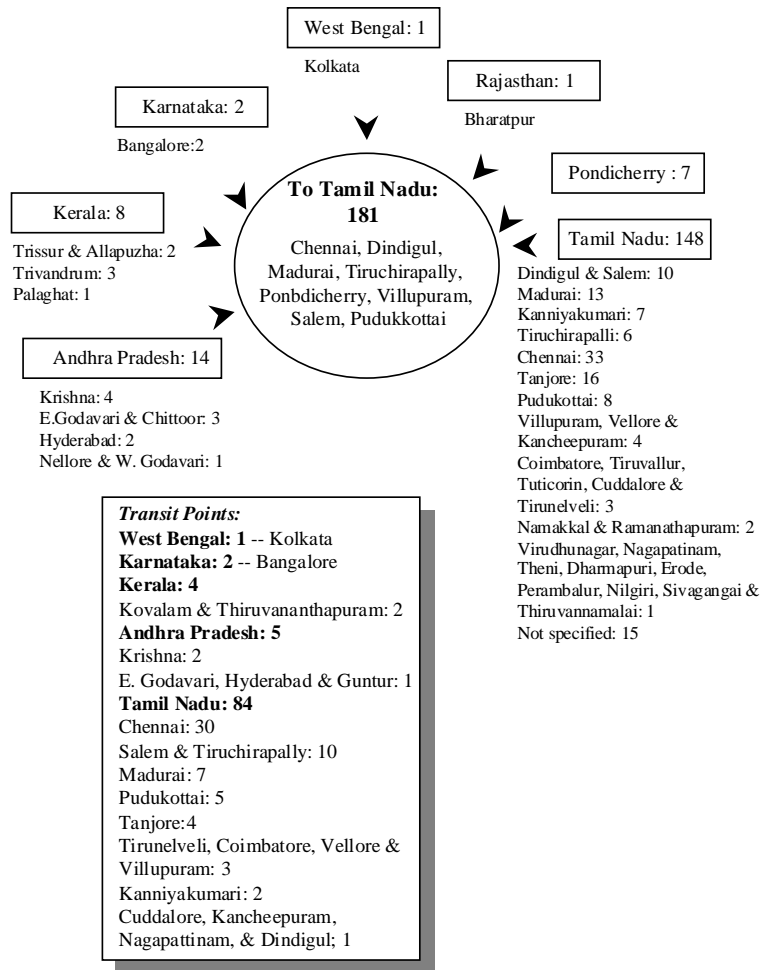


Part B: Out-flow of trafficking from Rajasthan

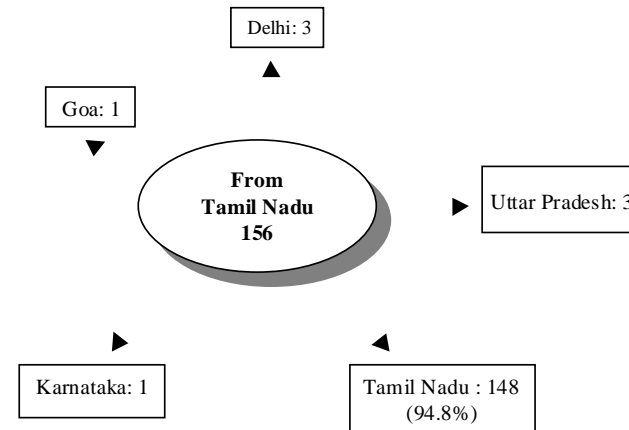


Appendix 2.9: Flow chart of Source, Transit and Destination points of trafficking for CSE:To and From Tamil Nadu

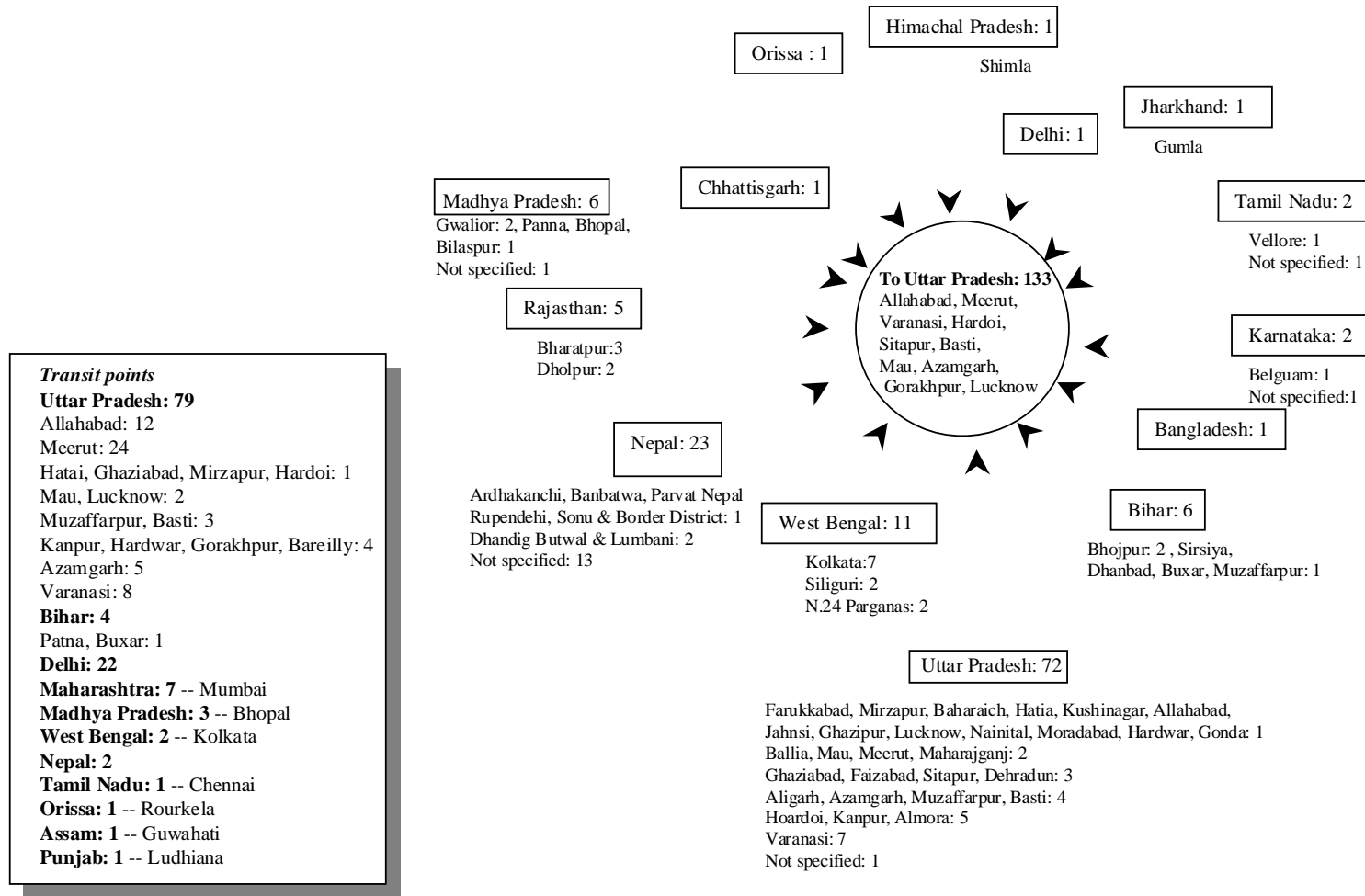
Part A: In-flow of trafficking to Tamil Nadu



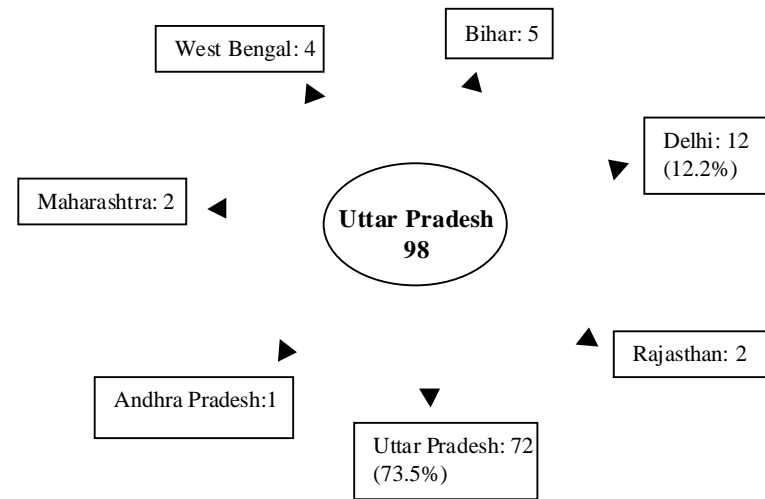
Part B: Out-flow of trafficking from Tamil Nadu



Appendix 2.10: Flow chart of Source, Transit and Destination points of trafficking for CSE:To Uttar Pradesh

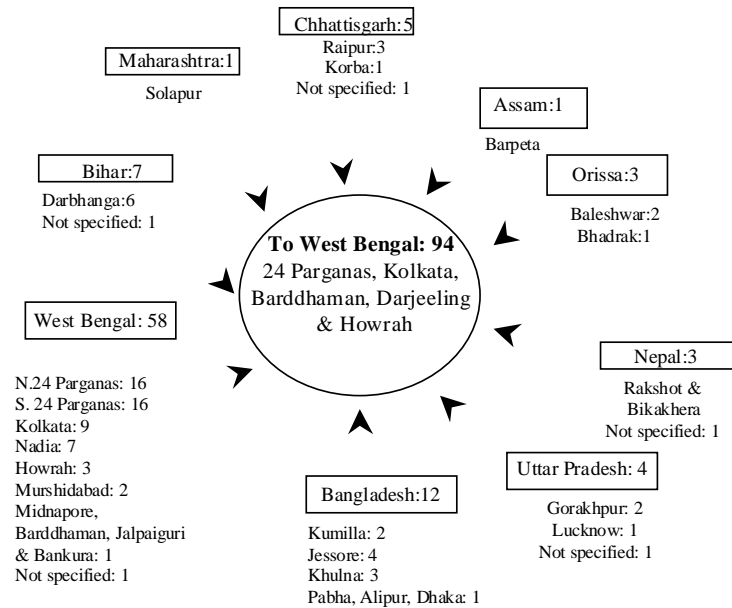


Flow chart of Source, Transit and Destination points of trafficking for CSE:From Uttar Pradesh



Appendix 2.11: Flow chart of Source, Transit and Destination points of trafficking for CSE:To and From West Bengal

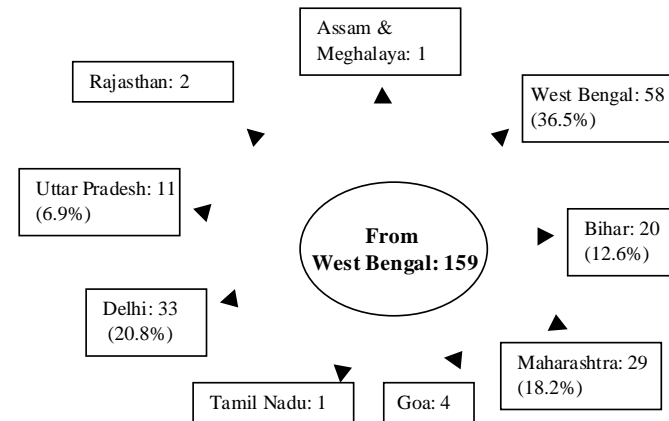
Part A: In-flow of trafficking to West Bengal



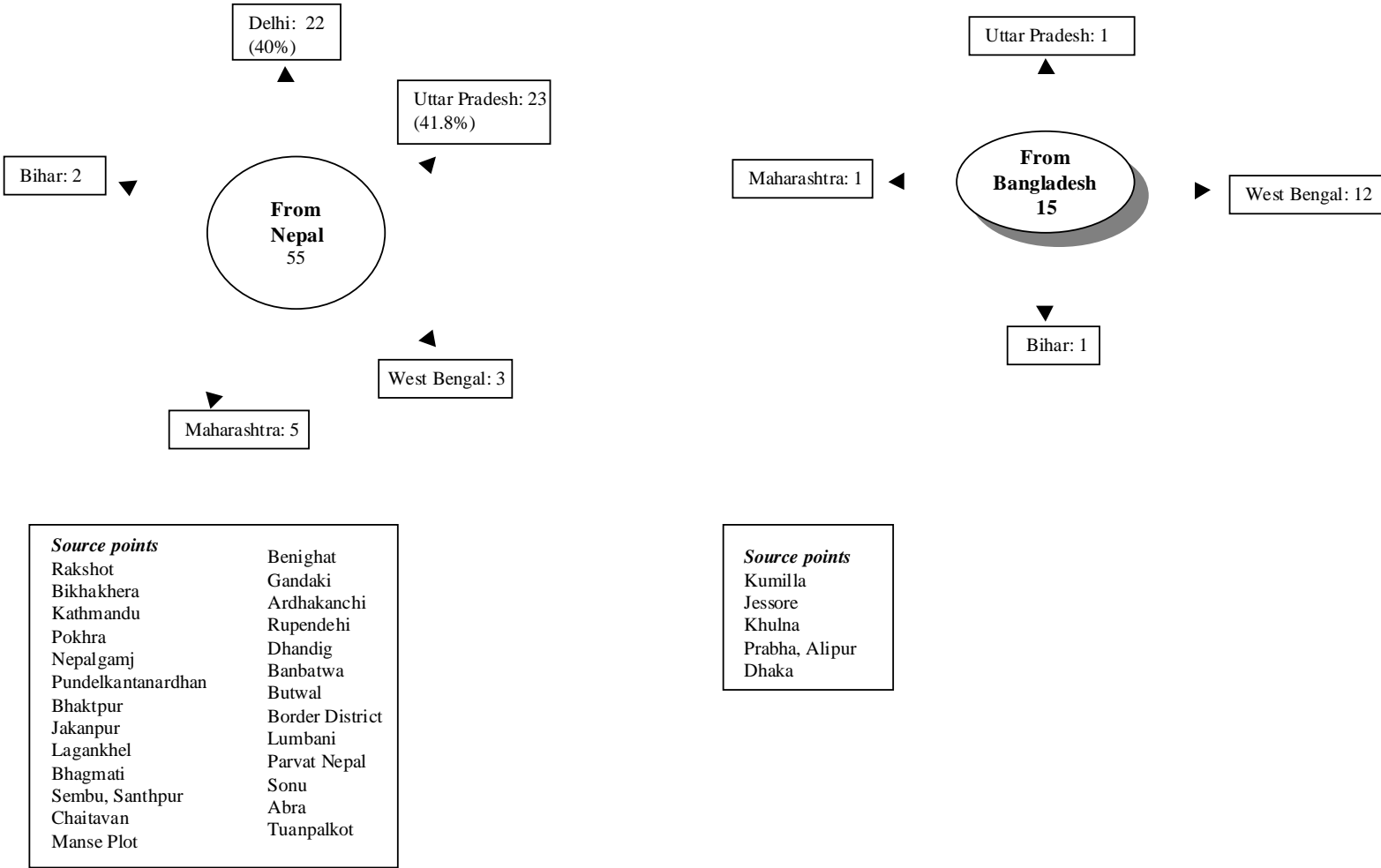
Transit Points:

Uttar Pradesh: 1 -- Gorakhpur
Maharashtra: 21 -- Mumbai
Dubai: 1
Delhi: 11
Andhra Pradesh: 1
Bihar: 2 -- Patna & Siwan
Madhya Pradesh: 2 -- Bilaspur & Khandwa
West Bengal: 53
 Kolkata: 33
 Howrah: 11
 24 Parganas & Siliguri: 2
 Jalpaiguri, Nadia & Bardhaman: 1

Part B: Out-flow of trafficking from West Bengal



Appendix 2.12: Flow chart of Source and Destination points of trafficking for CSE: From Nepal and Bangladesh



Survivors:

Rescued from commercial sexual exploitation

5.1 Introduction

Women and children are trafficked for several purposes. These can be broadly classified as sexual exploitation and non-sexual exploitation. It is possible that the former may contain elements of the latter and vice versa. Commercial sexual exploitation can be brothel based or non-brothel based. One of the responsibilities of the law enforcement machinery is to ensure that women and children trafficked into all such exploitative situations are rescued.¹ Under the Indian legal system, even individuals have the legal authority to prevent crimes. For example, Section 43 of CrPC authorises an ordinary citizen even to arrest any person who commits a non-bailable and cognisable offence in her or his presence. Moreover, the rescue of a person can be ordered by a magistrate or even a sub divisional magistrate), under Section 16 of ITPA, on receipt of information from any person or organisation, including NGOs. A police officer who is carrying out a rescue operation under Section 5 of ITPA can call upon a lady member of a recognised NGO for assistance, especially when no female police officer is available. NGOs too have a legal right to rescue trafficked victims. Thus, police, NGOs and individuals, either together or independently, can rescue women and children who are trafficked into commercial sexual exploitation. They usually carry out joint operations. Survivors rescued from commercial sexual exploitation are either immediately returned to their original community or lodged in a rescue home till they are sent back or rehabilitated elsewhere. These survivors are the ones who can give reliable information about the trends and dimensions of the trafficking process and the exploitation thereafter. They can also provide valuable assistance in addressing the problems and assessing the prospects of the rescue and post-rescue scenarios, respectively. Hence, such rescued victims were interviewed on the basis of a questionnaire prepared for this purpose. The interviews carried out by researchers in 12 states yielded a total of 561 completed schedules. The data collected via these schedules has been analysed in this chapter.

5.2 Background of the survivors

Let us first look at the age profile of the respondents. It is important to note that 6.4 per cent of them were under 16 years of age and 14.3 per cent were in the 16–17 age group, bringing the total share of children (under 18 years of age) to 20.7 per cent. Thus, more than one-fifth of the brothel population consists of children. With regard to regional distribution, the largest number of children came from Maharashtra, West Bengal and Goa (see Table 5.1).

¹ See Section 15 of the Immoral Traffic Prevention Act (ITPA), 1956.

Even a single child is one too many; therefore, such a large number of children in brothels presents a very disturbing picture. When this is compared with the data on trafficked victims (see Chapter 6), there is a perceptible difference — only 4.7 per cent of the 929 respondents in this category stated their age to be under 18 years. Clearly, survivors are free to speak and the data provided by them is closer to reality. It is possible that those taking part in rescue operations are focusing their attention on children, resulting in a higher percentage of children among survivors. Nevertheless, the sizeable presence of children in brothels in general calls for immediate action by law enforcement agencies and human rights activists.

Among the adult respondents, in many places, the majority was in the 18–20 age group. It is quite possible that most of the survivors have recorded their age as being 18 years and above because of pressure from the exploiters. The case study on age assessment (No. CS-MH-19) explains the context in which child victims are made to say that they are above 18 years of age. The interviews for the research were held in a private and friendly ambience. Despite this, the very fact that the respondent had been put down as an adult in official documents, inhibited her from revealing her real age before the researchers. Moreover, many of the survivors were rescued after several years of exploitation in brothels. Therefore, most of the adults among them had been trafficked when they were children.

Table 5.1: Age profile of survivors: state-wise

States	Age group				Total
	0–15	16–17	18–20	21+	
Delhi	0	6	42	33	81
Bihar	0	2	1	7	10
West Bengal	14	10	17	13	54
Goa	4	16	7	3	30
Tamil Nadu	1	1	0	78	80
Karnataka	3	3	11	42	59
Andhra Pradesh	2	7	29	66	104
Maharashtra	10	31	38	7	86
Uttar Pradesh	1	3	11	31	46
Assam and Meghalaya	0	1	2	0	3
Rajasthan	1	0	3	4	8
Total	36	80	161	284	561

In respect of the nationality of the respondents, 93.5 per cent were from India, 1.8 per cent from Bangladesh, 4.5 per cent from Nepal and 0.2 per cent were from Pakistan. Thus, the total share of non-Indian nationals is 6.5 per cent. This indicates that trafficking takes place from these countries to India, calling for appropriate steps with regard to repatriation and the prevention of the transborder trade in women and children. As for the location of their native place, 68.6 per cent came from rural areas, 25.7 per cent were from urban centres and 5.7 per cent from urban slums.

With regard to the socio-religious background of the respondents, 79.5 per cent were Hindus, 15.7 per cent were Muslims, 3.7 per cent were Christians and 1.1 per cent belonged to other communities. Just over a quarter of them (25.1 per cent) were from Scheduled Castes, 4.5 per cent from Scheduled Tribes, 22.1 per cent belonged to the other Backward Classes and 20.5 per cent to other communities. The rest were not able to specify the caste they belonged to. Thus, almost 52 per cent of the respondents came from socially deprived sections of society.

The education profile of the respondents shows that 65.1 per cent were illiterate or barely literate. Of the literate respondents, 14.6 per cent had studied up to the primary level, 10.7 per cent up to the middle level, 8.7 per cent up to higher secondary and 0.9 per cent were graduates and above. The large majority of illiterates among the trafficked survivors points to education as an important safeguard against trafficking.

The marital status and age of the respondents were also examined. While 63.3 per cent were unmarried and 12.5 per cent were divorced/separated/deserted/widowed, only 24.2 per cent had husbands who were living. It is important to note that 71.8 per cent of the respondents had married when they were children (i.e., when they were less than 18 years of age). This suggests that child marriage is among the key factors that makes women and children vulnerable to trafficking. The state-wise profile of age of marriage of the respondents shows that child marriage is common to all the states covered by this study.

The respondents were asked about the number of children they had, irrespective of their marital status. Almost three-fourths of the respondents (74.7 per cent) did not have children. Among those who did, 11.6 per cent had one child, 9.8 per cent had two children, 2.5 per cent had three children and the rest had four or more. Significantly, 63.4 per cent had their offspring living with them in the brothels. Just over a quarter of these respondents (25.3 per cent) had left their children in their native place, 9.2 per cent had managed to put their children in boarding schools and 2.1 per cent had given their children in adoption. The children who were staying with their mothers in the brothels were not only exposed to the exploitative ambience, but were also highly vulnerable to being themselves exploited, trafficked and further violated. This data reveals the extent of violation of child rights that is rampant in the world of commercial sexual exploitation.

Another aspect the study looked at was the family background of the respondents. With regard to family income before they were trafficked, a sizeable chunk, 38.1 per cent, could not give a proper answer. Among the rest, 5.4 per cent had a monthly income of up to Rs. 500, 17.8 per cent had an income of up to Rs. 1,000 per month and 22.8 per cent of up to Rs. 2,000 per month. Only 15.9 per cent stated that their monthly income was above Rs. 2,000.

The majority of the respondents had more female than male members in their families. To the question as to whether both or either parent was alive when they were trafficked, 8.5 per cent of the respondents answered that their fathers were alive, 20.7 per cent said their mothers were living and 55.8 per cent had both parents alive. Only 15 per cent were orphans. The family situation prevailing at the time the respondents were trafficked was also examined. While 27.6 per cent had both parents living cordially, 7.5 per cent had amiable relations among siblings in the family, and 31.5 per cent stated that they were living in troubled and distressing family conditions. The parents of 5.2 per cent of the respondents were away as migrant workers at the time the latter were trafficked. These findings are indicative of the factors that made them vulnerable to trafficking.

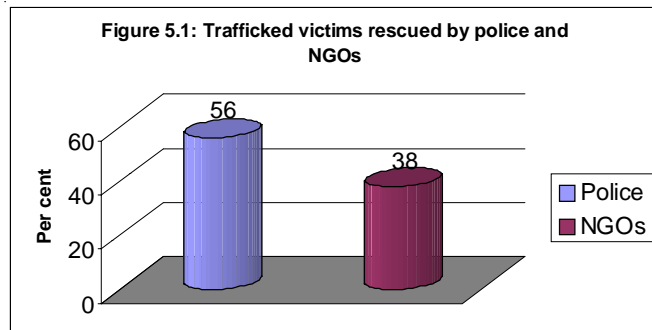
5.3 Stay in rescue homes

Most of the survivors had stayed for varying periods, in a rescue home run by the government or NGOs. Almost sixteen per cent of the respondents had stayed for a period of up to one month, 13.2 per cent up to five months, 9.8 per cent up to one year and 24.2 per cent had stayed for more than a year. No answer was available from 36.9 per cent of the respondents, including those who had

not been detained in a proper rescue home. The maximum stay of any respondent in a government rescue home was for two years. In this context, it is pertinent to note that rescue homes are not, and cannot be, permanent abodes for the survivors. Rather, they are transitory shelters, pending their return and rehabilitation. Therefore, an unusually long stay in these homes by the survivors points to the deficiencies and loopholes in the existing system. Case study No. CS-DL-18 demonstrates how a prolonged stay in rescue homes is violative of the freedom of the rescued persons. The uncertainty about their future was exacerbating the stress of the inmates in these homes.

The number of survivors housed in rescue homes was also examined. A little over half the respondents (52.4 per cent) had more than 100 co-inmates, 32.1 per cent had up to 25 other survivors staying with them, 8.7 per cent had up to 50 co-inmates, and 6.8 per cent had seen up to 100 other survivors in their rescue home. Significantly, the majority of the respondents personally knew most of the inmates. This is explained by their long stay in these homes. To the specific question as to how they got to know the other inmates, 62.4 per cent stated that they came from the same place and 37.6 per cent had become friendly in the rescue home. It appears that traffickers indulge in mass trafficking of persons from identified source areas.

Information was elicited on the agency that had rescued the trafficked victims from brothels. Well over half the survivors (56 per cent) had been rescued by the police and 38 per cent by NGOs. The rest had escaped on their own or were rescued by relatives or other individuals. The respondents were also asked to explain why they had come to the rescue home. While 43.8 per cent did not know the reasons, 36.2 per cent stated that the purpose was reformation and rehabilitation, and 12.5 per cent said they wished to trace their parents. The rest of the respondents did not have any specific answer. The fact that a sizeable chunk of the survivors were not even aware of the purpose for which they had been lodged in rescue homes, despite having stayed there for a considerable period, speaks volumes about the violation of rights in these homes.



Another aspect the study looked at was frequency of rescue. While 17.5 per cent of the survivors had been to rescue homes once before, 1.8 per cent had been there twice earlier and 6.6 per cent more than twice before. Only 74.1 per cent were first-timers. As many as 145 respondents (25.8 per cent of the total) had been provisionally rescued. That is, they were taken to rescue homes and shown in the records as having been rehabilitated, yet they had to be rescued again. In other words, these 'survivors' were victims of re-trafficking. These findings point to serious flaws in the law enforcement system and the existing programmes of rescue, return and rehabilitation. An important aspect of the redressal of wrongs, from a human rights perspective, is the guarantee of non-repetition of such egregious violation. The fact that a quarter of the respondents are victims of re-trafficking shows that their rights have been violated with impunity as they continue to be victims of abuse.

Making available counselling services to the rescued victims is among the chief responsibilities of all rescue homes. While 43.9 per cent of the respondents said that they had been counselled, 20.5 per cent were categorical that no counselling whatsoever was provided to them. The rest of the respondents did not speak on this issue. Those who had been through counselling were requested to comment on its quality. The good and bad responses were almost fifty-fifty. Very few respondents found the counselling to be superb or disastrous. Therefore, the level of satisfaction was average.

The respondents were also asked to rate the various facilities provided to them in rescue homes. The level of satisfaction was maximum with regard to the security scenario, followed by the general ambience in the rescue home, staff behaviour and food. The level of satisfaction was lowest in respect of the provision of sanitary napkins, recreational facilities, behaviour of co-inmates and care of the small children of inmates. Satisfaction vis-à-vis other infrastructure including health facilities, was average.

5.4 Arrest of the survivors

The very fact that survivors are victims of trafficking means that they are, at best, witnesses to the crimes perpetrated on them and hence should never be considered or treated as accused. However, the existing law enforcement scenario in most places is totally at odds with such a perspective. More often than not, rescue operations, usually termed as raids, are carried out on a large scale, wherein the trafficked women and children are rounded up and accused of soliciting. It is in this context that the survivors were questioned about their arrests. While 42.1 per cent said that they had never been arrested before, 57.9 per cent of the respondents had been arrested by the police earlier. Among the latter, 39.2 per cent had been arrested once or twice before, 9.4 per cent three to four times before and 9.3 per cent more than four times before. The maximum count was from Karnataka, where a respondent had been arrested 15 times before.

The reasons for their arrest were also sought. Significantly, while 39.4 per cent of the respondents stated that they were arrested on charges of soliciting, the majority of them (close to 60 per cent) said that the police had arrested them while conducting raids in brothels. However, they did not know the specific reason or charge on which they were arrested. These findings were compared with the data on trafficked victims (see Chapter 6). In the case of the latter, 100 per cent of the respondents stated that they had been arrested on charges of soliciting. These victims are more aware because they had been bailed out from the charge and 'brought back' to the brothel. While being bailed out, they obviously came to know about the charges levelled against them.

The survivors were queried as to how the release came about following their arrest. Well over a third of the respondents (35.7 per cent) did not respond to this question. On the other hand, 7.4 per cent said NGOs had intervened, 0.6 per cent of the respondents had taken the help of local leaders and 15.4 per cent stated they had bribed the police in order to effect their release from custody. Thus, twice as many respondents had taken recourse to bribery compared to those who had sought assistance from NGOs and local leaders. This points to the victims' lack of faith in the existing redressal mechanisms. Another disturbing statistic is that 40.9 per cent of the respondents had been bailed out by their brothel owners after paying fines in court. Clearly, these owners ensured that the victims were re-trafficked to the brothels, pointing to the distortions in the existing justice delivery system. Moreover, the fine paid by the brothel owner to get the victim released is

added to the debt burden of the victim, as explained in case study No. CS-MH-20. Loans taken by the victims, the interest thereon and the perceived obligations that accrue on account of the debt make them beholden to their exploiters. A spiral of exploitation emerges from this data. First, the victims are accused of the crime, arrested and convicted. They are then bailed out by the exploiters. On being released, they are re-trafficked and pushed back into exploitation with a higher debt burden. The vicious cycle continues, thanks to the nexus between certain officials in the law enforcement agencies and exploiters. Unless this nexus is broken, there is little hope for the rescue and rehabilitation of the victims.

In order to get a clearer picture of this kind of re-trafficking, the data was further examined and the state-wise position analysed. Among the 133 respondents who were bailed out by the brothel owners, though there was none from Bihar, Assam and Meghalaya, one was from West Bengal, three from Uttar Pradesh, four from Goa, six each from Rajasthan and Delhi, 11 from Karnataka, 13 from Maharashtra, 22 from Tamil Nadu and 67 from Andhra Pradesh. This is a wake-up call for the law enforcement agencies in these states to take extra precautions for prevention of re-trafficking.

In order to gain further insight into the exploitation, the survivors were asked about the methods used to avoid arrest by the police. For large majority of the respondents (65.3 per cent), this question was not applicable since they had never faced police action earlier. Among those who had avoided arrest, 1 per cent felt that they were innocent and, therefore, had not been arrested; 42.1 per cent revealed that the brothel owners get advance information about impending police raids and move the victims to other places; 32.3 per cent stated the victims are concealed in different hideouts like dungeons and boxes, which are kept specifically for this purpose; and 24.6 per cent were of the view that they had escaped arrest because the brothel owners had bribed the police. On the whole, the story of the survivors exposes serious distortions in the sphere of law enforcement.

ITPA provides for enhanced punishment for repeated offences. Therefore, brothel owners are careful that the women/girls who are arrested by the police use different names in each instance. Moreover, as case study No. CS-DL-1 shows, there is a conscious effort on the part of all the exploiters to change the name of the woman/girl when she is brought back to the brothel after being bailed out. The community to which she belongs is also declared to be different, depending on the specific situation. In this context, the respondents were asked whether they gave different names each time they were arrested. While 42.2 per cent stated that they did not change their names, the majority did so at the behest of the brothel owners. This further reflects the high levels of exploitation that exist in brothels and the devious strategies used by owners to dodge the law.

5.5 Visits to other places

Another aspect the study examined was the extent and nature of the mobility of victims of CSE. While 14.3 per cent of the survivors did not respond, 51.5 per cent stated that they stayed in the brothel itself and 34.2 per cent said they moved to different places. When the latter were asked about the purpose of their visits, 33.3 per cent said that they were sent to different places for earning more money and 63.1 per cent stated that they were moved to other brothels on call or demand. The rest of the respondents, just under 4 per cent, said that they made these trips of their

own volition in order to escape the oppressive brothel environment. Clearly, a vast majority of the survivors go out on the instructions of their brothel owners, who wish to either oblige certain clients or earn more money. This also establishes the linkages between brothels and other demand areas of non-brothel based commercial exploitation.

5.6 Status of married respondents

The marital life of the survivors who were married or had been married at some point of time was also studied. There were a total of 206 respondents in this category. Regarding the age of the husband at the time of marriage, 11.7 per cent stated that their husbands were 17 years or below, 20.9 per cent said they were in the 18–21 age group, 42.7 per cent in the 22–30 age group, and only 10.2 per cent had husbands above 30 years at the time of marriage. The rest did not know the age of their husbands at the time of first marriage.

For 58.7 per cent of the respondents, the marriage was arranged; 22.8 per cent had love marriages and the rest said that they were forcibly married. Close to 24 per cent had one child, 15.1 per cent had two children, 5.3 per cent had more than two and the rest had no offspring. Most of the respondents, 86.4 per cent, were married only once, 7.3 per cent more than once and 6.3 per cent refused to respond.

The treatment meted out to the survivors in their in-laws' homes was also examined. Half the respondents had experienced ill-treatment; the others had no complaints. Among those who were treated badly, 73.8 per cent of them had faced ill-treatment from their husbands and the rest had suffered at the hands of their in-laws. The type of ill-treatment also differed. Well over half the respondents, 58.3 per cent, had endured physical torture; a third had been subjected to mental harassment — like ridicule, taunting, verbal abuse; and the rest had been sexually harassed in their in-laws' homes. Three-fourths of the respondents were regularly abused, with 24.3 per cent facing occasional harassment. A majority of the respondents who were subjected to harm in their in-laws' homes preferred to suffer in silence. The number (29 respondents) who dared to complain — mostly to their parents or friends — was negligible.

It is important to note that a quarter of the respondents had suffered sexual assault by persons other than their husbands while they were married. The cases of such abuse were concentrated in Tamil Nadu and Uttar Pradesh. To the specific question as to who the abusers were, a large number of these women mentioned either members of the in-laws' family or neighbours who were regular visitors. In many cases, the abuse continued for long periods. Significantly, almost half the abused respondents, 49.1 per cent, felt that it was this experience which led to their being pushed into commercial sexual exploitation. Of these women, 16.9 per cent were of the opinion that the sexual abuse they suffered was responsible for their husbands leaving them, while 34 per cent did not elaborate on the fallout of the abuse. These figures strongly underline the fact that ill-treatment and harassment in the marital home is an important factor in the vulnerability graph of women, making them more susceptible to trafficking.

5.7 First sexual experience

Since the age at which the survivors had their first sexual experience is an important indicator of the extent and level of exploitation, this dimension was analysed as well.

A staggering 69.8 per cent of the respondents had their first sexual experience as children, i.e., when they were below 18 years of age. Of these children, 41.35 per cent were abused when they were less than 16 and hence are victims of child rape (see Table 5.2). Under Section 375 of the Indian Penal Code, sexual intercourse with a person under 16 years, even with her consent, constitutes rape. The exploitation gets further highlighted if one looks at the specific ages at which these children were sexually assaulted. One respondent was raped at the age of 7, two each at the age of 8 and 10, four persons at the age of 11, thirty-one at the age of 12, thirty-eight at the age of 13, seventy-nine at the age of 14 and seventy-five persons were raped when they were 15 years old.

Table 5.2: First sexual experience: Age of survivors

<i>Age group (in years)</i>	<i>No. of respondents</i>	<i>Percentage</i>
7–15	232	41.35
16–17	160	28.52
18–24	102	18.18
No response	67	11.95
Total	561	100

On the question of consent, 60.8 per cent of the respondents, revealed that their first sexual experience was forced on them. While the rest stated that their consent was taken, consent has no value when the victim is a child. Moreover, when taken under duress or by deceit, consent has no meaning. When asked as to who were the persons who had sexually assaulted them, a quarter of the respondents pointed an accusing finger at those known to them — 14.1 per cent at their relatives and 10.5 per cent at their neighbours. This points to the exploitative ambience prevailing in and around their own homes. Almost 12 per cent mentioned traffickers and 63.8 per cent accused a host of persons including those in positions of authority or who enjoyed their trust — school staff, teachers, friends, priests, fathers-in-law, brothers-in-law, counsellors, police officials, domestic help, etc. Again, these figures underscore the high level of vulnerability of the girl child in a range of settings — familial, social, educational and even religious.

The majority of the survivors stated that their first sexual offender did not give them any money nor promise jobs, gifts, money, etc. This corroborates the fact mentioned earlier that the experience was usually a coerced sexual assault. Around two-thirds of the respondents, 65.4 per cent, stated that the first offender continued with the sexual assault and made it a regular affair.

5.8 Age at which commercial sexual exploitation commenced

After transiting an intermediate phase, trafficked persons are brought to the final destination and pushed into commercial sexual exploitation. Though many of them have been sexually assaulted in transit or even in their own community, the commercialised exploitation in brothels marks the beginning of a new phase. Therefore, it is important to understand how early such exploitation begins. Almost 62 per cent of the survivors stated that their commercial sexual exploitation commenced when they were children (under 18 years of age) compared to 44.3 per cent of the trafficked victims (see Chapter 6). Thus, the data provided by the survivors, who have fewer compulsions to gloss over the truth, presents an alarming picture of the vulnerability of children and their induction into CSE. In the case of 33.7 per cent of the respondents, the exploitation began when they were in the age group of 18 to 21 years; only 4.6 per cent of the survivors were pushed

into brothels after they were 21. It is pertinent to note that the youngest age at which a respondent was pushed into commercial sexual exploitation was 6 years. Clearly, the highest demand in brothels is for children. This is confirmed by interviews with the clientele and brothel owners.

5.9 Turning point

Data was also gathered on the turning point that led to the trafficking of the respondents. A majority of them, 62.4 per cent, said that they had been deceived or lured by traffickers. While 18 per cent opined that marriage-related problems, especially domestic violence, was the threshold on which they became vulnerable, 6.6 per cent of the respondents stated that their sexual exploitation while they were children was the turning point. A negligible 0.5 per cent attributed their being trafficked to family migration and 1.8 per cent to family traditions. Thus, only a small fraction of the survivors belong to communities where trafficking for commercial sexual exploitation is culturally sanctioned. In contrast, of the 929 trafficked victims who were interviewed, 7.3 per cent stated that commercial sexual exploitation was a customary family practice. It is important to note that only 10.7 per cent of the respondent survivors said that poverty by itself was the turning point for their being trafficked. Even among the other respondents, while poverty was a predisposing factor, the tactics used by the traffickers and other exploiters were the exacerbating triggers. Clearly, poverty by itself is not a sufficient driver of trafficking.

5.10 Modus operandi of the traffickers

An important aspect surveyed by the study was the methods used by the traffickers to establish contact with potential victims of CSE. Well over half the survivors stated that indirect channels were used. In 16.9 per cent of the cases, contact was made through family members, and 37.8 per cent said it was through relatives and other familiar persons. Thus, in the majority of cases, the traffickers relied on their networking skills. The remaining respondents were directly contacted by the traffickers themselves. In such cases, the traffickers belonged to the same village as the respondents or were frequent visitors to the village, often disguised as petty businessmen or contractors who take up casual jobs. The traffickers who directly approached the respondents did so at railway stations, bus stands, city markets and in running trains. Their strategy is to identify girls and women who are in vulnerable situations, those who are travelling alone or are innocent-looking, appear to be lost in the city or who seem depressed. Thereafter they approach the girls and after befriending them, lure them with various offers and promises (see Table 5.3). Sometimes, the traffickers even drug their victims.

The survivors were asked whether their families had received any quid pro quo from the traffickers. The majority of respondents, 61.7 per cent, stated that the traffickers had made no payment to their family members. While 18.3 per cent answered in the affirmative, 20 per cent were not aware of any transaction. The survivors too were asked whether any favours had been promised to them by the traffickers. A sizeable 71.3 per cent answered in the affirmative; the responses of the rest were negative.

In fact, only 14.6 per cent of the respondents admitted that some element of force/coercion/blackmail was used against them (see Table 5.3). Well over half the survivors, 52 per cent, were lured by the promise of jobs or money. Thus, unemployment and poverty makes potential victims vulnerable to exploitation by traffickers. As noted earlier, the traffickers very often use a conduit

to establish linkages with the victims. This is usually a person within the community, such as a neighbour or friend, or someone known to the community. Such contact persons are employed by the traffickers for identifying and recruiting girls.

Table 5.3: Modus operandi of traffickers

<i>Modus operandi</i>	<i>No. of respondents</i>	<i>Percentage</i>
Befriending	92	16.4
Promise of job and money	294	52.4
Promise of marriage	25	4.5
Adoption	01	0.2
Blackmail	16	2.8
Use of force	65	11.6
Persuading husband to use force	01	0.2
Family tradition	12	2.1
No response	55	9.8
Total	561	100

The time taken by the traffickers to subject the victims to commercial sexual exploitation was also studied. Whereas 18.4 per cent of the survivors were pushed into the ‘trade’ in a matter of two days, 51.7 per cent said that it took about a fortnight. In the case of 22.8 per cent of the respondents, the period extended up to six months; in a few cases (7.1 per cent), it took more than 180 days. These figures suggest that most traffickers identify the demand areas before trafficking and maintain contacts with other exploiters to ensure ‘prompt delivery’.

5.11 Traffickers dodging the law

The label used by the traffickers to describe the relationship between them and their victims to the community, or other people they came across in transit, was another facet examined by the study. While 23.3 per cent of the survivors stated that the traffickers posed as family members, 15.5 per cent said that they pretended to be relatives and 21.6 per cent revealed that they masqueraded as friends. The rest of the respondents did not have any specific answer. Thus, most of the traffickers posed as close relations of the trafficked persons — one of the strategies adopted by them to remain anonymous and escape the clutches of the law. This is substantiated by the case study of Sanauli (No. CS-UP-1), which showed that the traffickers who brought young girls from Nepal usually posed as their close relatives.

5.12 Transit

Trafficking involves displacement of persons from one community to another. It need not always be conducted over long distances. However, based on interviews with the survivors, it appears that long-distance trafficking — which includes interdistrict, interstate and transborder trafficking — is quite common. In such cases, the transit routes and transit destinations become important. The respondents were asked about the places where they were kept or detained — both in the beginning and en route to the final destinations. Well over a third, 37.2 per cent, stated that they were put up at small-time brothels; 27.5 per cent of the girls were detained in the traffickers’ houses; and 14.6 per cent of them were accommodated in wayside hotels or motels. The rest of the respondents could not categorise the transit centre or were unable to recollect the type of transit.

Information was also gleaned on the mental state of the trafficked person when she had been moved out of her community. Over 11 per cent of the survivors stated that they were quite afraid

of the new developments, 17.6 per cent had developed self-contempt, cursing themselves for their own fate, and 43 per cent felt totally helpless. The rest (27.8 per cent) either had mixed feelings or were unable to recall any specific state of mind. Thus, almost three-fourths of the respondents had developed feelings of frustration, self-loathing and helplessness from the very beginning when they were forced into commercial sexual exploitation.

The survivors were asked to recall the places where they had been taken while in transit. The majority of the respondents (51.7 per cent) were able to remember these places. The maximum number of transit points was five, and the stay was for short durations in different places of transit. The rest could not specifically recollect the names and details of the places.

The mode of transport used for taking the trafficked persons from one transit point to another was also examined. More than three-fourths of the survivors said they were made to travel by train or bus/truck/jeep. Only a few were transported via autorickshaws or cars. Traffickers probably use public transport to avoid suspicion or detection. This is confirmed by the case study of Sanauli (No.CS-UP-1), where public transport, especially buses, is used for transporting the trafficked persons. Despite Sanauli being a small town, there were many buses and other modes of public transport to various destinations in India.

With regard to the persons who had escorted them from one transit point to another, the majority of the survivors (74.8 per cent) stated that it was the trafficker or his close associates had travelled with them. In the remaining cases, the victims' relatives had accompanied them.

As for the treatment accorded to them at various transit points, the degree of exploitation varied from place to place. Generally speaking, the exploitation was very high at the first and second transit points. While 19.3 per cent of the survivors stated that they had been physically abused, 33.5 per cent spoke about sexual abuse, 11.7 per cent about verbal abuse and 35.5 per cent said that they were victims of multiple abuses, including drugging, threat to kill and deprivation of basic requirements.

5.13 Profiling the traffickers

In order to understand the profile of the traffickers, the survivors were asked several questions about them. In respect of age, 17.5 per cent of the respondents stated that the traffickers were in the 18–25 age group, 25.1 per cent placed them in the 26–30 age group, 28.7 per cent in the 31–40 age group and the rest of them said that their traffickers were above 40 years of age. This shows that the majority of the traffickers were in their most productive years.

On the question of gender, 52.2 per cent of the survivors said that the traffickers were males and 46.3 per cent stated that they were females. The rest did not respond. This data corroborates the findings presented in Chapter 9, showing that traffickers of both sexes exist. However, it should be noted that the rescued victims know of only those traffickers with whom they become acquainted. They are not aware of the master operators and kingpins of trafficking.

With regard to the socio-religious background of the traffickers, the majority of the survivors (68.3 per cent) stated that they were Hindus, 11.4 per cent stated they were Muslims, 2.5 per cent said they were Christians and 0.2 per cent Sikhs. The rest of the respondents did not know which religion their traffickers professed. Almost 60 per cent did not specify the caste of their traffickers.

On the other hand, 15 per cent of the traffickers were said to belong to Scheduled Castes, 3.9 per cent were from Scheduled Tribes, 16.4 per cent belonged to the Other Backward Classes and 5.7 per cent were from other castes.

The relationship, if any, of the victim with the traffickers was also studied. The majority of the survivors, around 68 per cent, had no relationship. The rest said that they had some relationship with the trafficker. Among those who did, the relationship was further explored. Surprisingly, in 14.1 per cent of the cases, the traffickers were their husbands; in 22.6 per cent of the cases, they were parents or parents-in-law; in 20.4 per cent of the cases, they were the lovers of the respondents; in 2.8 per cent of the cases, brothers-in-law; and in 2.8 per cent of the cases, siblings. The traffickers were distant relatives of 37.3 per cent of these respondents. These figures show that for the vulnerable child/woman, the trafficker can be anybody, including those whom she trusts or is dependent upon. Perhaps, this dependency and trust become easy weapons for the traffickers.

The survivors were asked whether any family member of the trafficker was also involved in the 'trade'. While 52.2 per cent did not know, 32.8 per cent of the respondents said that the family members of the trafficker were not involved and 15 per cent categorically stated that the family members were involved. Among the latter, 47.6 per cent mentioned the spouse of the trafficker, 23.8 per cent spoke about the involvement of the parents, 16.7 per cent put the blame on the siblings and the rest accused other relations of the traffickers, such as cousins.

5.14 Trafficking chain

In order to understand the organised dimensions of trafficking, the involvement of other traffickers, if any, was examined. Three-fourths of the survivors spoke about the active involvement of more than one person in the trafficking link. More than 50 per cent of the respondents said that the trafficking chain included three or more persons. To the specific question as to whether the female traffickers involved in trafficking were also doubling up as 'sex workers', 90 per cent of the respondents answered in the affirmative; the replies of only 10 per cent were negative. Clearly, most of the female traffickers are victims, or ex-victims, of CSE. While being subjected to commercial sexual exploitation, they develop linkages with traffickers and some of them even get involved in trafficking. This is substantiated by several case studies. For examples, case study No. CS-DL-15 shows how a trafficked person became a victim of CSE and thereafter 'graduated' to the role of trafficker. Thus, traffickers do not operate on their own. They establish a network and also develop linkages with other exploiters, like brothel keepers, etc.

5.15 Illegal assets of the traffickers:

The type of assets acquired by traffickers as a result of the illegal trade in women and children was also surveyed. A third of the survivors were unaware of the wealth acquired by the traffickers out of their criminal activities. However, the data gathered from the rest of the respondents presents important indicators in understanding the revenue dimensions of trafficking. Almost 30 per cent of the respondents said that the traffickers had acquired houses and other properties out of trafficking; 12.7 per cent mentioned electronic gadgets; and 25.1 per cent talked about vehicles, cash, jewellery, mobile phones and other moveable property acquired by the traffickers. Two case studies, Nos. CS-DL-2 and CS-BH-3, substantiate the fact that trafficking is a high-profit, low-risk business for traffickers. Thus, law enforcement agencies can utilise survivors as effective witnesses to nail

down the traffickers. They can be interviewed to find out the details of the assets acquired illegally by the traffickers. So far, no action has been taken to forfeit or confiscate the assets of any trafficker.

5.16 On law and law enforcement

The perception of the survivors regarding laws on trafficking and their enforcement was also studied. A huge 88.4 per cent of the respondents were not aware of any law against trafficking. Similarly, 79.7 per cent said that they had no knowledge about any law prohibiting child sexual abuse and child commercial sexual exploitation. Law enforcement is another area the survivors were queried about. To the specific question whether those responsible for trafficking them were ever arrested, 49.9 per cent stated they did not know if any action was taken against them, 40.3 per cent categorically said that the traffickers had never been arrested. Only a very small minority, 9.8 per cent, maintained that the police had arrested the traffickers. Of these, 61.8 per cent said that they were arrested once and 32.7 per cent mentioned that the traffickers had been arrested twice or more. The rest were not aware of the specifics. As to the manner in which the traffickers were released after arrest, 54.6 per cent of the respondents said that they were bailed out by the court and 32.7 per cent alleged that the traffickers had effected their release by bribing the police. Only a small percentage (12.7) was aware of the trafficker still being in jail. These figures suggest that more often than not, the traffickers manage to get away and continue their activities with impunity.

5.17 On clientele

The study attempted to understand the dimensions of exploitation that the survivors had to suffer in the brothels before they were rescued. Specifically, the number of clients they had to ‘entertain’ on a daily basis was examined (see Table 5.4).

Table 5.4: Number of clients entertained daily

<i>No. of clients</i>	<i>Beginning of brothel life</i>		<i>Before rescue</i>	
	<i>No.</i>	<i>Per cent</i>	<i>No.</i>	<i>Per cent</i>
4–5	325	57.9	223	39.8
6–10	112	20.0	115	20.5
11–15	28	5.0	38	6.8
More than 15	33	5.9	47	8.4
No response	63	11.2	138	24.5
Total	561	100	561	100

The majority of respondents had to cater to four to five clients per day. The maximum number of clients that one survivor had to entertain on a single day was an unbelievable 40 in West Bengal and Karnataka, followed by 25 in Tamil Nadu and 20 each in other places of study. Several case studies illustrate this point about the high number of clients many of the victims have to tolerate every day.

To get an idea about the kind of men visit the brothels, the survivors were asked about the occupation of their clients. Their responses show that the clientele consists of men from different walks of life. The largest category 23.5 per cent, was from the labour class, followed by businessmen (12.8 per cent) and students, who constituted 10 per cent of the clients. Professionals also figured in the list — 4.3 per cent were police officials, 1.1 per cent were doctors, 0.5 per cent were

teachers. As for other vocations, 2.7 per cent were tourists, 0.4 per cent were politicians and 3.6 per cent were criminals. The rest were film directors, actors, producers, film agents, etc. Any action programme to address the demand side should take into consideration the type of clients and their motives for visiting brothels. This is further elaborated in Chapter 7.

5.18 Income sharing in brothels

Since on an average, the survivors entertained seven clients per day, the revenue generated in a brothel 'employing' many women/girls would be quite substantial. To the question as to the amount from the monthly income that was given to the respondents as their share, 64 per cent chose to reply. The majority of the respondents stated that they received around Rs. 3,000 per month as their income. The maximum monthly income that a respondent had 'earned' was Rs. 1 lakh. The total monthly income, computed from the responses of survivors, added up to Rs. 41,76,130. The average monthly income in the brothel per survivor worked out to Rs. 11,600. The rest of the money generated from the commercial sexual exploitation of the survivors never reached them. It was split among the various stakeholders — comprising brothel owners, agents, brokers, pimps, managers, financiers, goondas and also certain law enforcement officials.

The expenditure pattern of the respondents was also analysed. The majority said that their major items of expenditure were food (mostly supplied by brothelkeepers on payment), clothes, cosmetics and miscellaneous household items. Many of them spent a lot on alcohol, tobacco and medicines as well. Some of the respondents also had to support persons dependent on them out of their earnings.

The total savings of the 561 survivors (till rescue) added up to Rs. 1,58,27,243; the average amount saved by each respondent worked out to Rs. 28,212. When seen in the context of the fact that the monthly income of the majority of the survivors was around Rs. 3,000, these figures suggest that the major part of the income is spent in the brothel itself. Almost 15 per cent of the respondents had savings up to Rs. 10,000 each, 11.4 per cent had saved up to Rs. 20,000 and 4.3 per cent up to Rs. 50,000. While a very small percentage (5) had savings above Rs. 50,000, the large majority (64.5 per cent) said that they had not managed to save any money.

As to whether they had ever sent any money to their families, 62.2 per cent of the survivors replied in the negative, 25.9 per cent said that they had sent some money and 11.9 per cent did not respond.

5.19 Linkages with the family

The family ties of the survivors were also surveyed. Almost two-thirds of the respondents had not maintained contact with their family members. Over a third, 34.4 per cent, stated that their families were aware that they were being subjected to commercial sexual exploitation. According to 15.2 per cent of the respondents, their family members had tried to trace their whereabouts; the rest said that they had no idea whether their families had made any efforts to find them.

The survivors were asked whether they had ever tried to visit their families. The response was fifty-fifty. The reasons were sought in both cases. Among those who visited their families, 55.9 per cent went to meet their family members, 7.1 per cent went home to deliver money, 8.2 per cent to procure more girls and the rest to enjoy a short respite from the oppressive environment of the

brothel. Thus, a few of the survivors had themselves become traffickers. Among those who had not visited their families, 39.3 per cent said that the fear of rejection by the family and society deterred them from going back home. Almost 22 per cent of the survivors stated that they were afraid of the trafficker and brothel owner and did not dare to move out. According to 4.6 per cent of the respondents, they did not remember their exact place of birth and therefore could not return home. A little under 35 per cent of the survivors said that their family members were no longer alive.

5.20 Health issues

It was difficult to get the survivors to reveal whether they were suffering from any serious ailments. The fear that an HIV-infected person faces social ostracism was one of the important reasons which made them wary of giving proper answers. While 32.3 per cent of the respondents said that they had certain health problems, the others answered in the negative. Among the former, 8.3 per cent disclosed that they had HIV/AIDS, 30.4 per cent had STDs, 17.1 per cent had gynaecological problems and the rest (44.2 per cent) said that they were suffering from general health disorders. Of those who said that they were HIV-positive, six were from West Bengal, one from Tamil Nadu, three each from Karnataka and Andhra Pradesh and two from Maharashtra. Their percentage was compared with the data provided by the trafficked victims (Chapter 6). Only 0.6 per cent of the 929 trafficked victims who were interviewed admitted to their having contracted HIV/AIDS. This suggests that the trafficked victims are under greater compulsion not to speak about their ailments. Even in the case of survivors, the fear of social stigma and pressure would certainly have weighed on them and prevented some of them from disclosing their HIV/AIDS status.

A fifth of these respondents had been suffering from these diseases for more than five years, almost a third for a period of one to five years and the rest for a period of less than a year. These figures indicate that those who fall ill continue to remain so for want of proper medical care and attention. The rest, 6.6 per cent, received no treatment at all. Regarding the type of medical centres where they sought treatment, half the ailing survivors visited government hospitals, 35.9 per cent went to private clinics, and almost 8 per cent were treated in medical camps organised by some NGOs.

Over 80 per cent of the survivors were aware of HIV/AIDS and STDs. However, only 58 per cent were taking regular preventive measures. The fact that 14.8 per cent of the respondents said that they used to take preventive measures sometimes and almost a quarter did not take any precautions at all shows that they were highly vulnerable to serious ailments, at times becoming carriers of such diseases.

5.21 Attitude of the police

The gender and child sensitivity of police officials is an important issue in law enforcement with regard to trafficking in women and children. When asked about the behaviour of policemen during rescue and post-rescue operations, 43.3 per cent of the respondents stated that they were caring, 27.1 per cent said that they were uncaring and 10.5 per cent spoke about abusive behaviour by the police. Almost a fifth of the survivors chose not to respond. Case study No. CS-DL-9 illustrates how certain police officials violated the rights the trafficked persons during rescue operations.

The role of NGO functionaries came in for greater appreciation — 57 per cent of the respondents said that their behaviour was caring compared to 15.9 per cent who said that they were

uncaring. Less than 1 per cent experienced abusive behaviour by NGO personnel. Over a quarter of the survivors, 26.2 per cent, had never experienced any contact with NGOs.

Regarding the post-rescue scenario treatment, well over half the survivors, 53.1 per cent, stated that women police officials were not present when their body search was conducted nor when they were being interviewed. Section 15 (6A) of ITPA categorically states:

The police officer making a search under the section shall be accompanied by at least two women police officers, and where any woman or girl removed under sub section 4 is required to be interrogated, it shall be done by a woman police officer and if no woman police officer is available, the interrogation shall be done only in the presence of a lady member of a recognised welfare institution or organisation.

Clearly, this law had been violated in the case of a majority of the respondents. Over 90 per cent stated that they were neither aware of their rights after rescue and nor were they informed about them by the police. Thus, survivors are vulnerable to even after being rescued because of ignorance of their rights and the failure of law enforcement agencies and NGOs to educate them in this regard.

In the light of the challenges that the survivors had to face, they were requested to give their suggestions for improving police behaviour during the rescue operations and the post-rescue stage. While almost two-thirds of the respondents did not come up with any ideas, 16.8 per cent suggested that any rescue and post-rescue activity should necessarily involve women police officials. The remaining survivors were categorical in recommending that the police should be properly sensitised before they are deputed for rescue work.

5.22 Aspirations of the survivors

The study also attempted to assess how the survivors viewed their future. When asked whether they would like to continue in the same 'trade', 16.8 per cent of them answered in the affirmative and 10.3 per cent did not respond. Under two-thirds of the respondents did not wish to continue in the 'trade'. Of these, only 7.1 per cent wanted to get married and be dependent on their husbands; the rest were keen to find alternative sources of employment and livelihood to establish themselves or to rear their children. The majority (80.9 per cent) of those who wanted to continue in the same 'trade' said they had no other livelihood options. While 5.3 per cent of the respondents stated that social stigma prevented them from going back to the community, 13.8 per cent said that they were unqualified for any other job.

The survivors were asked to suggest ways in which they could help society in eliminating trafficking and commercial sexual exploitation of women and children. Again, the majority of the respondents, 72 per cent, did not have any answer. The suggestions given by the rest included empowering children, generating awareness among victims, and assisting police and NGOs by providing them with information about traffickers and trafficked persons.

5.23 Rehabilitation

Empowering survivors is the most important aspect of post-rescue activities, wherein counselling assumes a significant role. In this context, the availability and quality of counselling and other

programmes of the rehabilitation centres were surveyed. As per the responses of 493 survivors, the major training programmes included physical training, literacy programmes, psychological counselling and vocational training. Under half the respondents, 47.7 per cent, did receive counselling and training. Of these, 55.7 per cent had been through vocational training, 5.5 per cent had acquired physical training, 12.8 per cent had participated in literacy programmes and 26 per cent had received psychological training. Well over half these respondents, 54.9 per cent were not satisfied with the training. While 25.6 per cent said that the counselling and training were neither vocational nor job-oriented, 24 per cent maintained that the training was not properly imparted and was only nominal. The rest of the respondents were unhappy with the procedures and processes of counselling. These figures indicate serious gaps in the counselling and rehabilitation programmes being run by the rescue homes, calling for appropriate changes and remedial measures.

The dissatisfied survivors were asked to give their suggestions for improving the existing systems of counselling and rehabilitation. While 15.5 per cent of them spoke about the need for legal counselling and assistance, 32.6 per cent were of the view that counselling should be job-oriented and related to the interests of the survivors, so that it provides them with appropriate livelihood options. A substantial 41.4 per cent of the respondents suggested that the counsellors should be sensitive and professionally sound; and under 10 per cent stated that counselling should be group-oriented and not individual-centric. A few of them (1.5 per cent) felt that the number of counsellors was too small to cope with their requirements.

5.24 Retrafficking

The study also analysed the extent of retrafficking, if any. The survivors were asked if they had been rescued earlier; if so, what compelled them to go back to the brothels. Over three-fourths of the respondents stated that they had been rescued for the first time. The rest (24.2 per cent) had been rescued before and were therefore victims of retrafficking. These survivors had been booked on charges of soliciting under Section 8 of ITPA; after release on bail, they were brought back by the brothelkeepers. Of the retrafficked respondents, 22.5 per cent had been rescued once before and the rest had been rescued twice or more before. As to when they were rescued earlier, only 3 per cent had been rescued during the same year (2003); 27.9 per cent during the previous year (2002); 28.7 per cent during 2000–2001; and 40.4 per cent before 2000. These figures suggest that persons rescued even a few months before have been subjected to retrafficking, albeit few in number, as is the case with those who had been rescued years before.

The survivors were further asked whether they had been ‘rehabilitated’ after the earlier rescue. Over half of the respondents, 52.2 per cent, said that they had been sent back to their original community; the rest were not. The former were subjected to retrafficking for a variety of reasons. Close to 17 per cent stated it was because of the coercive tactics used by the traffickers and their associates. A small percentage (2.8) spoke about non-acceptance by the family as the reason for their retrafficking. A vast majority of the survivors (80.3 per cent) said that even after being returned to their community, they had no alternative sources of income or livelihood options. The sheer force of circumstances including pressure from the brothelkeepers, led to their retrafficking. The list of reasons for being retrafficked also includes the debt bondage of the victim vis-à-vis the earlier brothelkeeper. This finding strongly underscores the point that unless the trafficked victims and survivors are properly rehabilitated by empowering them with safe livelihood options and

unless stringent action is taken against the traffickers and exploiters, there is a high probability of the survivors being re trafficked.

5.25 Conclusion

The women and children who have been trafficked and thereafter subjected to commercial sexual exploitation are living embodiments of the social tolerance of the ultimate violation of human rights. These survivors are the largely helpless protagonists of a grim tale of trade in human misery, indulged in by organised exploiters. The life stories of the 561 survivors point to a constellation of factors which placed them in a vulnerable situation. The traffickers and their accomplices lost no time in skillfully exploiting these vulnerabilities. The failure to enforce the law against traffickers has given them a free hand to perpetuate their exploitation. The fact that a large percentage of the survivors were trafficked while they were children shows the high demand for girl children for purposes of commercial sexual exploitation and the consequent vulnerability of the girl child. After being trafficked, women and children are subjected to the most abominable abuse — physical, verbal, sexual and emotional. The gross violation of their rights is further exacerbated when the victims are arrested as accused, prosecuted and even convicted. Worse, revictimisation ensues through the very process meant to redress their grievances. This shocking state of affairs calls for stern action, via effective use of the available legal provisions, against traffickers, clients and all other abusers; as well as proper arrangements for the adequate care and protection of the survivors, ensuring that their rights are not violated any further. There is an urgent need to provide them with suitable skills, information and resources so that they are economically and socially empowered. Redressal mechanisms should not stop with rescue. They should be expanded to include rehabilitation and reintegration and other measures to ensure that the harm suffered by the victim is not repeated.



Trafficked victims in commercial sexual exploitation

6.1 Introduction

This chapter deals with those women and children who have been trafficked and are continuing as victims of commercial sexual exploitation. It presents the story of persons who have yet to be rescued from the exploitative situation, which may be brothel-based or non-brothel-based. In certain states, like Tamil Nadu and Rajasthan, the researchers were unable to locate any specific red-light areas. However, exploitation was found taking place in places like dhabas on the highways, or it was being practised under the garb of running massage parlours, etc. Efforts were made to locate victims in such settings and interview them. Care was taken to ascertain that they were actually victims of trafficking. Only those persons who had been trafficked at some point in time were selected. Accordingly, a total of 929 trafficked victims were interviewed in 12 states. The analysis of their responses is presented in the following sections.

6.2 General profile of the victims

Just under 5 per cent of the trafficked victims stated that they were below 18 years of age (see Table 6.1). This is a far lower percentage compared to the data provided by the survivors (see Chapter 5). Among the latter, over a fifth, 20.7 per cent, gave their age as under 18 years. The survivors obviously did not feel constrained to gloss over uncomfortable facts, unlike the victims of CSE, who were still under the control of brothelkeepers. Thus, there is a strong possibility that many of the victims may have overstated their age. This is also substantiated by case study No. CS-MH-19. Moreover, among the interviewed victims, 14.7 per cent represents in the age group of 18–21 years and 68.5 per cent in the 22–35 age group had been pushed into the ‘trade’ while they were children. Clearly, a large majority of the victims had been trafficked when they were children. Some of them grew into adults while in the trade; many are still children.

Table 6.1: State-wise age profile of the trafficked victims

States	Age group (in years)					Total
	13–15	16–17	18–21	22–35	36–50	
Delhi	2	1	7	68	9	87
Bihar	4	6	31	53	5	99
West Bengal	2	0	0	36	21	59
Goa	0	0	7	51	5	63
Tamil Nadu	0	1	11	60	36	108
Karnataka	3	10	10	37	4	64
Andhra Pradesh	0	0	8	82	13	103
Maharashtra	0	2	12	89	15	118
Uttar Pradesh	4	3	10	69	4	90
Meghalaya and Assam	0	1	10	27	0	38
Rajasthan	3	2	31	64	0	100
Total	18	26	137	636	112	929
Percentage	1.9	2.8	14.7	68.5	12.1	100

With regard to nationality, 94 per cent of the victims were from India, 1.1 per cent from Bangladesh and 2.9 per cent from Nepal. The rest refused to respond. The majority of the respondents, 68.6 per cent, came from rural areas, 21.6 per cent from urban centres and 9.8 per cent from urban slums.

The socio-religious background of the trafficked victims was also studied. Over three-fourths of the respondents (77 per cent) were Hindus, 18 per cent were Muslims, 3.5 per cent Christians, 0.2 per cent Sikhs and 1.3 per cent belonged to other religious communities. Almost a third of the victims, 32.3 per cent, were from the Scheduled Castes, 5.8 per cent were from the Scheduled Tribes, 21.9 per cent from the Other Backward Classes and 17.4 per cent from other castes. The rest were unable to state their caste. Thus, a large majority of the respondents (60 per cent) belonged to socially deprived sections of society.

An even larger percentage (70.7) was either illiterate or barely literate. Only 13.6 per cent of the victims had received education up to the primary stage and around 15 per cent beyond the primary stage. A mere 0.4 per cent of the respondents were graduates or above.

The study attempted to understand the socio-economic condition of the family before the victim's entry into commercial sexual exploitation. Only a fourth of the respondents had a monthly family income of Rs. 2,000 and above; 47.5 per cent had an income below this level, and 27.7 per cent were not able to give details. Thus, a vast majority of the respondents came from poor families.

6.3 Marital profile of the victims

Half the respondents were unmarried. Among those who were married, more than half were divorced, separated, widowed or deserted. The majority of the married respondents, 60.6 per cent, had been married when they were children (see Table 6.2). This could have made them more vulnerable to traffickers. The maximum number of child marriages were reported by the respondents in Tamil Nadu (48), Andhra Pradesh (43), Maharashtra (38), Delhi (37) and Goa (31).

Table 6.2: Age at marriage

<i>Age (in years)</i>	<i>Number</i>	<i>Per cent</i>
7–10	21	4.5
11–14	98	21.2
15–17	162	34.9
18 and above	144	31.0
Don't know	39	8.4
Total	464	100

Irrespective of their marital status, the trafficked victims were asked about the number of children they had. While 53.8 per cent had no children, 19.4 per cent had one child, 16.6 per cent had two children, 6.5 per cent had three children, 2 per cent had four children and 1.7 per cent had more than four children. Thus, almost one half of the respondents had children to look after and support.

6.4 Married life

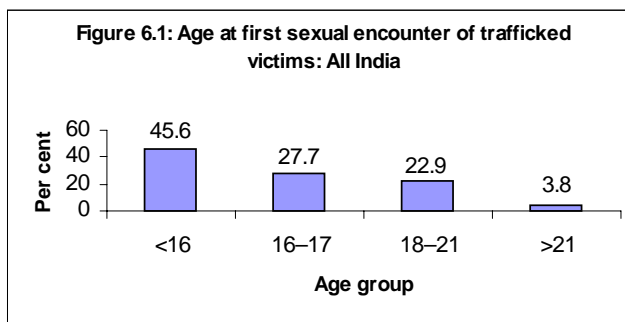
The quality of marriage of the 464 victims who had been married at some point of time was also assessed. Whereas 80.8 per cent of the respondents were married only once, 13.2 per cent had been married twice and 6 per cent three times or more. According to 64 per cent, their marriages were arranged, 11 per cent were forced to marry and 25 per cent had love marriages. Over 10 per cent of the respondents were married to persons less than 16 years of age. In all, 41.4 per cent stated that their husbands were less than 21 years of age at the time of marriage.

On the question of any ill-treatment meted out to them in their in-laws' house, 36 per cent of the trafficked victims answered in the affirmative, 56.7 per cent gave a negative response and the rest chose not to reply. As to who had ill-treated them, 68.9 per cent pointed an accusing finger at their husbands, 26.3 per cent at their parents-in-law, and the rest at their brothers-in-law or sisters-in-law. Regarding the kind of ill-treatment, 65.3 per cent spoke about physical torture, 12 per cent were victims of sexual harassment and the rest were subjected to mental harassment. For 80.8 per cent of the respondents, the ill-treatment was a regular affair. Among those who were ill-treated 60.5 per cent did share their grievances with other family members; the rest did not dare to disclose their problems to anybody. Of those who had the courage to speak about their exploitation, 41.6 per cent had complained to their parents, 49.5 per cent had confided in their friends/neighbours and 8.9 per cent had ventilated their grievances with their in-laws.

Almost two-thirds of the married victims who faced sexual harassment, 65.1 per cent, were sexually assaulted by family members other than the husband, 24.8 per cent stated that friends and neighbours visiting the husband's house abused them, while 10.1 per cent did not want to speak on this issue. Around 55 per cent of the respondents stated that they had to tolerate extramarital sexual assaults for less than a year, and the rest for more than a year. As a consequence of such abuse, 36.5 per cent of the women were deserted by or separated from their husbands. In 46 per cent of the cases, it led them to commercial sexual exploitation. Extramarital abuse of women seems to be an important factor in making them vulnerable to trafficking.

6.5 First sexual encounter

A vast majority of the trafficked victims, just over 73 per cent, had their first sexual experience when they were under 18 years of age (see Figure 6.1). Looking at disaggregated figures, 45.6 per cent of the respondents had been sexually assaulted when they were below 16. Under Section 375 of the Indian Penal Code, sex with a child under 16, with or without consent, constitutes rape. Obviously, these respondents were victims of child rape. Almost 28 per cent of the respondents said that they were sexually assaulted when they were in the 16–17 age group $\frac{3}{4}$ that is, when they were children as per the Juvenile Justice Act. For a state-wise break-up of age at first sexual encounter, see Table 6.3.



The victims were also asked whether their first sexual experience was forced or with their ‘consent’ and how the consent had been obtained. Almost 60 per cent of the respondents alleged that it was forced on them and that the first sexual offender had not given any promise or money for sexually abusing them; the rest stated that they had been lured by promises or money.

Table 6.3: Age at first sexual encounter: State-wise

State	Age group (in years)				Total no. of respondents
	<16	16–17	18–21	>21	
Delhi	69	14	4	0	87
Bihar	48	23	27	1	99
West Bengal	20	7	24	8	59
Goa	38	9	14	2	63
Tamil Nadu	38	28	34	8	108
Karnataka	38	18	7	1	64
Andhra Pradesh	36	28	32	7	103
Maharashtra	44	37	35	2	118
Uttar Pradesh	31	42	14	3	90
Meghalaya and Assam	12	2	21	3	38
Rajasthan	50	49	1	0	100
Total	424	257	213	35	929
Percentage	45.6	27.7	22.9	3.8	100

On being asked as to who was the person who had first sexually assaulted them, 12.6 per cent said that the first abuser was the trafficker, whereas 51.2 per cent were abused by their relatives and 30.9 per cent by their neighbours. The majority (70.5 per cent) of the respondents stated that the sexual abuse became a regular affair thereafter.

6.6 Turning point

The factors that played a decisive role in the trafficking of the victims were examined by the study. A little over half the respondents, 51.8 per cent, said that they were forced, deceived or lured by the traffickers; 22 per cent maintained that marriage-related problems and violence had led to their being trafficked. While 5.4 per cent of the respondent stated that being subjected to regular sexual assault during their childhood led to their falling victim to traffickers, 7.3 per cent attributed it to

the customs practiced by their community. A very small number (0.2 per cent) cited family migration. Just over 13 per cent stated that poverty was the turning point which led to their being trafficked. This data compares well with that pertaining to the survivors (see Chapter 5). Thus, poverty seems to be one among several factors that made the victims vulnerable to exploitation by the traffickers $\frac{3}{4}$ the key trigger in over one out of two cases.

6.7 The transit

Since displacement from the community is an ingredient of the process of trafficking, transit assumes importance, especially in long-distance trafficking. The study sought to identify the kind of places which were being used as transit points. Almost 17 per cent of the victims did not respond. Since they were trafficked within the community itself, the majority of them did not have to pass through any transit point. This applies mostly to the children of women in brothels. Around 15 per cent of the respondents could not recall the exact transit points, 10.9 per cent were lodged in hotels, 31.3 per cent in the trafficker's house and 26.5 per cent were put up at the residence of the brothel owner. It appears that before the victims are pushed into commercial sexual exploitation, they are often made to 'cool off' in an appropriate place selected by the exploiters. The residence of the trafficker and the brothel owner fall in this category. Moreover, the transit places are also used for sexual abuse by the traffickers and their agents who escort them. Almost 70 per cent of the respondents stated that their sexual exploitation commenced at the first place of transit. In the remaining cases, it began after they were brought to the brothels.

More often than not, the realisation that they had fallen into the hands of traffickers dawned on the victims after they were sexually assaulted during transit. When they were asked about their emotional state following this rude waking up to reality, most of them said that they felt utterly helpless and developed feelings of contempt and hatred towards themselves.

6.8 Age at the commencement of commercial sexual exploitation

Compared to 61.7 per cent of the survivors who stated that they were pushed into CSE as children, the percentage for trafficked victims is 44.3 (see Table 6.4). Obviously, survivors have more freedom to speak; therefore, a higher percentage admitted that they had been subjected to CSE as children. Among the victims, 22.9 per cent had been exploited even when they were under 16 years of age. As noted earlier, sex with a child under 16 years, even with her consent, amounts to rape (Section 375 of IPC). Clearly, these 213 respondents are victims of multiple rapes. However, registration of rape cases in such situations is an exception in the current context of lackadaisical law enforcement.

Table 6.4: Age when pushed into CSE

<i>Age group (in years)</i>	<i>Frequency</i>	<i>Percentage</i>
Up to 15	213	22.9
16–17	198	21.4
18–21	281	30.2
22 and above	214	23.0
No response	23	2.5
Total	929	100

The state-wise distribution of the victims who were sexually abused even when they were under 16 is as follows: Delhi $\frac{3}{4}$ 37; Bihar $\frac{3}{4}$ 33; West Bengal $\frac{3}{4}$ 10; Goa $\frac{3}{4}$ 11; Tamil Nadu

$\frac{3}{4}$ 15; Karnataka $\frac{3}{4}$ 19; Andhra Pradesh $\frac{3}{4}$ 10; Maharashtra $\frac{3}{4}$ 11; Uttar Pradesh $\frac{3}{4}$ 16; Assam and Meghalaya $\frac{3}{4}$ 2; and Rajasthan $\frac{3}{4}$ 49.

It has generally been noted that the victim's age at the time of her first sexual experience does have a bearing on the age at which she is trafficked. This point was quantitatively substantiated through a simple linear regression analysis. A functional relationship was estimated using the equation: Age at which the person was trafficked = $\frac{1}{2}$ (age at the time of the first sexual experience).

The regression analysis shows that the age at which a person has the first sexual experience is significantly related to the age at which she is trafficked. Age at which the person was trafficked = $1.032 + 0.329 \times$ age at the time of the first sexual experience. There is a causal linkage between the two variables. Persons who are more vulnerable to being trafficked are generally those who have been abused at a young age. The regression analysis also reveals that the age at the time of the first sexual experience is associated with a 32.9 per cent increase in the age at which the victim was trafficked. These findings suggest that the policies and strategies formulated to address the problem of trafficking should also focus on the issue of sexual abuse of children at an early age.

6.9 Trafficker's profile

Details of the sorts of people who trafficked them were elicited from the victims. It is worth noting that the traffickers were strangers only in 11.1 per cent of the cases (see Table 6.5). Family members and relatives were responsible for trafficking 34.8 per cent of the respondents. The majority of these 323 respondents hailed from Rajasthan, Karnataka and Goa, where customary practices were used as a justification for pushing the victims into commercial sexual exploitation. The exact relationship of these respondents with their traffickers was further investigated. The latter were the husbands of the respondents in 12.1 per cent of the cases, siblings in 10.2 per cent of the cases and parents or the in-laws in 13.3 per cent of the cases. Distant relatives had trafficked the rest of these 323 respondents.

Table 6.5: Persons who trafficked the victims

<i>Persons responsible</i>	<i>Number</i>	<i>Per cent</i>
Family members/relatives	323	34.8
Known persons other than relatives	488	52.5
Strangers	103	11.1
Police	1	0.1
No response	14	1.5
Total	929	100

Over half the traffickers, 52.5 per cent, were known persons other than relatives. They had become acquainted with the victims before trafficking and pushing them into commercial sexual exploitation. Of these victims, the majority, 57 per cent, said that the traffickers had first developed relationships with their family members and relatives. In 19.1 per cent of the cases, the traffickers established links through friends of the victims; in 21.9 per cent of the cases, the linkage was facilitated through neighbours. While 1.6 per cent of the respondents stated that the trafficker became acquainted with them through the employer; in the remaining cases, the teachers of the victims provided the gateway. These findings suggest that often, the traffickers befriend the prospective victims through known contacts, establish a rapport with them and thereafter, capitalise on this acquaintance.

Looking at the gender profile of the traffickers, the male–female break-up was around fifty-fifty. Apparently, the respondents have gone by the immediate procurers who recruited them.

With regard to the age profile of the traffickers, almost a third of the traffickers, 64.3 per cent, were in the 26–40 age group (see Table 6.6). Some of them, 12 per cent, were quite young, i.e., between 18 to 25 years of age.

Table 6.6: Age profile of the traffickers

<i>Age group (in years)</i>	<i>Number</i>	<i>Per cent</i>
18–25	112	12
26–30	246	26.5
31–40	351	37.8
41–65	141	15.2
Don't know	79	8.5

Based on the responses of the victims, the community and caste configuration of the traffickers was also analysed. According to 67.6 per cent, the traffickers were Hindus while 18.2 per cent said that they were Muslims. The rest belonged to other communities. In all, about 45 per cent of the traffickers were from the Scheduled Castes, Scheduled Tribes and Other Backward Classes.

6.10 Modus operandi of the traffickers

The majority of the traffickers, 63.6 per cent, had lured the victims by making specific promises (see Table 6.7). In the remaining cases, the consent of only the parents was obtained or coercion/force was used. In 11.5 per cent of the cases, there was open use of coercion against the victims. Family traditions and customs were cited to put pressure on them in 3.3 per cent of the cases. Just over a per cent said that they were drugged by the traffickers.

Table 6.7: Promises made by the traffickers

<i>Promises made</i>	<i>Number</i>	<i>Per cent</i>
Job	403	68.1
Marriage	99	16.8
Better living conditions/lifestyles	37	6.2
Sightseeing/outing	17	2.9
Shelter and security	27	4.6
Other promises	08	1.4
Total	591	100

In order to avoid detection while trafficking women and children, the offenders are known to pose as close acquaintances of the victims. This has been substantiated by the replies of the victims to a specific question on this issue. In 15.6 per cent of the cases, the traffickers pretended to be family members; 27.2 per cent of the respondents said that they claimed to be their relatives; and 25.9 per cent stated that they posed as their friends. Under a third of the respondents could not give proper answers. The pretension by the traffickers is a challenge to the law enforcement officials.

6.11 Number of traffickers

In order to understand the dimensions of the organised crime of trafficking, the victims were asked about the number of persons involved in the trafficking chain $\frac{3}{4}$ from recruitment to the stage of commercial sexual exploitation. Around 15 per cent of the respondents stated that one trafficker

was involved; 11 per cent said between two to three traffickers were responsible; and 21.2 per cent were witness to the involvement of many traffickers. Well over half the respondents, 53 per cent, could not specify the exact number of traffickers involved in trafficking them. However, as per the information provided by the 437 respondents who were aware of the exact number of people involved in trafficking them, the total adds up to 1,092 traffickers. The average works out to two to three traffickers per victim. This is an important indicator for law enforcement officials.

6.12 Illegal assets of the traffickers

Trafficking being a high-profit activity, an attempt was made to assess the victims' awareness about the assets in possession of the traffickers. Since the assets amassed from a criminal activity like trafficking are illegal, they ought to be confiscated and forfeited. However, the study did not come across such examples of rigorous law enforcement. A substantial chunk of the respondents, 40.5 per cent, said that the traffickers had constructed houses, flats and acquired other immovable property with the money they had made from trafficking. A fifth mentioned mobile phones, 14.5 per cent spoke about electronic gadgets and 13.1 per cent said that the traffickers had bought vehicles. The rest mentioned cash, jewellery and accessories. Thus, the victims were aware that their traffickers had acquired a lot of moveable and immovable property. This brings an important dimension to law enforcement. The victims can serve as useful sources for locating the illegal assets of the traffickers so that they can be forfeited and confiscated.

6.13 Traffickers brought to book

The victims were also queried about the arrest and detention of the persons responsible for trafficking them. Only 8.5 per cent of the respondents said that the traffickers had been arrested. Over a third, 35 per cent, were categorical that they were not arrested; and the majority, 56.5 per cent, were not aware of any arrests. Of those who were aware that the traffickers had been arrested, 40.5 per cent said that they were arrested once, 12.7 per cent stated that they were arrested twice and 46.8 per cent spoke about arrests taking place more than two times. While 58.2 per cent of these respondents stated that the arrested traffickers were bailed out by the courts, 12.7 per cent said that they were released after bribing the concerned police officials. A mere 14 per cent said that their traffickers were in jail. The remaining victims were not aware of the exact position. These figures show that only a very small percentage of the traffickers are punished, pointing to the serious lacunae in the existing criminal justice system.

6.14 Income generated and shared

It was difficult to get proper answers from the victims since the interviews were held in brothels, where the respondents were under the constant vigil of their exploiters. Based on the data provided, the state-wise monthly earnings per victim have been worked out (see Table 6.8). The all-India average income per victim per month is Rs. 6,076. There are sharp differences in the average monthly earnings between the states. The total income generated from 929 victims in one month works out to Rs. 56,43,675.

Table 6.8: State-wise average monthly earnings per victim

<i>States</i>	<i>Monthly income per victim (in Rs.)</i>
Delhi	5,483
Bihar	2,707
West Bengal	NA
Goa	3,914
Tamil Nadu	5,958
Karnataka	7,091
Andhra Pradesh	4,753
Maharashtra	5,566
Uttar Pradesh	5,797
Meghalaya and Assam	3,363
Rajasthan	17,225
All India	6,076

The extent of income sharing was also analysed. The victims said that they had to pay several persons. The majority, 37.4 per cent, stated that the brothel owner cornered the lion's share; about a fourth, while 24.5 per cent said that the agents have to be paid. While 16.8 per cent of the respondents said that certain police officials take away a major chunk of their earnings, 21.3 per cent stated that their incomes have to be shared with all the stakeholders. However, the respondents could not spell out the exact percentage of their incomes that they have to give to these exploiters.

6.15 Expenditure and savings

The savings and expenditure patterns of the victims in the brothels were surveyed. Almost 35 per cent of the respondents spend their earnings on household items in the brothel and 31.5 per cent on their dependents. While 22.8 per cent spend their earnings on cosmetics and entertainment, 2.8 per cent spend on additives like alcohol and tobacco and 1.9 per cent on medicines. Only 6.3 per cent of the respondents stated that they had invested their money in some property.

Around 61 per cent of the victims revealed that they had no savings whatsoever. While 14.1 per cent had saved up to Rs. 10,000, only 9.9 per cent could save up to Rs. 20,000 and 8.7 per cent up to Rs. 50,000. The relatively 'wealthier' ones of the lot, who were able to save above Rs. 50,000, comprised a mere 6 per cent. Though the victims generate considerable income for the brothel, as noted earlier, they are personally able to save very little. The fact that the large majority of the respondents did not have any savings speaks volumes about the high levels of exploitation of girls/women in brothels. Case study Nos. CS-DL-25 and CS-MH-20 detail the debt that the victims supposedly owe to the brothelkeepers and the consequent bondage and servitude they are ensnared in.

The respondents were asked whether they were able to share their savings with their family members. Though 45.7 per cent stated that they remit money home, only a very small percentage were sending money regularly; the rest made irregular remittances to their family members.

6.16 Contact with the family

Well under half the respondents, 43.3 per cent, said that some of their family members were aware that they were being victimised in brothels. Under 15 per cent stated that family members had tried to trace them; the others were not aware whether their families had made any efforts in this direction.

The victims were also asked if they themselves had made any efforts to get back to their families. While 52.5 per cent answered in the affirmative, the rest replied in the negative. The reasons given by the respondents for wanting to go back to their families include: (a) to be free from exploitation (76.2 per cent); (b) to deliver money to their wards and meet their family members (16 per cent); and (c) to procure more girls (7.8 per cent). Thus, over three-fourths of the trafficked victims, who are under the subjugation of brothelowners, want to move out and lead a normal life. Only a small minority had themselves become traffickers. They maintain links with their village communities, which are utilised to traffic girls. Case studies from the brothels substantiate this point. It needs to be mentioned here that this 'growth' from victim to exploiter is usually because of the lack of alternative livelihood options and the cumulative debt they get mired in as a result of their own exploitation in the brothels.

Several reasons were cited by the victims who had not attempted to get in touch with their families. Around 35 per cent had no alternative sources of livelihood. They were unaware about what else they could do, even if they managed to get out. Another 10.9 per cent were doubtful of acceptance by their families and hence did not make any efforts to return home. Almost half the respondents, 49 per cent, did not dare to get out for fear of being caught and punished by the traffickers or brothel owners. Having witnessed the torture inflicted on those who had tried to escape, they were afraid of making any such attempts. Only 5.2 per cent of the respondents said that they did not remember their native place and, therefore, had no place to go back to.

6.17 Health issues

To the query whether they were suffering from any serious ailments, 34.1 per cent of the respondents admitted that they had some health problems, 64.5 per cent said that they did not have any serious illnesses and the rest did not respond. When those with health problems were further questioned, two respondents (0.6 per cent) confirmed that they were HIV-positive but were nevertheless continuing in CSE, as they had no other option. Around 42 per cent said that they were suffering from STDs, 8.2 per cent had serious gynaecological problems and the rest had minor illnesses. The percentage of HIV-infected victims is well below those among survivors (see Chapter 5). About 8 per cent of the latter had stated that they were suffering from HIV/AIDS. Clearly, survivors have more freedom to speak about their ailments, though they are also likely to face the social stigma of being branded as 'HIV patients'. The victims who continue to be exploited in the brothels are under pressure not to disclose their ailments. Those who are HIV-positive would be transmitting the disease to their clients who, in turn, can infect wives or others with whom they have sexual relations. The linkage between trafficking and HIV/AIDS is thus obvious. Any programme for preventing the spread of HIV/AIDS must take into account the dangers posed by the trafficking in women and children.

Among those who were suffering from diseases, 33.7 per cent had been living with the problems for the last one year, 42 per cent for the last five years and the rest for more than five years. These figures show that despite having serious illnesses like STDs and HIV for a long period of time, the victims of commercial sexual exploitation are unable to get even proper treatment.

To the question whether they had any knowledge about STDs/HIV/AIDS, a huge majority, 90 per cent of the respondents, replied in the affirmative. However, among them, only 77 per cent

were taking regular preventive measures; 14.9 per cent took precautions only occasionally; and 8.1 per cent did not take any preventive measure at all. This is usually because the clients are averse to using condoms and the brothel owners compel the victims to give in to their demands.

6.18 The clientele

The study examined the number of clients that had to be ‘entertained’ in a single day. Adding up the responses of the 929 victims, a total of 6,492 clients were entertained on one day. This works out to an average of seven clients per day. The maximum number of clients that a victim in West Bengal had to cater to on any day was 45 as against the maximum number of 42 clients per day by a victim in Delhi. Case study No. CS-DL-12 substantiates this point well. The interviewed victim was on the verge of a breakdown, physically and emotionally, due to the high number of clients she had to suffer every day.

With respect to the type of clientele involved in their sexual exploitation, the highest percentage, 21.8, comes from the working class, including truck and autorickshaw drivers and labourers (see Table 6.9). New visitors/strangers form the next largest group, i.e., 16.9 per cent. Businessmen/wealthy clients, tourists and students, mostly adolescents, have a relatively similar share $\frac{3}{4}$ ranging from 10 to 12 per cent each. A mere 3 per cent of the clients are foreigners.

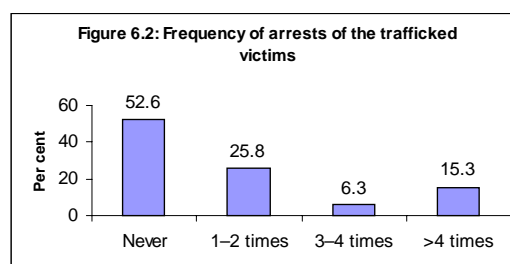
Table 6.9: Clientele involved in commercial sexual exploitation

Type of clients	Number	Per cent
Students	91	9.8
Businessmen/rich people	108	11.6
Police/army personnel	63	6.8
Working class, viz. drivers, labourers, etc.	203	21.8
Doctors, teachers, lawyers	21	2.3
Tourists	98	10.5
Politicians	12	1.3
Criminals/bad characters	76	8.2
New visitors/strangers	157	16.9
Film personalities	12	1.3
Foreigners	28	3.0
No response	60	6.5
Total	929	100

6.19 Arrest by the police

Trafficked women and children are the victims of commercial sexual exploitation. Therefore, they should never be held accountable or responsible for the offences committed against them. Yet, the ground reality is vastly different. They are often arrested, charge-sheeted and convicted. In this context, the respondents were asked whether they had been arrested by the police at any time; if so, the details thereof. The responses (Figure 6.2) are as follows:

- 52.6 per cent had never been arrested
- 25.8 per cent had been arrested 1–2 times
- 6.3 per cent had been arrested 3–4 times
- 15.3 per cent had been arrested more than 4 times



All the victims who had been apprehended by the police said that they were arrested on the charge of soliciting. Here, it may be noted that among the 561 survivors who were interviewed (see Chapter 5), only 39.4 per cent were aware that they were arrested on this charge; the rest did not know the reason for their arrest. This sharp difference is due to the fact that the trafficked victims have their charges cleared and thereafter are 'brought back' to the brothel by the exploiters. Hence, they are well aware of the charges levelled against them. The grounds of release, as stated by the respondents, are given below:

- 72.5 per cent were bailed out by the brothel owner by paying a fine in court
- 20 per cent got themselves released by bribing the police
- 7.5 per cent said that they were released because of the intervention of NGOs

It is a well-known fact that the victims are given different names after each instance of arrest. As per the Immoral Trafficking Prevention Act, 1956, a second conviction entails a stiffer penalty. According to the brothel owners, the trafficked victim's name is changed to maintain anonymity. Sometimes, even her caste/community is declared to be different, so as to suit the requirements of the clients. A little over 40 per cent of the respondents stated that they were made to give different names each time they were arrested. This practice of changing the names of arrested victims has been highlighted in case study No. CS-MH-1.

6.20 Evading arrest

Against this backdrop of arrest and release, the victims were asked whether they had been able to evade arrest by the police. Among those who were able to evade arrest more than 10 times, the largest number is from Andhra Pradesh (see Table 6.10).

Table 6.10: State-wise evasion of arrest

State	No. of times arrest was avoided				
	1–2	3–5	6–10	Above 10	No Response
Delhi	8	3	1	0	75
Bihar	6	7	3	0	83
West Bengal	0	0	38	2	19
Goa	2	7	16	0	38
Tamil Nadu	4	6	51	0	47
Karnataka	1	8	27	0	28
Andhra Pradesh	12	12	45	14	20
Maharashtra	13	2	27	0	76
Uttar Pradesh	8	2	31	1	48
Meghalaya and Assam	4	1	10	0	23
Rajasthan	19	4	7	0	70
Total	77	52	256	17	527

To the question how they managed to avoid being arrested, despite the large number of police raids, the responses were as follows:

- The majority (58.4 per cent) said that the brothel owners had received advance information from certain police officials with whom they had contacts and moved the victims to other places before the impending raid.
- Almost a fourth of the respondents, 23.9 per cent, said that they were hidden in boxes, almirahs, specially made cubicles, attics, cellars, etc.
- The rest (17.7 per cent) revealed that the brothel owners had bribed police officials during the raids and persuaded them to ignore their presence in the brothel

6.21 Police visits

Only a fourth of the respondents stated that the police visit brothels frequently. Under 32 per cent said that policemen pay occasional visits, 14.4 per cent said the visits were rare and the rest were unaware for any visits by the police. The purpose of these visits was also probed. The responses were as follows:

- to arrest the victims (19.5 per cent)
- for sex (15 per cent)
- to conduct investigations (11.9 per cent)
- to prevent soliciting (20 per cent)
- to extort money (33.6 per cent)

6.22 Visit to other places

Since it is well-established that the victims are either re trafficked or sent by brothel owners to other places for commercial sexual exploitation, they were asked for details in this regard. A little over 55 per cent of the respondents had been to different places. Half of them stated that the reason was to earn more money, and 46.6 per cent said that they were mostly sent out with clients on demand by the latter. Some of them, 3.5 per cent, even disclosed that the brothelkeepers had sold them to other brothels. This is substantiated by case study No. CS-DL-25.

6.23 Knowledge of the law and legal provisions

Only a fifth of the respondents were aware of the existence of ITPA, the law relating to trafficking; the rest had no idea about it. Again, a vast majority, 62.9 per cent, did not know of any law prohibiting child sexual abuse and child prostitution. Even the victims who were aware of the law on trafficking were ignorant of the specific provisions dealing with its prevention and the rights of trafficked victims. While 71.3 per cent believed that the existing law was meant to punish the woman or girl who was subjected to commercial sexual exploitation, 19.5 per cent said that its sole purpose was to prevent soliciting; 9.2 per cent did not know what exactly the law was about. Ignorance of the provisions of ITPA, which upholds the rights of women and children, is a major impediment in the justice delivery mechanism. No wonder, this lack of awareness is being exploited with impunity by various exploiters.

It is important to note that a huge majority of the victims, 90.9 per cent, had not been rescued even once. Over 6 per cent had been rescued once before and 2.7 per cent had been rescued two or more times and subsequently re trafficked into the brothels. Under half the victims who had never been rescued, 48.3 per cent, were not able to give any specific reason for their condition. The responses given by a few respondents indicated their helplessness. While 22.8 per cent attributed their plight to the failure of the law enforcement machinery, on equal number blamed the lack of concrete government policies dealing with the rescue of victims. A small percentage (6.1) blamed the media for not taking up the issue of the extreme exploitation of women and children in brothels. On the whole, these respondents presented a picture of dejection and the complete lack of care and attention by all concerned. Case study No. CS-MH-16 is a telling example. There is an urgent need to rescue such persons, especially children trapped in commercial sexual exploitation.

6.24 Retrafficking

The victims who had been rescued earlier constituted only 9.1 per cent of the sample. Of these, 4.7 per cent said that they were rescued during the same year (2003), 43.5 per cent had been rescued in 2002, 29.4 per cent during 2000–2001 and 22.4 per cent before 2000. Among these 85 respondents who were victims of retrafficking, only a third said that they had been rehabilitated in their communities after the earlier rescue, whereas 67.1 per cent said that they had not been beneficiaries of any rehabilitation programme. Those who were subjected to retrafficking after rehabilitation were asked about the specific reasons that made them vulnerable to retrafficking. Lack of alternative livelihood options was cited by 35.7 per cent of these respondents, 28.6 per cent blamed non-acceptance by their families and communities and the rest (35.7 per cent) alleged that the coercive measures and tactics used by their brothel owners and traffickers were instrumental in bringing them back. On being further probed, the respondents spoke about the obligations that life in the brothels imposes on them. The debt bondage in which the brothel owners ensnare them remains one of the major reasons why the victims are compelled to return to the brothels for further exploitation even after rescue. Case study No. CS-MH-20 illustrates this point and explains the dimensions of debt bondage that accrue against the victims. The story of these 85 respondents who were subjected to retrafficking presents a highly disturbing scenario. It is known that the rescued victims are usually arrested as the accused and thereupon the exploiters bail them out. Case study No. CS-MH-1 explains the viciousness of the whole process, wherein retrafficking can easily be carried out even by those who are meant to protect the rights of the victims and points to their unholy nexus with the exploiters who are involved in retrafficking. The study shows that effective and prompt law enforcement, especially against the traffickers and exploiters, appropriate redressal mechanisms with victim assistance programmes, as well as empowerment of the rescued victims to sustain themselves in dignity ^¾ are all essential measures for addressing retrafficking.

6.25 Aspirations of the victims

An attempt was made to understand the direction in which the victims would want their lives to move. To the question whether they would like to continue in the same ‘trade’, the vast majority of the respondents expressed their desire to leave the brothels. The rest, despite wanting to escape from the exploitation, expressed their inability to do so because of the lack of alternative livelihood options before them. The basic fact remains that the victims want rescue to be effectively combined with rehabilitation, as this would be in their best interests. They are also eager for economic empowerment and social acceptance. Since the majority of the victims are desperate to move out from the brothels, it is for the state and civil society to intervene and provide them with the necessary skills, knowledge and resources so that they are adequately empowered to sustain themselves with dignity.

The victims were also asked to suggest ways in which they could help society to eliminate trafficking in women and children. The vast majority, 72.6 per cent, had no idea about what they could do. However, 8.1 per cent wanted to help NGOs in the rescue and relief operations, 3.4 per cent wished to assist the police in arresting traffickers and 12.8 per cent said they would like to return to the villages and source areas to create awareness among victims. Only 3.1 per cent of the respondents stated that they would empower children in order to prevent trafficking.

6.26 Role of NGOs

The study also tried to gauge how actively NGOs were involved in the trafficked victims' lives. Over half the respondents, 52.5 per cent, were unaware of any NGO working on issues related to them and a fifth knew of NGOs engaged in HIV prevention efforts and other health issues. A little over 13 per cent were familiar with NGOs working for the welfare of their children and almost 14 per cent were aware that some NGOs were engaged in the rescue and counselling of victims. The respondents who had come in contact with NGOs were requested to make an assessment about the role of the latter. Significantly, 86.6 per cent rated the NGOs as 'good', 3.9 per cent ranked them as 'average' and the rest (9.5 per cent) said that they were 'useless'.

6.27 Rehabilitation programmes

Since protection and rehabilitation of the trafficked victims are important components of efforts to combat trafficking, the respondents were asked about their perceptions and knowledge in this regard. A huge 83.4 percent did not know of any rehabilitation scheme or programme in existence. The rest had a fair idea about programmes which provided for vocational training, counselling services, schooling of children, health interventions, etc. Among those who were aware of these programmes, well over half, 55.2 per cent, thought they would be useful, 27.3 per cent had no idea about their efficacy and the rest considered them to be positively useless $\frac{3}{4}$ mainly because the programmes were not oriented to adequately empower women and children.

6.28 Conclusion

The foregoing analysis brings out the interplay between the demand and supply factors that operate in the perpetuation of trafficking. Very little has been done to ameliorate the lot of trafficked victims. Whatever measure have been taken have not been effective. The Government of India's action plan of 1998 to combat trafficking and commercial sexual exploitation of women and children has not delivered the desired results. The data presented underlines the need to take urgent steps to prevent trafficking and to immediately rescue all those who are trapped in the exploitative ambience and ensure their prompt and adequate rehabilitation. The fact that a large majority of these victims are waiting to be rescued shows that their non-rescue is in itself a violation of their rights. Moreover, the plight of the victims calls for strong legal action against traffickers, clients, brothel owners and all other exploiters. Programmes should be planned and executed after taking into account reliable and relevant data based on the trends and dimensions in supply zones, destinations, high-risk groups, etc. It is essential that prevention strategies be targeted at both supply as well as demand areas. Unless the demand is contained, trafficking cannot be stopped. Many more family counselling centres and short-stay homes need to be set up in high supply zones and high demand areas. NGOs should be provided with assistance to set up short-stay homes near border posts on identified trafficking routes from neighbouring countries. Targeted interventions should also include publicity campaigns focused on potential victims and for raising public awareness about this social scourge. Finally, nothing can be more effective in making an impact than reduction of poverty levels, improving the status of women through education as well as economic and social empowerment. The fact that the rights to development and to life with dignity are fundamental human rights has to be driven home.

Clientele

Among the key areas this multidimensional study focuses on are the demand factors. The trafficking of women and children is demand driven. A high demand for purposes of commercial sexual exploitation spurs trafficking in women and children. Depending on the clientele, the exploitation has various manifestations and consequences. Therefore, it is important to study the exploitative ambience of the different demand situations and the violation of rights that take place within them. Chief among the clientele examined are those who visit brothels for sex and are usually addressed as ‘customers’. Since commercial sexual exploitation is a major driver of trafficking, a study of the clientele will throw light on the pull factors that feed on the vulnerability of the victims as well as the responses these factors evoke.

7.1 Methodology

The interview schedule was titled ‘customer’ since this term is commonly used. The research partners were free to visit any brothel in their area and interview customers. In states like Tamil Nadu and Rajasthan, though there are no identified red-light areas, commercial sexual exploitation does take place in shanties or makeshift brothels located on the outskirts of towns and on national highways. Therefore, the researchers had to look for customers in such places. It was not easy to make contact with them, even though many customers were spotted in brothels. Persuading them to respond to the questionnaire was a Herculean task. Many customers would avoid the researchers for fear that they would be exposed or due to the fear that they could be liable to prosecution for serious offences — violating the rights of women, especially girl children — under the Indian legal system. However, the ingenuity of the researchers and their tactical handling of these men allowed them to proceed with the job on hand. The customers were promised anonymity. The venue and timings of the interviews were chosen so as to not invite suspicion. A total of 582 clients were interviewed. The analyses of these interview schedules and the findings of a few case studies on the clientele are presented below.

7.2 Profile of the clienteles

Among the key characteristics studied were the age group and marital status of the respondents. The youngest client to be interviewed was 16 years of age. Fourteen of the respondents were less than 18 years of age, and eight of them were in the age group of 60 years and above. The average age profile of the clientele in different states reveals the following pattern: Delhi, 28 years; Bihar, 34 years; West Bengal, 36 years; Goa, 24 years; Tamil Nadu, 36 years; Karnataka, 36 years; Andhra Pradesh, 35 years; Maharashtra, 29 years; Uttar Pradesh, 32 years; North-East (Assam and Meghalaya), 27 years; and Rajasthan, 29 years.

Among those who visited brothels, 45.5 per cent were married men and 72.9 per cent of them had spouses staying with them (see Table 7.1). Therefore, there is no truth in the common perception that it is mostly men staying away from their families who visit brothels. In other words, there is no inherent correlation between absence of a marital partner and the tendency to seek commercial sex. This point will find further elucidation in the following discussions.

The age profile of the wives of the married clientele was also examined. A majority of them (54.3 per cent) had wives who were in the age group of 26–35 years. A quarter of the respondents said that their wives were in the 19–25 age group, whereas only 17.7 per cent of the wives were 35 years and above. Not more than 3 per cent of the respondents said that their wives were 18 years or less. The education profile of the respondents shows that 20.4 per cent were illiterate, 17.2 per cent were educated up to the primary level, 16.3 per cent up to the middle level, 23.4 per cent up to higher secondary, and 22.7 per cent were graduates and above. In terms of professional background, 41.9 per cent were from the working class, 8.8 per cent were students, 26.1 per cent were employed in government service and 18.4 per cent were doing business. Around 5 per cent refused to state their occupation.

The married clientele were also asked about the educational qualifications of their wives. Close to 50 per cent said that their wives were either illiterate or just literate. The wives of 40 per cent of the clientele were educated up to primary, middle or higher secondary level. Only 10.2 per cent of the wives were graduates and above.

Table 7.1: Age and marital status of clientele

<i>Characteristics</i>	<i>Number</i>	<i>Percentage</i>
<i>Age (in years)</i>		
16–25	155	26.6
26–30	154	26.5
31–40	175	30.1
Above 40	98	16.8
<i>Marital Status</i>		
Unmarried	260	44.7
Married	265	45.5
Divorced / separated	27	4.6
Widower	30	5.2
<i>If married, whether spouse staying with respondent (N= 265)</i>		
Staying	193	72.9
Not staying for the last one to six months	47	17.7
Not staying for more than six months	25	9.4

Data on the occupation of the wives of the clients was also collected. While 75.8 per cent of the married respondents stated that their spouses were housewives, 5.7 per cent of the wives were employed in government service, and an equal number said their wives worked as labourers. In the remaining cases, the wives were self-employed, ran a business or held private jobs.

With regard to the income profile of the respondents, 19.1 per cent had an income of less than Rs. 1,500 per month, 48.5 per cent were in the Rs. 1,500–5,000 income group, and 32.4 per cent were earning above Rs. 5,000 per month. The state-wise profile of the average monthly income of the clientele interviewed across various states is as follows: Delhi, Rs. 6,903; Bihar,

Rs. 4,489; West Bengal, Rs. 11,994; Goa, Rs. 2,795; Tamil Nadu, Rs. 11,737; Karnataka, Rs. 14,048; Andhra Pradesh, Rs. 6,103; Maharashtra, Rs. 6,252; Uttar Pradesh, Rs. 3,392; North-East (Assam and Meghalaya), Rs. 4,008; and Rajasthan, Rs. 7,500.

The respondents were also asked about their period of stay in the present location. Only 15 per cent constituted the floating population as they stated that they were not staying in that particular town and were recent visitors to the place. A little over 19.4 per cent had been staying in the same locality for the last 1 to 5 years, 23.5 per cent for 6 to 15 years, and 42.1 per cent for more than 16 years. This data rebuts the common presumption that most of the clientele constitutes a floating population.

7.3 First sexual experience of the clients

More than one-third of the respondents were less than 18 when they had their first sexual experience, and over half of them had this experience before 20 years of age. Whereas 35.7 per cent of the respondents had their first sexual experience in a brothel, the rest had it either at home or in any other place that was convenient (see Table 7.2). The lowest age at which a respondent had his first sexual experience was 10 years; and the lowest age at which this experience was with a victim of Commercial Sexual Exploitation (CSE), was 13 years. Just over a fifth of the respondents had started visiting brothels when they were in the 13–18 age group, 27.7 per cent of them after 25 years and the rest of the respondents had started making these visits when they were in the 19–25 age group. Thus, a majority of the clientele had started visiting brothels during their adolescence.

Table 7.2: First sexual encounter of the respondents

<i>First sexual experience</i>						<i>First sexual experience with a victim of CSE in a brothel</i>		
<i>Age group (in years)</i>	<i>No.</i>	<i>Per cent</i>	<i>Place</i>	<i>No.</i>	<i>Per cent</i>	<i>Age group (in years)</i>	<i>No.</i>	<i>Per cent</i>
10–15	44	7.6	At home	199	34.2	13–15	10	1.7
16–18	192	33.0	In a brothel	208	35.7	16–18	107	18.4
19–20	120	20.6	Other places	175	30.1	19–20	122	20.9
21–25	151	25.9	(fields, jungles			21–25	182	31.3
Above 25	71	12.2	lonely places,			Above 25	161	27.7
No response	4	0.7	movie theatres, colleges, etc.)					
Total	582	100		582	100		582	100

7.4 Client preferences and motivation

Clientele preferences for particular qualities of the victims of CSE are important indicators of the demand scenario in brothels. A large majority of the clientele (39.2 per cent) who visit brothels look for young girls, the highest preference being for virgin girls. This is an important factor to be taken note of by law enforcement agencies and health workers. Whereas 29.9 per cent of the respondents stated that they look at the girls and go by their beauty, as perceived by them, 9.1 per cent give priority to body shape. The preference of 5.3 per cent of the clients for girls from a particular region is due to two reasons — certain men want to remain anonymous and, therefore, avoid girls from the same background as their own; others prefer girls hailing from a specific region (see Table 7.3).

The parameters mentioned by the clients regarding their preferences for particular girls speak of crass commercialisation and a manifest desire for uncontrolled exploitation. There is an all-pervasive assertion of power and the lording of male machismo. It is important to note that 53.3 per cent of the respondents stated that they look forward to having sex with girls who are submissive and willing to surrender to all their demands. This includes acquiescing in all their perversions, the readiness to have sex without condoms and catering to their clients' pleasure needs. It is also significant that 33.8 per cent of the respondents preferred young girls because of their fear of HIV/AIDS and other such deadly diseases. Many of them were looking for cures, while others wanted to make sure that they would not contract the disease. Those already infected inevitably pass on the disease to these young girls. Clients wishing to protect themselves are actually putting themselves at risk because of their reluctance to practise safe sex. Only 5.7 per cent of the respondents stated that their preference was based on the comfort level that they derived from 'sex workers'.

Table 7.3: Preference pattern of the clientele

<i>Preference</i>	<i>No.</i>	<i>Per cent</i>	<i>Reasons</i>	<i>No.</i>	<i>Per cent</i>
Young girls	228	39.2	Homeliness	33	5.7
Good-looking girls	174	29.9	Readiness to surrender		
Good body shape	53	9.1	to all the demands of clients	310	53.3
Girls from a particular region	31	5.3	Fear of AIDS and other diseases	197	33.8
Combination of criteria, especially those mentioned above	86	14.8	No response	42	7.2
No response	10	1.7	Total	582	100
Total	582	100			

The preference pattern of the clientele provide indicators for intervention and prevention strategies, which need to be oriented according to their perceptions. Girl children constitute a large majority of the young women who are subjected to extreme forms of exploitation. Case study No. CS-DL-12 about a child victim rescued from a Delhi brothel, who had no option but to tolerate a large number of clients everyday, illustrates the acute levels of exploitation existing in brothels. The trafficked victims not only have to tolerate all kinds of verbal abuse at the hands of their clientele, but also suffer perverted acts and several types of physical torture. Case study No. CS-DL-11 describes the extreme levels of depravity of the clients and the cruelty that they inflict on these innocent victims.

Box 7.1

A senior police official interviewed a teenage 'customer', who was a student of a reputed local college. The boy stated:

I am studying in college and am 17 years old. I have seen so many films in the TV channels about intimate relationships between men and women. There is so much glorification of sexual relationships. I became curious to know myself as to what it is all about. I thought it is like a treasure trove which everybody wants to visit. Therefore, I decided to visit the brothel and discover it for myself. I wanted to prove to myself that I am a man. And I did.

7.5 Earlier visits to brothels

For almost 93 per cent of the respondents, visiting brothels was not a new experience; a little over 7 per cent were first-timers. Further, most of the clients were frequent visitors to brothels. As to whether particular brothels were favoured, 27.7 per cent stated that they preferred specific brothels, whereas 72.3 per cent had no preference and were ready to visit any available brothel. Among those who indicated a preference, 51.6 per cent of them cited availability of a specific girl as the reason, 23.6 per cent wanted additional comforts like air conditioning, etc., and 20.5 per cent

preferred a brothel because the CSE victims created no problems for them. Significantly, only 4.3 per cent mentioned low rates as the reason for preferring a brothel. Money does not seem to be a consideration for the clientele when the purpose is sexual gratification.

The respondents were asked about the number of visits they had made during the past one month to the brothel of their choice. Whereas 93.8 per cent of the respondents had visited it one or more times, only 6.2 per cent had not made a visit. Almost 10 per cent of the respondents had visited the brothel more than five times, while 25 per cent had availed themselves of its 'services' at least three to four times during the previous month.

A regression analysis was carried out to understand the relationship between the age of the client and the age of his wife and the number of times he had visited the brothel during the past one month. The results did not bring out any conclusive results but did show a positive and significant relationship.¹

¹A regression analysis was carried out to understand the relationship between the age of the client and the number of times he had visited brothels (VB) during the past one month. A simple linear regression analysis has been put as $VB = f(\text{age of the clientele})$. The estimated results are: $VB = 10.810 + 0.015 \times \text{age of the clientele} + e$

Visit to brothel = f (age of clientele)

Constant	Unstandardised coefficients		Standardised coefficients	T	Sig.
	B	Std. error	Beta		
	10.810	3.448		3.135	0.002
	0.015	0.103	0.006	0.141	0.888

Model summary

R	R square	Adjusted R square	Std. error of the estimate
.006(a)	.000	-.002	24.97894

The analysis shows that visits to brothels have a significant and positive relationship with the age of the client. However, the percent-age influence of the age of the client on the number of visits to brothels, as revealed by the regression, is only 1.5 per cent. The analysis can help in predicting the linkage between the age of the client and visits to brothels and can be utilised as a tool for understanding the demand scenario.

In order to understand the relationship, if any, between visits to brothels by the client and the age of his wife, a linear regression analysis has been conducted using the functional form: $VB = f(\text{age of wife})$. The estimated regression values are: $VB = 10.452 + 0.054 \times \text{age of wife} + e$

Visit to brothel = f (age of the wife)

Constant	Unstandardised coefficients		Standardised coefficients	T	Sig.
	B	Std. error	Beta		
	10.452	1.420		7.358	0.000
	0.054	0.063	0.035	0.846	0.398

Model summary

R	R Square	Adjusted R square	Std. error of the estimate
0.035(a)	0.001	0.000	24.96399

There appears to be a significant positive relationship between the age of the wife and visits to brothels by the client. It is an indicator of the demand pattern and can be useful in developing strategies to address the trafficking problem.

7.6 Client behaviour and amount paid

The amounts paid per visit by clients to the brothels were also studied in detail. Whereas 29.8 per cent of the clients had paid up to Rs. 100, more than half of the respondents (52.2 per cent) paid an amount ranging between Rs. 100 to Rs. 500. Higher amounts were paid by only 18 per cent. The maximum amount paid by a client during a visit to a preferred brothel was Rs. 5,000.

Regarding the offer of gifts to victims of CSE, 88.8 per cent of the respondents replied in the affirmative. Of these, 55.2 per cent paid tips and/or gave gifts to the victims as reward for their complete submission to all kinds of exploitation in the form of perverted and demeaning acts, 30.1 per cent paid tips/gave gifts for providing them extra time, and 14.7 per cent of them for maintaining regular relationships with the girls of their choice. The respondents were also asked about the kind of gifts that they give to the victims. While cosmetics are given by 35.6 per cent of the clients, 11.9 per cent present ordinary jewellery, 9.8 per cent provide liquor, 2.1 per cent give condoms, 30.8 per cent offer money and 9.8 per cent refused to comment.

As to whether the victim of CSE with whom they last had sexual relations was one of their own choice, 68.7 per cent answered in the affirmative. The strong preference for young girls, noted in an earlier section, and the insistence of the clients on having sex with them leads to higher trafficking in minors.

Close to 60 per cent of the respondents stated that they pay higher amount for the girls of their choice. Whereas 69.8 per cent of the respondents said that they do not have to wait to get the girl of their choice, 30.2 per cent stated otherwise. This shows that most of the girls who are sought after by a particular client are popular with others as well, with men even willing to wait for their turn to have sex with them.

Regarding the use of condoms, 67.9 per cent of the respondents answered in the affirmative. Among the users, 35.4 per cent said that the condom was kept by the victim of CSE; others carried their own condoms. When asked about the reasons for using condoms, 82 per cent cited prevention of AIDS/STDs. Paradoxically, the 18 per cent who stated that they wanted to be cured of their diseases refused to acknowledge that they were suffering from AIDS or other sexually transmitted diseases.

As to whether they invite the girls home, 26.5 per cent of the respondents answered in the affirmative. The remaining three-fourths said that they did not have them over.

The clients were asked about the habits they indulged in before having sexual intercourse with the victims of CSE. Almost 55 per cent stated that they take some intoxicating substance. Of these, 84.3 per cent take alcohol, 2.5 per cent use drugs, 6.3 per cent smoke and the rest go for gutka (chewing tobacco) or paan (betel leaves). The majority of the respondents (73 per cent) said that they do not indulge in any kind of conversation with the victims of CSE. They are the ones who are in a hurry to have sex and move out. The remaining 27 per cent said that they discuss sex-related and other 'fun' topics with the girls.

The respondents were specifically asked about any instances of misbehaviour in the brothels. It may be noted that the comfort level was high, with 87.1 per cent saying that the victims of CSE never misbehaved nor were they rude to them. Of those who stated otherwise, 45.3 per cent said

there was misbehaviour on the part of the client himself, 24 per cent said that over-exploitation by the client led to scuffles, and 24 per cent said that under-payment by the client created problems. Almost 7 per cent of the clientele stated that conflicts had arisen because the virgin girls had refused to have sex with them. Though a small percentage, it is indicative of the fact that these young girls do put up strong resistance to their imminent sexual abuse; eventually, they may have to give in due to the exploitative nature of the context in which they live and work.

7.7 Conditions in brothels

Most of the respondents were happy with their experience of brothels. While 41.4 per cent rated the behaviour of brothel owners as good to very good and 40 per cent as fair, a small percentage (18.6) considered their behaviour to be bad. With regard to brothel conditions, 52.4 per cent stated that they had no complaints whatsoever. Of these, 35.1 per cent were happy with the low rates, 34.4 per cent were satisfied with the ambience and 30.2 per cent were pleased that they were always able to get the girls of their choice, who 'cooperate' with them. Only a negligible percentage (0.3) attributed their satisfaction with brothels to the anonymity that they enjoy. It appears that for most clients, this is not an area of concern. Instead, they are more particular about the tolerance levels of the victims to the exploitation and abuse that they perpetrate on them. Among the 47.6 per cent who did have some complaints about the existing conditions in brothels, 77.6 per cent were concerned about the lack of hygiene and the rest were bothered about the small size of the rooms.

7.8 Weak law enforcement

The respondents were asked about their experiences vis-à-vis the police. While a vast majority, 82.6 per cent, had never encountered any police intervention in brothels, 16.2 per cent complained that they had to bear the brunt of police action/misbehaviour. Only 1.2 per cent of the respondents refused to answer the specific question regarding misbehaviour by police officials in brothels. Among those who had faced police misbehaviour, 28.7 per cent stated that money had been extorted from them, 56.4 per cent spoke about physical abuse and 14.9 per cent were unhappy that they had been arrested. Thus, of the total number of respondents — the majority of whom are abusers of trafficked victims, especially girl children — only a small percentage have encountered any police intervention in the brothels. Clearly, police inaction emboldens the clientele to visit brothels frequently and indulge in commercial sexual exploitation of trafficked victims. This has been substantiated by the data collected from the police officials who admitted that the vast majority of the persons arrested are women, who are charged with soliciting. Rarely are clients arrested. In many states, the arrest of clients is an exception rather than the rule.

A majority of the abusers and exploiters, who are often given the glorified nomenclature of 'customers', are never arrested or brought to book. A glaring loophole in the existing system of law enforcement is that it does not address the demand side of the trafficking problem. Despite the fact that clients can be effectively penalised under Section 7 of Immoral Traffic Prevention Act (ITPA), this section is very rarely utilised against them. Clients are liable to imprisonment for a minimum period of seven years if the victim of sexual assault is a child under 18 years of age. This is a deterrent against exploitation, if properly implemented. But this provision has never been invoked in many states. It may also be noted that sexual assault on a child under 16 years of age,

even with consent, amounts to rape under the Indian Penal Code, which prescribes grave punishment. No doubt, Section 7 ITPA can be effectively utilised against the clients who sexually assault children under the age of 18 and, therefore, could be a deterrent against sexual exploitation of children, if properly implemented.

In conclusion, it can be stated that the root cause of trafficking is the demand factor. Unless the demand is tackled, it is not possible to prevent trafficking. Case study No. CS-GA-1 clearly shows that the initiatives taken in the source areas to contain trafficking did not give the desired results because no concomitant action was taken to address the demand factor. Thus, the traffickers changed the venue of recruitment and started hiring from other vulnerable areas. A study of the clientele is an important aspect in understanding the demand for trafficking. The data generated from the interviews of 582 clients has provided several insights into the patterns of and trends in demand. The clientele who visit brothels and other places for hired sex are among the chief exploiters, when seen in the context of the abuses they inflict on the trafficked victims. Only by developing programmes and devising strategies that take cognisance of the demand scenario can a significant dent be made in the trafficking problem. The study also shows that all clientele cannot be dealt with in a uniform manner. The adolescents who, mostly out of curiosity or misguided situations visit brothels or similar places need to be properly counselled and oriented on women's rights, child rights and issues of sexuality. At the same time law has to be enforced stringently on those men who willfully exploit women and children, thereby perpetuating their exploitation and trafficking



Brothel owners

8.1 Introduction

The Immoral Traffic Prevention Act, 1956, defines a brothel ‘to include any house, room, conveyance or place, or any portion of any house, room, conveyance or place, which is used for purposes of sexual exploitation or abuse for the gain of another person or for the mutual gain of two or more prostitutes’ (Section 2a). The act defines ‘prostitution’ as ‘the sexual exploitation or abuse of persons for commercial purposes’ (Section 2f). Since commercial sexual exploitation of women and children is the major purpose of trafficking and brothels play a pivotal role in this illegal commercial activity, an attempt was made to understand their exploitative ambience, the role of various exploiters, the factors that exacerbate the vulnerability of the victims and the response mechanisms of agencies concerned in addressing the relevant issues.

In this context, the interviews with the brothel owners assume importance. A total of 412 brothel owners from 12 states all over India were interviewed. While orienting the researchers for fieldwork, it was found that the brothel owner need not exclusively be the person who owns the building, but referred to all those who were in control of the brothel — acting for, or on behalf of, the brothel owner. In some places, they are called brothelkeepers; in others, brothel managers. The researchers were asked to interview the person who was mainly responsible for the functioning of the brothel. Accordingly they visited red-light areas and other places where commercial sexual exploitation is known to take place. However, in cities like Chennai and Jaipur, the researchers did not come across any earmarked red-light district. Therefore, the interviews were held at other places where commercial sexual exploitation was taking place.

It was no easy task to interview the brothel owners. They were only too aware that commercial sexual exploitation of any woman constitutes an offence and that children being subjected to such exploitation would compound their liability. Thus, the researchers had to resort to various strategies for establishing a rapport with them. The fact that this study was carried out by the National Human Rights Commission, and not the police or government, was an important factor that helped the researchers to break the ice and to elicit responses from the brothel owners.

8.2 Profile of the brothel owners

Over three-fourths of the brothel owners were between 31–50 years of age. While 35 per cent belonged to the 31–40 age group and 40.3 per cent to the 41–50 age group. Only 16.2 per cent of the respondents were above 50 years and 8.5 per cent were in the youngest category of 22–30 years, with the youngest brothel owner being 22 years.

Over three-fourths of the owners, 76.2 per cent, were Hindus; 21.1 per cent were Muslims; 2.5 per cent Christians; and 0.2 per cent Sikhs. The Scheduled Castes accounted for 31.3 per cent of the respondents, the Scheduled Tribes for 4.3 per cent and the Other Backward Classes constituted 37.9 per cent of the sample. Over a fourth, 26.5 per cent, did not know their caste, especially those from Nepal. Thus, 73.5 per cent of the respondents came from the socially deprived sections of society.

The majority of the brothel owners were illiterate (54.6 per cent) and over a fifth (22.6 per cent) were just literate. While 8 per cent had studied up to the primary level, 10.2 per cent had been educated up to the middle level. Only 3.4 per cent of the respondents had been through higher secondary education and 1.2 per cent were graduates and above.

With regard to the marital status of the owners, 29.1 per cent were unmarried and 70.9 per cent were married or had been at some point in time. Among the latter, only 39.6 per cent said that their spouses were alive. The majority of them were widowed, separated, deserted or divorced. As to the reason for divorce, separation or desertion, 23.7 per cent of the female respondents attributed it to the extramarital affairs of the husband and 33.8 per cent to ill-treatment by the husband. Others could not cite any specific reason.

Among the owners who were or had been married, the prevalence of child marriage seems to be quite high. Of the 50.7 per cent who were married as children (below 18) 20.2 per cent were married when they were less than 15 years of age. As for the number of children they had, irrespective of marriage, 76.2 per cent of the respondents stated that they had one or more children; 36.9 per cent had three or more children. These children were mostly dependent on the mothers, who therefore, were compelled to earn not only for their own survival but also to raise their children.

Of the 412 brothel owners who were interviewed, 290 (70.4 per cent) were located in urban areas and 122 (29.6 per cent) in rural areas. The state-wise break-up of the number of brothel owners interviewed is as follows: Delhi — 17; Bihar — 35; West Bengal — 42; Goa — 31; Tamil Nadu — 53; Karnataka — 35; Andhra Pradesh — 60; Maharashtra — 44; Uttar Pradesh — 50; Assam and Meghalaya — 15; and Rajasthan — 30. Most of the brothel owners interviewed were females. A few males in the sample were from Tamil Nadu (6) and Karnataka (2).

Though the respondents were interviewed in different parts of India, especially in the north and the west, the largest number originally belonged to Andhra Pradesh (19.2 per cent), followed by 12.7 per cent from Karnataka, 10.9 per cent from Uttar Pradesh and 10.2 per cent from Tamil Nadu (see Table 8.1). A small percentage of brothel owners were from Myanmar, Bangladesh and Nepal.

Table 8.1: Native state of the brothel owners

<i>Place</i>	<i>Number</i>	<i>Percentage</i>
Andhra Pradesh	79	19.2
Bihar	22	5.4
Delhi	01	0.2
Goa	01	0.2
Haryana	01	0.2
Karnataka	52	12.7
Kerala	05	1.2
Madhya Pradesh	04	1.0
Maharashtra	31	7.5
Aassam and Meghalaya	12	2.9
Rajasthan	35	8.5
Tamil Nadu	42	10.2
Uttaranchal	01	0.2
Uttar Pradesh	45	10.9
West Bengal	27	6.6
Bangladesh	04	1.0
Myanmar	01	0.2
Nepal	07	1.7
No response	42	10.2
Total	412	100.0

8.3 Ownership of brothels

A vast majority of the respondents had been running brothels for more than five years. Over 30 per cent had been operating them for 6–10 years, 23.8 per cent for 11–20 years, 8.7 per cent for 21–30 years and 7.8 per cent for 31–40 years. Only 29.4 per cent had been running brothels for under five years.

The respondents were queried about their occupations before they became brothel owners and the circumstances that led them to switch to this business. Over 70 per cent had a close association with brothels even before they became brothel owners. More than two-thirds of the respondents had themselves lived through the exploitative experience of the commercial ‘sex trade’ (see Table 8.2a). To the question as to the factor that was responsible for their becoming brothel owners, just over half stated that they had no alternative livelihood options. While 30.6 per cent became brothel owners to make more money, 11.4 per cent said that they had inherited the trade and 7.5 per cent were coerced by other exploiters (see Table 8.2b). Clearly, a large majority of the brothel owners were originally trafficked into commercial sexual exploitation. Once trafficked, they have no option but to continue in the trade till they are rescued. In the absence of proper rescue and rehabilitative efforts, they are rarely able to come out of the exploitative environment of brothels.

Table 8.2a: Previous occupation

<i>Occupation before becoming brothel owner</i>	<i>Number</i>	<i>Per cent</i>
Victim of CSE	277	67.2
Pimp/trafficker/brothel manager	13	3.2
Dancer	12	2.9
Worker/labourer	24	5.8
Police	1	0.2
Student	2	0.5
Housewife	42	10.2
No response	22	5.3

Table 8.2b: Reasons cited for becoming brothel owner

<i>Reasons for becoming brothel owner</i>	<i>Number</i>	<i>Per cent</i>
No other option	208	50.5
Desire to earn easy money	126	30.6
Inherited the brothel	47	11.4
Forced by others (pimp/broker/trafficker)	31	7.5
Total	412	100

8.4 Linkage with pimps

The brothel owners were asked to speak on their links with the pimps and how these operate and sustain the brothels. A quarter of these respondents said that they deal with one or two pimps, 52.7 per cent had dealings with three to four pimps and 22.3 per cent admitted to doing ‘business’ with more than five pimps. Regarding the manner in which the pimps help them in their trade, the respondents said that they are useful in showcasing the ‘qualities’ of the ‘sex workers’ to the clients, providing information to the latter about the brothels and ensuring that the clients behave courteously.

To the question concerning payment to pimps, the responses show a high degree of variance. While the vast majority of the owners, 72.6 per cent, refused to answer, 17.5 per cent stated that they pay less than Rs. 100 to a pimp for each deal. Though seemingly unbelievable, as per the data, 5.3 per cent of the respondents paid up to Rs. 1,000, 2.4 per cent paid up to Rs. 10,000 and 2.2 per cent paid more than Rs. 10,000 per deal. The maximum amount paid by one brothel owner to a pimp for a deal was Rs. 25,000.

Pimps also double up as traffickers. Over 36 per cent of the brothel owners said that they bank on pimps for the supply of women and girls. Among these, 45 per cent stated that the pimps transfer girls from one brothel to another.

8.5 Linkage with traffickers

To fully understand the dimensions and patterns of trafficking for commercial sexual exploitation, it is important to study the brothel owners’ links with traffickers. Of the 412 respondents, 54.1 per cent were tight-lipped on this issue. Clearly, they were aware that trafficking is a grave offence and therefore did not want to expose themselves and other offenders.

Among the brothel owners who agreed to speak on the nexus with traffickers, 10.2 per cent stated that one to five traffickers were operating in their brothels, 7 per cent said that six to ten traffickers were working with them and 17.5 per cent admitted to collaborating with more than 10 traffickers. Significantly, 65.3 per cent of these respondents did not disclose the number of traffickers working with them. Based on the information provided by 143 brothel owners, the total number of traffickers in all the states covered under this study works out to 1,170. However, paradoxically, the data from these states does not reflect anything to show that these traffickers have been brought to book.

Over three-fourths of the brothel owners have direct dealings with traffickers; the rest employ agents to reach them. The direct linkage of such a high percentage of the brothel owners with traffickers establishes their criminal nexus and poses a major challenge to law enforcement agencies. The respondents said that they directly deal with the traffickers for ‘business’ transactions

— i.e., ‘purchase’, ‘sale’, ‘hire’ or ‘transfer’ of girls. These brothel owners seem to prefer working with traffickers, as it avoids complications that may arise from directly dealing with the trafficked persons.

The channels of communication used by the brothel owners was also examined. While a third stated that they have direct verbal contact with the traffickers and also ‘place orders’ directly; 44.1 per cent said that they establish contact with the traffickers through telephones; and 22.3 per cent use conduits like messengers or agents to deal with traffickers. The respondents were asked about the number of times they contracted or met traffickers in a month. While the majority of the respondents, 58 per cent, did not have regular contact with them, a third contacted the traffickers at regular intervals, i.e., between one to five times a month; and 8.4 per cent said that they made contact more than five times a month. To the query on the purpose of the contact with traffickers during the pervious month, three-fourths of the brothel owners said that it was to procure girls; the rest had contacted them in order to settle their dues. Asked whether the traffickers also contact brothel owners, a huge 83 per cent stated that the traffickers do contact them regularly. The nexus is clear.

The brothel owners were asked about the regions from where the traffickers source women and girls. The largest number of respondents (18.9 per cent) stated that they were sourced from Andhra Pradesh. This was followed by Karnataka (10.2 per cent), Tamil Nadu (8.7 per cent) and Uttar Pradesh (8.3 per cent). Only 4.1 per cent of the brothel owners stated that their source area was Nepal. Half the respondents sourced women and girls from different parts of the country, which included rural areas in Kerala, Madhya Pradesh, West Bengal, Bihar, Meghalaya and Assam. As to how the traffickers were linked to these source areas, 29.1 per cent of the interviewed brothel owners attributed it to the contacts that the traffickers had established in these areas. The majority (60.9 per cent) said that it is the vulnerability of the victims that attracts the traffickers to the source areas. This suggests that traffickers are on the prowl and they identify their targets based on an assessment of the scope for exploitation. According to 10 per cent of the respondents, traffickers have links with the source areas where tradition and customs facilitate trafficking of girls. The practices prevalent in certain communities provide a convenient social veil under which the exploitation of girl children takes place. Case studies No. CS-RJ-3 and No. CS-KR-1 substantiate this direct linkage between trafficking and customary practices in certain communities.

Since this study also covers trafficking of male children, a specific question was asked about the areas from where traffickers recruit male children. Though the majority of the brothel owners did not give proper answers, their responses suggests that the trafficking of male children takes place from Andhra Pradesh, Maharashtra, West Bengal, Tamil Nadu, Kerala, Bihar and also Nepal. To a further question on the reasons for such trafficking, 40.9 per cent attributed it to the vulnerability of the male children due to illiteracy, unemployment and poverty. While 31.8 per cent stated that it was due to the demand for male children in exploitative labour, the rest of the respondents (27.3 per cent) said that monetary gains to the traffickers was the main consideration in the trafficking of male children.

8.6 CSE victims in brothels

The study analysed the number of women and girls that the brothel owners have in their brothels for purposes of commercial sexual exploitation.

Well over half the respondents, 55.8 per cent, stated that they have a maximum of five women/girls in their brothels. Only 4.2 per cent had more than 20 girls (see Table 8.3). The total number of women and girls that the owners had in their brothels at the time of the interviews were conducted was 2,702. Thus, on an average, there are six to seven women/girls with each brothelkeeper. The average number of victims per brothelkeeper is highest in Delhi followed by Andhra Pradesh, Karnataka and Maharashtra (see Table 8.4). This data is also corroborated by the information obtained from survivors and victims, which has been presented in the chapters covering these two groups.

Table 8.3: Number of women/girls kept in brothels for commercial sexual exploitation

<i>Number of women/girls in brothels</i>	<i>No. of owners</i>	<i>Per cent</i>
1– 5	230	55.8
6–10	106	25.7
11–20	40	9.7
Above 20	17	4.2
No response	19	4.6

Note: The maximum number of women/girls that a brothel owner had was 60.

Table 8.4: Number of women and girls in CSE per brothel: State-wise

<i>States</i>	<i>No. of Owners</i>	<i>Total No. of victims in CSE</i>	<i>Avg. No. of victims in CSE</i>
Delhi	17	200	12
Bihar	35	228	7
West Bengal	42	249	6
Goa	31	142	5
Tamil Nadu	53	240	5
Karnataka	35	281	8
Andhra Pradesh	60	515	9
Maharashtra	44	372	8
Uttar Pradesh	50	313	6
Assam and Meghalaya	15	55	4
Rajasthan	30	107	4
Total	412	2,702	7

8.7 Profile of women and girls in CSE

In order to build a profile of the women and girls under the control of the brothel owners, the latter were queried on several aspects of their victims, including age, education, marital status and contact with their families.

Age profile of the victims: Of the total number of respondents, 82 stated that they had girls less than 16 years of age in their brothels, the number varying between 1 and 20 girls. Based on the responses of these brothel owners, the total number of girls (under 16 years) at their command works out to 245. As many as 198 respondents stated that they had girls in the 16–17 age group; the largest number of such girls in one brothel was 28. The total number of girls in this age group living in brothels, computed from the responses of these owners, adds up to 615. Thus, the number

of children (under 18 years of age) languishing in brothels, and subjected to the worst forms of exploitation, is 860. On an average, this works out to three girls under 16 years and three girls in the 16–17 age group — i.e., a total of six children per brothel. Clearly, the exploitation of girl children in brothels is not confined to isolated cases.

Among the states where children under 16 were found in brothels, the number was highest in Bihar (72), followed by Maharashtra (64) and UP (53). Among the states with the highest number of girls in the 16–17 age group, Andhra Pradesh comes first with 128 girls, followed by Uttar Pradesh (106) and Karnataka (102). It needs to be mentioned here that in many places, there was a deliberate attempt by brothel owners to project the victims of CSE as adults and thus downplay the number of children in the ‘trade’. This was true of states like Goa and Delhi, where because of the intervention of the high courts (see case study No. CS-DL-26) and NGO activism, brothel owners were aware that keeping a person under 18 years in a brothel is by itself a crime.

Table 8.5: Age profile of women and children in brothels across states

State	Age group				
	<16	16– 17	18–25	26–30	>30
Delhi	2	15	81	75	41
Bihar	72	77	56	13	8
West Bengal	3	21	86	84	55
Goa	0	4	71	50	5
Tamil Nadu	0	27	139	68	6
Karnataka	18	102	89	55	24
Andhra Pradesh	27	128	206	115	51
Maharashtra	64	97	103	62	44
Uttar Pradesh	53	106	121	56	15
Assam and Meghalaya	2	13	24	14	2
Rajasthan	4	25	72	18	0
Total	245	615	1,048	610	251

Educational profile of the victims: Based on the responses of the 412 brothel owners, the educational background of the women and children in CSE was also examined. The highest number of illiterate women and children were found in Andhra Pradesh and the lowest number in Tamil Nadu. In all, 72 per cent of the women and children in brothels are illiterate (see Table 8.6). Thus, illiteracy is among the key factors that renders them vulnerable to CSE.

Table 8.6: State-wise educational profile of women and children in CSE

States	Educational level				
	Illiterate	Primary	Middle school	High school	Graduates
Delhi	186	16	10	2	0
Bihar	156	21	9	11	10
West Bengal	226	23	0	0	0
Goa	108	12	3	0	0
Tamil Nadu	43	61	101	35	0
Karnataka	264	49	26	23	12
Andhra Pradesh	350	64	48	44	1
Maharashtra	259	39	13	24	12
Uttar Pradesh	254	69	19	3	0
Assam and Meghalaya	48	4	2	1	0
Rajasthan	113	5	2	0	0
Total	2,007	363	233	143	35

Marriage profile of the victims: Out of a total of 2,566 victims staying in the brothels of the owners surveyed, 1,378 (53 per cent) had never been married. Among the rest, 564 women were said to be married and their spouses were alive. While 212 victims (17 per cent) were said to be divorced, 136 victims (12 per cent) were widows and 276 victims (23 per cent) had been deserted. Thus, out of 1,188 married victims, 624 (52.5 per cent) were either divorced or widowed or deserted (see Table 8.7). Marital discord and domestic problems of the victims appear to have made them more vulnerable to CSE.

Table 8.7: Marriage profile of women and children in CSE

States	Marital status				
	Never married	Married	Divorcee	Widow	Deserted
Delhi	151	60	10	15	13
Bihar	81	20	9	2	8
West Bengal	108	90	22	5	15
Goa	101	56	13	9	21
Tamil Nadu	127	37	1	5	69
Karnataka	136	53	20	17	58
Andhra Pradesh	203	110	89	26	32
Maharashtra	164	87	35	47	24
Uttar Pradesh	186	40	7	7	6
Assam and Meghalaya	3	10	6	3	29
Rajasthan	118	1	0	0	1
Total	1,378	564	212	136	276

Contact with the family: Almost three-fourths of the brothel owners, 73 per cent, stated that the victims do maintain contacts with their families — some of them regularly, others occasionally. The remaining pleaded ignorance. The majority of the brothel owners also stated that the family members of the women/girls knew that they were living in brothels. Only 6.3 per cent of the respondents stated that parents/family members tried to rescue their wards from the brothels; further, half these girls refused to go back with their parents. This is the standard excuse proffered by owners to defend themselves against the allegation that the women and girls have been confined in the brothels against their will.

To the query, whether the ‘sex workers’ send money to their parents/family members, a quarter of the brothel owners professed ignorance. The vast majority, 74.3 per cent, stated that the women/girls do send money because of the poverty at home. According to 86.6 per cent of these respondents, the victims are regular about sending money to their parents and families.

8.8 Owners’ share in the victims’ earnings

The owners’ share in the earnings of the women and girls in brothels was also analysed. While 15 per cent said that they take less than 25 per cent, well over half the respondents (56.6 per cent) admitted that they cornered 25–50 per cent of the total income. It was revealed by 9.5 per cent that they take the lion’s share (50–80 per cent) of the victims’ income, and 3.2 per cent virtually loot them by taking 80–100 per cent. Only 15.7 per cent of the brothel owners said that they do opt for any fixed share but decide on each occasion as to how much they should take. On the whole, the brothel owners tried to downplay their income from the commercial sexual exploitation of women and girls.

The version of the women on this count presents a different picture. They allege that more often than not, they do not get any share whatsoever from their ‘earnings’ (see Table 8.8). The figures show that the brothel owners derive maximum profits from girls below 18 years of age. The victims are often compelled to borrow money from the brothel moneylender, who charges high rates of interest. Case study No. CS-MH-18, which describes the register maintained in a brothel, shows the day-to-day financial transactions of a brothel and substantiate the fact that the girls and women get the least share.

Table 8.8: Monthly earnings of women and girls in brothels

Age group (in years)	Average earnings	No. of brothels	Range	
			Minimum	Maximum
Less than 18	13,803	241	1,000	60,000
18–25	10,873	326	1,000	80,000
Above 25	7,970	262	1,000	40,000

The brothel owners were asked about the other persons who have a share in the earnings of the women and girls. Around 29 per cent said that a portion goes to the police. Over a third, 34.7 per cent, stated that the girls share their incomes with their traffickers, 12.9 per cent said that a portion of the income goes to the caretakers and managers of the brothels and 7.3 per cent revealed that criminal elements also get a cut. Of the interviewed brothel owners, 16 per cent did not disclose the identity of the persons who get a share of the earnings of the victims.

On the question as to where the women and girls keep their earnings from brothel ‘work’, about a third of the owners said that they send the money home; another one-third keep it with themselves. Only 11.7 per cent of the victims keep their money in banks and 19.7 per cent with the brothel owners. Case studies from Delhi have shown that during rescue operations, the police and NGOs tend to be in a hurry. Consequently, the entire savings of the rescued persons are left behind in the brothels, and the victims more often lose their money forever (see case study No. CS-DL-9).

8.9 Brothel owners’ links with non-brothel-based sexual exploitation

Around 30 per cent of the owners stated that they ‘employ’ part-time sex workers, who are sent out of the brothel during the major part of the day. About one-half of these respondents stated that this kind of part-time engagement depended on the demands of the clients; 6.5 per cent said that they had links with various establishments, where they send girls on a daily basis. The rest of the owners disclosed that the girls are sent for part-time work on a contract basis. Some brothels also keep part-time workers, who may not have been trafficked, on their rolls. According to 25.2 per cent of the owners, these are college/school girls who want to make easy money in order to lead glamorous lives. The rest of the respondents maintained that these part-time workers are trafficked women/girls from other brothels or from economically deprived sections of society. The brothel owners are always willing to facilitate part-time ‘sex work’. Around 23 per cent said that depending on the demand, they also summon the part-time workers into the brothels. Significantly, 61 per cent of the respondents stated that agents, pimps and middlemen/middlewomen introduce part-time sex workers to the brothels. Non-brothel-based commercial sexual exploitation usually takes place in hotels, guest houses, farmhouses and even on residential premises.

Around 35 per cent of the owners said that they send out the girls on individual demand, 27.4 per cent supply girls to hotels and 15 per cent to farmhouses. Thus, well over three-fourths of the respondents send out girls to meet the demand outside brothels. Among those who send girls to individuals, 70.4 per cent send one to three girls in a month, while 29.6 per cent send four to six girls per month. Of the brothel owners who send girls to hotels, 52.2 per cent send up to five girls in a month and 45.1 per cent send up to twenty girls per month. The rest stated that the demand in hotels is so high that they have to supply more than 20 girls in a month. Among the respondents who disclosed that they send girls to farmhouses, 58.1 per cent stated that on an average, they send five girls per month, 38.7 per cent supply up to 20 girls on an average and 3.2 per cent stated that they provide more than 20 girls every month. The brothel owners also supply girls to other places. These include guest houses, shops, conference centres, etc.

The owners said that they make good money by sending girls outside the brothels. Their income depends on the type of place the girls are sent to and the quantum of demand. The respondents who earn up to Rs. 10,000 per month by sending girls outside the brothels include 74 owners who send them to individuals, 49 owners who provide them to hotels and 32 who supply them to farmhouses. The respondents who earn up to Rs. 1,00,000 a month by sending girls outside the brothels include 28 owners who send the girls to individuals, 28 owners who send them to hotels and 12 who send the girls to farmhouses. The income generated by sending the trafficked victims for non-brothel-based sex work is much higher than their earnings from the commercial sexual exploitation that takes place within the brothels. So although trafficking is *prima facie* carried out for commercial sexual exploitation in brothels, the traffickers and brothel owners make more money out of non-brothel-based exploitation. This point is substantiated by case studies from Maharashtra (see Nos. CS-MH-13 and CS-MH-14), which deal with the commercial exploitation of trafficked persons as call girls, bar girls, etc.

8.10 Role of demand in trafficking

One of the important aspects of this study is that it has examined the trends and patterns in demand, as well as their linkage to trafficking. All the brothel owners interviewed asserted the fact that trafficking is demand-driven and that it fluctuates with the demand patterns. Not surprisingly, 17.5 per cent of the respondents stated that there is increase in demand during festival seasons.

Almost three-fourths of the respondents (73.8 per cent) stated that the clients demand particular types of women and girls; only 26.2 per cent maintained that the latter do not have any specific preferences. According to 34.9 per cent of the brothel owners, the clients demand virgin girls; if they are not available, they ask for girls who look young. The common myth that AIDS cannot just be prevented but also by having sex with virgins has fuelled client preference for virgin and young girls.

With regard to the price brothel owners paid to acquire girls from the traffickers, it differed from state to state. Payment for a non-virgin girl ranged from Rs. 1,000 to Rs. 10,000. The highest mean value of a non-virgin girl was about Rs. 9,000 in Maharashtra and the lowest about Rs. 1,400 in Bihar. The 'price' of virgin girls was more than double, ranging from Rs. 2,000 to Rs. 3,000 or more per girl. The brothel owners were asked about the time taken by the traffickers to meet their demands. Around two-thirds of the respondents did not give any specific time frame; the rest said that the traffickers took one to four weeks to meet their demands.

8.11 Clients who visit brothels

According to 26.2 per cent of the owners 11–20 clients visit their brothels every day. While 25 per cent had more than 20 ‘customers’ per day, 23.3 per cent had 6–10 per day and the rest had 1–5 on a daily basis. The owners were also asked about the category of clients and the frequency of their visits to the brothels.

Table 8.9: Type of clients and the frequency of their visits to brothels

Type	Visit		
	Regularly	Occasionally	No response
Students	90 (21.8)	217 (52.7)	105 (25.5)
Labourers	277 (67.2)	115 (27.9)	20 (4.9)
Truck drivers	280 (68.0)	109 (26.4)	23 (5.6)
Businessmen	220 (53.4)	171 (41.5)	21 (5.1)
Police	79 (19.2)	178 (43.2)	155 (37.6)
Others	80 (19.4)	164 (39.8)	168 (40.8)

Among the regular clients, the maximum number is from the group of truck drivers, followed by labourers. The highest number of occasional visitors are students (see Table 8.9). Politicians, advocates, doctors, foreigners, tourists, etc., are included in the category ‘Others’. Under a fifth of the respondents, 19.2 per cent, stated that police officials regularly visit their brothels; 43.2 per cent said that they pay occasional visits.

8.12 Raids on brothels

The owners were asked about the number of raids that had been carried out on their brothels during the past year. Their responses show that the number of police raids is the highest in Uttar Pradesh, followed by Maharashtra; with the number being lowest in Rajasthan (see Table 8.10). The average number of raids conducted in a year per state comes to 16. Almost a fifth of the respondents stated that they faced one to two raids per year, 11.9 per cent said that they had to contend with three to five raids per year, 8.5 per cent mentioned six to fifteen raids in a year and 25.7 per cent more than fifteen raids per year. Over a third of the respondents, 34.5 per cent, stated that the police had not conducted any raids on their brothels during the past year. In the absence of any intervention by the law enforcement agencies, the owners continue to exploit the trafficked victims with impunity.

Table 8.10: Number of raids conducted on brothels during 2002– 2003

States	Total Raids	No. of respondents
Delhi	126	17
Bihar	868	35
West Bengal	545	42
Goa	104	31
Tamil Nadu	499	53
Karnataka	266	35
Andhra Pradesh	751	60
Maharashtra	1387	44
Uttar Pradesh	1804	50
Meghalaya and Assam	105	15
Rajasthan	24	30
All India	6,479	412

The reasons behind these raids were also ascertained. While a third of the brothel owners stated that the police conduct raids to rescue minor girls or to prevent commercial sexual exploitation, 19.3 per cent said that raids are conducted only when there is stoppage of regular payments by the brothels. According to 13.3 per cent of the respondents, the police carries out raids only to fill up their records; the rest did not give any answers. During the focus group discussions, the police officers in certain states, mentioned that such raids are considered to be reflective of their proper functioning and efficiency. Therefore, they carry out raids only to project their 'performance'. This is further illustrated by data from many cities. In Mumbai, for example, a large number of arrests are usually carried out under Section 110 of the Bombay Police Act, wherein many people are rounded up from the brothels, fined and let off thereafter. Some police officers said that the figures of such 'convictions' are counted in the performance appraisal.

Information was also elicited whether and how the brothel owners avoid arrest. Among the one-third who try to avoid arrests, 53.4 per cent said that they do so by bribing law enforcement officials; 29 per cent admitted that if they get advance information about raids, they hide the girls, either on the brothel premises or sometimes even outside. Several case studies from Delhi and Mumbai have shown that the girls are hidden in cupboards, attics, cubicles, boxes, storerooms, specially designed hideouts, underground or overground, and other such places. Among these respondents, 17.6 per cent revealed that they use political connections in order to avoid getting arrested.

The discussion in Chapter 17 on law enforcement shows that 90 per cent of the persons who are arrested, charge-sheeted and convicted are victims of trafficking. They are mostly accused of soliciting. The brothel owners are seldom brought to book. However, as revealed by case study No. CS-DL-26, there is evidence of some change in the existing scenario, mainly due to the intervention of the courts. Of late, many brothel owners have been convicted by the trial courts, especially in Delhi, under various sections of ITPA and IPC. Similarly, on the request of the law enforcement agencies, the courts have also ordered the closure of brothels in some cases.

8.13 Running brothels

Almost half the 412 owners, 48.8 per cent, said that the brothels were fully owned by them. The rest stated that they had taken brothels on rent. Most of these respondents had been running their brothels for several years.

The capacity of the brothels was also ascertained. While 45.4 per cent of the owners stated that they had space for a maximum of up to 5 girls only, 35.7 per cent were able to accommodate up to 10 girls and 11.4 per cent up to 20. The rest had enough space to keep up to 50 women/girls. Thus, on an average, a brothel has the capacity to keep 8 victims for commercial sexual exploitation.

According to 63.1 per cent of the owners, the number of beds in the brothels usually corresponds with the number of sex workers. The rest said that beds and space are in short supply. Obviously, the brothels are quite cramped and cause a lot of inconvenience to the women and girls. This is supported by the case studies of brothels in various places. For example, case study No. CS-DL-1 shows that the cubicles in the brothels are often cramped, congested and dingy, putting severe restrictions on the movement of inmates and their children.

The brothel owners who said that beds were in short supply were asked how they are able to manage the business despite the shortage. Almost half of them, 49.3 per cent, stated that they 'allot' work to the sex workers by turns. Around 14 per cent said that they transfer the girls to adjoining lodges or hotels during the 'peak' demand period. The rest of them disclosed that they resort to makeshift arrangements — utilising all the available space, such as floors, terraces, etc.

One of the important tasks of brothel owners is to maintain discipline among the inmates. The respondents were asked about the methods they use to enforce discipline in the brothels. Those who did not want to disclose how they check indiscipline among the inmates made up a substantial 42.5 per cent of the sample, whereas 17 per cent said that they handle the girls with affection and win them over to their side, so that they do not misbehave at all. In fact, these are girls who are usually submissive and extremely tolerant. However, 19.1 per cent of the owners stated that they maintain discipline by scolding and abusing the indisciplined ones. For them, anybody who violates or disregards the diktats of the brothel owner is indisciplined. Significantly, 21.4 per cent of the respondents were quite frank and admitted that they beat up the girls with the help of musclemen, who mostly hang around the brothels and live as parasites. The punishments include beatings, solitary confinement and several kinds of physical torture.

The brothel owners were asked as to how they initiate women and girls into commercial sexual exploitation. While 13.8 per cent were candid enough to say that they use force, 29.9 per cent admitted that they do so by deception and false promises. The rest refused to respond. Several case studies are available to show how the 'break-in' is achieved by the brothel owner to coerce the new inmate and subject her to exploitation.

The details of other staff members in the brothels were also sought. More than half the owners, 53.1 per cent, did not want to speak about the number of staff and the role played by them. Over a quarter, 26.5 per cent, referred to servants and helpers for housekeeping functions. Under 14 per cent said that they employ brokers and managers for carrying out various miscellaneous activities, like maintaining accounts, ensuring water supply and electricity connections, etc. According to 6.8 per cent of the respondents, bad characters and musclemen are employed for protecting the property of the inmates as well as the brothel owners and for maintaining order.

To the query whether the brothel owners allow some persons to have sex with the women and girls without payment, 36.7 per cent replied in the affirmative. These respondents revealed that police personnel, politicians, criminals, brokers, pimps and traffickers make use of the 'free services' provided by them. They cited fear/haplessness, avoiding raids and 'business promotion' as their reasons for doing so.

Regarding their own lifestyle, only 22.6 per cent of the owners said that they did not take alcoholic drinks. Around 36.4 per cent were regular drinkers and 41 per cent drank occasionally. Half the respondents said that they make drinks available to the clients, for which they are charged. Liquor, according to the owners, is an essential ingredient in the functioning of brothels.

8.14 Monthly income, expenditure and savings of owners

A fifth of the owners did not respond to queries about their monthly income. Based on the data provided by the rest (79.3 per cent), it was found that 34 per cent of the brothel owners have a monthly income of up to Rs. 10,000, 38.3 per cent earn up to Rs. 50,000 and 7 per cent earn more

than Rs. 50,000 per month. This was further analysed state-wise. The total monthly income generated by all the respondents of the concerned state and the average monthly income per brothel owner were computed (see Table 8.11). The maximum monthly income that one brothel owner of the concerned state has earned in a month is also reflected in the table. The maximum amount that a brothel owner in the surveyed states earns per month is Rs. 3,00,000. The total monthly income of the interviewed brothel owners works out to Rs. 80,36,269. Thus, the average monthly earnings per brothel owner is Rs. 19,505. The state-wise average income and maximum income show a wide variation.

Table 8.11: State-wise monthly income of brothel owners

<i>States</i>	<i>Respondents</i>	<i>Total income</i>	<i>Average income</i>	<i>Maximum income</i>
Delhi	17	6,54,000	38,471	3,00,000
Bihar	35	3,19,700	9,134	50,000
West Bengal	42	87,300	2,079	25,000
Goa	31	8,47,600	27,342	2,00,000
Tamil Nadu	53	15,49,000	29,226	2,00,000
Karnataka	35	16,37,000	46,771	2,50,000
Andhra Pradesh	60	9,51,100	15,852	2,00,000
Maharashtra	44	5,81,000	13,205	1,00,000
Uttar Pradesh	50	10,46,000	20,920	1,50,000
Assam and Meghalaya	15	47,569	3,171	10,640
Rajasthan	30	3,16,000	10,533	30,000
All India	412	80,36,269	19,505	3,00,000

According to the owners, they incur expenses on several heads on behalf of the sex workers, clientele and others, such as pimps, brokers, servants and even policemen who visit them. The major expenditure heads include food and health care; cosmetics, clothes and entertainment; intoxicants like alcohol, drugs, tobacco and gutka; security which includes hiring personnel and ensuring that law enforcement agencies do not harass them; infrastructural requirements like electricity, phone, water supply; salaries to servants and managers and commission to traffickers, pimps, brokers and agents; and contingency expenditure, including transportation costs.

Based on the data provided by the owners, the monthly expenditure of brothel was computed state-wise and on an all-India basis. The expenditure incurred is highest in Karnataka and the least in Assam and Meghalaya (see Table 8.12). Significantly, in one month, 35 brothel owners in Karnataka had incurred an expenditure of more than 2 lakh on various items.

Table 8.12: State-wise monthly expenditure of brothels

<i>States</i>	<i>Respondents</i>	<i>Total expenditure</i>	<i>Average expenditure</i>	<i>Maximum expenditure</i>
Delhi	17	1,25,753	7,397	37,500
Bihar	35	66,330	1,895	8,800
West Bengal	42	NA	NA	NA
Goa	31	2,68,100	8,648	80,000
Tamil Nadu	53	5,93,050	11,190	80,000
Karnataka	35	8,65,823	24,738	2,00,000
Andhra Pradesh	60	2,02,705	3,378	22,000
Maharashtra	44	1,13,800	2,586	42,000
Uttar Pradesh	50	1,14,000	2,280	30,000
Assam and Meghalaya	15	5,202	347	5,119
Rajasthan	30	1,88,650	6,288	18,000
All India	412	25,43,413	6,173	2,00,000

Note: Details for West Bengal were not available.

Against the monthly income and expenditure details provided their monthly savings were derived on a state-wise basis. The highest average monthly savings of one brothel owner was Rs. 31,074 in Delhi, and the lowest was Rs. 4,245 in Rajasthan (see Table 8.13). The total monthly savings of 355 respondents across India came to Rs. 53.6 lakhs, with an average of Rs. 15,108 per brothel owner. These figures should be interpreted in the light of the fact that the brothel owners tended to understate their income and overstate their expenditure.

Table 8.13: State-wise monthly savings of brothel owners

<i>States</i>	<i>Respondents</i>	<i>Total savings</i>	<i>Average savings</i>	<i>Maximum savings</i>
Delhi	17	5,28,247	31,074	2,62,500
Bihar	35	2,53,370	7,239	41,200
Goa	31	5,79,500	18,694	1,20,000
Tamil Nadu	53	9,55,950	18,036	1,20,000
Karnataka	35	7,71,177	22,033	50,000
Andhra Pradesh	60	7,48,395	12,474	1,78,000
Maharashtra	44	4,67,200	10,619	58,000
Uttar Pradesh	50	9,32,000	18,640	1,20,000
Rajasthan	30	1,27,350	4,245	12,000
All India	355	53,63,189	15,108	2,62,500

Note: The data on West Bengal and the North-Eastern states is not complete, hence not included.

8.15 Health issues

Opinions of the brothel owners were sought with respect to the awareness of the women and girls on health issues. As regards STDs, over three-fourths of the respondents stated that all the sex workers were aware of them. The rest said that they were either unaware or only partly aware. A huge majority of the owners, 82.5 per cent, stated that all the sex workers were aware of HIV and AIDS; the rest were unaware or partly aware. Similarly, 81.6 per cent of the respondents said that the sex workers insist that the clients use condoms; and 35.4 per cent among them do so despite the unwillingness of the clients.

As regards health problems of the trafficked women and children, the brothel owners were most reluctant to part with information. The main reason for this was the fear that they would be held responsible for any serious ailment affecting the girls and that any publicity of such illnesses would jeopardise their operations. However, due to the persistent efforts of the researchers, some data could be collected in this regard. One-fifth of the brothelkeepers stated that sex workers have STDs, 2.2 per cent mentioned AIDS and 1.5 per cent spoke about TB. While 3.6 per cent of the respondents referred to problems connected with miscarriage and abortion, 16.5 per cent said that some women and girls suffer from UTIs, and 38.1 per cent mentioned general health problems.

The brothel owners were also asked to spell out how they tackle these health issues. While 60 per cent said that they send the women and girls to private doctors, 9 per cent stated that they get them treated at government hospitals, and the rest depended on quacks or on the advice of people known to them regarding the treatment to be given.

8.16 Women in CSE: Children and old age

Out of a total of 680 children staying with their mothers in the brothels, 352 are male and 328 are female (see Table 8.14). Of these, 468 children are below 10 years of age, 154 children are in the

10–18 age group and 58 children are above 18. Case study No. CS-MH-8 shows the extreme vulnerability of the children who stay with their mothers in the brothels. They are under constant threat of being abused, trafficked and violated in several ways. It comes as no surprise when, in case study No. CS-MH-16, the trafficked victim girl begs that all the girls trapped in brothels be rescued without delay. Her distress call eventually paved way for the judicial intervention and the consequent rescue of hundreds of minor girls from the brothels of Delhi and Mumbai (see case study Nos. CS-MH-17 and CS-DL-26).

Table 8.14: Age group of children of women in CSE staying in brothels: State-wise

State	Male			Female			Total		
	<10	10–18	>18	<10	10–18	>18	<10	10–18	>18
Delhi	34	4	0	30	0	0	64	4	0
Bihar	24	32	8	27	33	22	51	65	30
West Bengal	16	6	0	5	5	0	21	11	0
Goa	17	1	7	11	0	9	28	1	16
Tamil Nadu	24	2	0	21	1	0	45	3	0
Karnataka	29	3	0	22	11	2	51	14	2
Andhra Pradesh	25	8	0	13	03	10	38	11	10
Maharashtra	36	6	0	22	8	0	58	14	0
Uttar Pradesh	45	7	0	37	7	0	82	14	0
Meghalaya and Assam	3	5	0	3	12	0	6	17	0
Rajasthan	10	0	0	14	0	0	24	0	0
Total	263	74	15	205	80	43	468	154	58

According to the brothel owners, about one-third of the children of CSE victims take up the ‘profession’ of their mothers. The owners were asked whether they would like the girl children of these women to follow in the footsteps of their mothers. It is important to note that only 21.4 per cent answered in the affirmative. Of these, 50 per cent said that no alternative livelihood options were available to these children; 36 per cent stated that the children were not exposed to any work outside the brothel; and 14 per cent were of the view that since the mothers had no dignity and acceptance in the world outside, their children too would meet the same fate.

The owners were queried about the plight of the sex workers in their old age. The answers were that they become: (a) brothel owners (12.1 per cent), (b) brokers and pimps (10.7 per cent), (c) traffickers (1.7 per cent), (d) maidservants in brothels (8.5 per cent), (e) inmates of old-age homes or take shelter in NGOs (27.4 per cent), (f) totally helpless and take to begging or do nothing (18.7 per cent). The rest (20.9 per cent) did not respond to the question.

8.17 Brothel owners: Future prospects and successors

With regard to who would become their successors, 16.5 per cent of the brothel owners said that their family members would take over their jobs and 7.8 per cent stated that they would leave their brothels to a sex worker chosen by them. These were persons who did not have any children. Most of them had not thought about who they would pass on the mantle to.

To a specific question on whether brothel owners double up as traffickers, 81.3 per cent refused to speak; the rest answered in the affirmative. In the latter category, 15.6 per cent of the respondents had been both brothel owners and traffickers for more than 10 years, 20.8 per cent for a period 6–10 years and 53.2 per cent for a period 1–5 years. The rest of these respondents did not disclose the duration for which they had been performing this dual role.

On how the brothel owners envisaged the future of trafficking, only 14.6 per cent thought that it would come to an end; the vast majority was sure that trafficking would continue.

8.18 Conclusion

The study brings out several important dimensions of the exploitative ambience of brothels. They are dens of the ultimate violation of human rights. The owners represent the conspicuous face of the exploitation of trafficked women and children. The majority of them have themselves been victims of commercial sexual exploitation, who later ‘graduated’ to the position of brothel owners. More often than not, circumstances have made them what they are. Absence of livelihood options and alternative sources of income, and the lack of skills, resources and awareness of rights are on top of the list of contributory factors. The fact that the majority of the brothel owners have direct links with traffickers is important from the point of view of law enforcement. The owners abet, facilitate and conspire with other abusers to perpetuate the exploitation of the trafficked victims. The extent of abuse unleashed on the victims by the brothel owners is no less in comparison to that heaped by other exploiters, such as traffickers and clients. It is this nexus between them that creates the demand, perpetuates trafficking and leads to the gross violation of the rights of women and children, more so girl children. Policies and strategies to prevent and combat the problem of trafficking can be effective only when they address these linkages in the chain of exploitation.



Traffickers

9.1 Introduction

The Goa Children's Act, 2003, is the only Indian statute which gives a legal definition of trafficking. Though child-specific, it nevertheless provides the following comprehensive definition in Section 2(z):

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

The trafficker is a key link in the supply chain comprising manifest and latent players, who straddle the vicious road from 'spotting' to exploitation. The trafficking hierarchy consists of several tiers. The field research shows that at least the following levels exist:

- Master trafficker-cum-kingpin
- Primary traffickers-cum-procurers
- Secondary traffickers
- 'Spotters' or the grass-roots chain of intelligence gatherers

The organised crime of trafficking revolves around the master trafficker. He or she is the kingpin of the entire trafficking operations. As prime mover, arch manipulator, real beneficiary, chief profiteer and master criminal, he is at the apex of the trafficking hierarchy. He manages, modulates and orients all the activities and transactions in such a way that he can remain unnoticed, even as he is able to profit the most. A typical trafficker is one who extracts the maximum gains from the entire bargain. It is a purely commercial activity for him. The demand-supply trends decide the profit component. The trafficker ensures that there is maximum demand and the corresponding supply of women and children. To ensure this, he has to establish a network which provides linkages with demand and supply areas, transit points and routes. He appoints persons to carry out various tasks at several places. They can be called primary traffickers. These persons at the ground level require intelligence to identify the supply sources as well as the demand areas. Given that intelligence has a very important role to play in this 'business', the master trafficker has his own network of intelligence gatherers.

The primary traffickers form a nebulous group of all those who assist the kingpin in the different activities involved in trafficking. The key functionaries are the field-level 'purchasers', the transporters, the master operators, the procurers, the pimps and the entire network of crime syndicates involving the brothel owners, brothel managers, etc. In short, primary traffickers are the basic 'merchants in human trade'. The secondary traffickers are those who deliver 'human cargo' to the primary traffickers. They operate at the grass-roots level and mostly include the 'sellers' and others who assist and facilitate the sale process involved in trafficking. Often, this group includes relatives, friends and acquaintances of the victim, local goons as well as petty criminals. The intelligence gatherers may be at the command, and under the control, of the master trafficker or the primary traffickers. They visit bazaars, markets, villages, railway stations, bus stations, and other places where they can collect intelligence about vulnerable persons. These spotters give their feedback to the primary traffickers or the kingpin who, in turn, deals with the secondary traffickers to carry out his 'trade'.

There are several other stakeholders who support the main trafficking structure mentioned above. These include (a) financiers who finance the transactions at various levels; (b) the goons/goondas who provide security at various levels; (c) the hoteliers who provide accommodation during transit; (d) the transporters who provide or arrange transport; (e) paramedical persons, may be even quacks, who attend to the illnesses of the trafficked victims during transit; (f) officials who, by provide several services, including immigration clearance and security; and (g) the final exploiters and abusers who may also be part of the network. They dictate terms regarding supply and demand and modulate the trafficking process.

9.2 Methodology

Given the complex web of players that make up the trafficking hierarchy, a separate questionnaire was developed to gather data from the traffickers. The research partners were advised to interview traffickers under the various categories mentioned above. It was indeed a difficult task for the research team to locate and interview traffickers. During the initial few months, despite continuous fieldwork, the researchers could not track down even a single trafficker. Meanwhile, the other stakeholders, brothelkeepers, trafficked victims, police officials, etc., were being interviewed. The orientation given to the researchers at the Institute of Social Sciences was of great help in locating the traffickers. The consultation meetings arranged in different states provided the researchers with appropriate contacts to enable them to get in touch with the various stakeholders. Their work was further facilitated when the members of the national study team visited the states and obtained assurances of assistance with respect to collection of data from various government agencies, especially from the police. During this interaction, it was found that many police officials, especially those at the grass-roots level, were aware of the activities of traffickers. Those contacts were tapped. Many researchers developed contacts with the traffickers through other interviewees, mainly through rescued victims, trafficked victims of commercial sexual exploitation in brothels and brothel owners, on the assurance that the anonymity of the respondents would be protected. A total of 160 traffickers were interviewed. All of them belonged to the secondary or tertiary layer in the hierarchy of traffickers mentioned earlier. Moreover this included a large number of women who were either 'retired' or 'active' victims of CSE doubling up as traffickers. Most of the respondents were those who trafficked women and children for commercial sexual exploitation, both brothel

based as well as non-brothel based. Despite the best efforts of the researchers to identify a substantial number of traffickers who trade in children for non-sex-based exploitation, only a few of them could be located. Perhaps this is an area which needs to be separately researched.

9.3 Profile of the traffickers

The distribution of the traffickers according to age and sex; caste and religion; education and marital status; state and country of origin is given in Table 9.1. The share of men and women among the respondents was around fifty-fifty. This relatively high percentage of female traffickers in a generally male-dominated trade can be explained as follows:

- The main source of access to the traffickers was through brothelkeepers and rescued victims. Most of them are women and their immediate contacts were also women. Moreover, most of the women trafficked into commercial sexual exploitation had been subjected to continuous abuse and had no choice but to live in the exploitative environment. In the absence of other livelihood options and with no scope to escape, it was but natural that many of them 'graduated' to the role of traffickers (see case study No. CS-DL-15). Often, these traffickers doubled up as brothelkeepers or, at times, even as 'sex workers'. The researchers have interviewed them as traffickers, considering the main activity that they were engaged in at the time of the interview.
- Since this study deals with the organised crime of trafficking, it was but natural that the researchers had utmost difficulty in locating traffickers. They usually operate underground and do their best to remain unnoticed. It is much easier for the male trafficker to do this than for his female counterpart. It was not feasible for the researchers to persist with their efforts to locate the male traffickers beyond the time frame available for fieldwork.

Well over a third of the traffickers, 37.5 per cent, were in their thirties. Less than a quarter of the respondents, 23.1 per cent, were in the 18–30 age group. Thus, the majority of the traffickers were relatively young. The two youngest traffickers interviewed were 18 years old — one from Goa and the other from Maharashtra.

Less than a third each of the respondents belonged to the Scheduled Castes (31.3 per cent) and the Other Backward Classes (32.5 per cent). Over 60 per cent of the traffickers were literate, with 22.5 per cent being educated up to higher secondary and above. Around 56 per cent of the respondents were married and a quarter were unmarried; the rest were divorced, widowed or separated. Most of them had large families, with 47.5 per cent admitting that they had five or more members.

Almost all the traffickers (90 per cent) belonged to India; the rest were from Nepal. As the review of literature showed, there is lot of cross-border trafficking into India from Nepal and Bangladesh.

Of the 144 Indian traffickers interviewed, over a fifth were from Andhra Pradesh. The other states to which they belonged in relatively large numbers were Bihar (16.7 per cent), Karnataka (15.3) and Tamil Nadu (11.8) per cent. Rajasthan, West Bengal and Uttar Pradesh also figured in the list of states to which the traffickers belonged, albeit to a lesser extent. However, these figures do not reflect the national scenario; they only indicate the regional background of traffickers interviewed for the present study. The state-wise distribution of the traffickers is given in Table 9.2.

Over two-thirds of the traffickers were conversant with more than one language. A third of the respondents knew three or more languages. Such fluency puts them at an advantage, especially those engaged in interstate trafficking between states with different language profiles.

Table 9.1: Profile of the traffickers

<i>Characteristics</i>	<i>Number</i>	<i>Per cent</i>
Sex		
Male	81	50.6
Female	79	49.4
Age group (in years)		
18–25	21	13.1
26–30	16	10.0
31–40	60	37.5
41–50	42	26.3
51–65	21	13.1
Religion		
Hindu	119	74.4
Muslim	26	16.2
Christian	11	6.9
Other	4	2.5
Caste		
Scheduled Castes	50	31.3
Scheduled Tribes	12	7.5
Other Backward Classes	52	32.5
Other	40	25.0
No response	6	3.7
Education		
Illiterate	63	39.4
Up to primary	30	18.7
Up to middle	31	19.4
Up to higher secondary	31	19.4
Graduate and above	5	3.1
Marital status		
Unmarried	40	25.0
Married	90	56.2
Divorcee	10	6.3
Widow	15	9.4
Deserted	5	3.1
Country of origin		
India	144	90.0
Nepal	16	10.0
State of origin (for Indians, N=144)		
Bihar	24	16.7
West Bengal	11	7.6
Tamil Nadu	17	11.8
Karnataka	22	15.3
Andhra Pradesh	31	21.5
Maharashtra	05	3.5
Uttar Pradesh	11	7.6
North-East region	05	3.5
Rajasthan	09	6.3
Kerala	05	3.5
Madhya Pradesh	01	0.7
No response	03	2.0

<i>Characteristics</i>	<i>Number</i>	<i>Per cent</i>
Language(s) known		
One	51	31.8
Two	54	33.8
Three	27	16.9
Four	23	14.4
More than four	4	2.5
No response	1	0.6

Table 9.2: State-wise distribution of the interviewed traffickers

<i>State</i>	<i>Number</i>	<i>Per cent</i>
Delhi	10	6.3
Bihar	20	12.5
West Bengal	11	6.9
Goa	16	10.0
Tamil Nadu	15	9.4
Karnataka	22	13.8
Andhra Pradesh	20	12.5
Maharashtra	18	11.3
Uttar Pradesh	13	8.1
Assam and Meghalaya	05	3.1
Rajasthan	10	6.3
Total	160	100

9.4 Entry into trafficking

The study attempted to understand the process that led the respondents into the murky world of trafficking. They were asked about the factors that were instrumental in their entry, the help they received from others and the reasons for involving them. The data shows that the majority of the traffickers had either been part of, or developed some links with, the world of commercial sexual exploitation even before they took to trafficking (see Table 9.3). While 37.5 per cent had been victims of CSE, or brokers or pimps, 35 per cent were brothel owners whose intimate association with traffickers had prompted them to also follow in their footsteps. Almost 22 per cent of the traffickers had inherited the 'business' from their parents, guardians or persons with whom they were living. Only 5.6 per cent were newcomers in the field, who entered the trade because of their association with other traffickers.

More than one-third of the respondents had been victims of CSE before they took to trafficking (see Table 9.4). Most of them were elderly women who had lost their business in the brothels. The previous employment details of the other respondents include miscellaneous occupations such as carpenter, driver, farmer, labourer, tailor, salesman, band boy, bus conductor, motor mechanic, ragpicker, domestic servant, ward boy in a brothel, etc.

Table 9.3: Entry into the world of trafficking

<i>Instrumental factors</i>	<i>Number</i>	<i>Per cent</i>
Earlier association with trafficking as sex worker/broker/pimp	60	37.5
Earlier association with trafficking as brothel owner	56	35.0
Inherited the business	35	21.9
Association with traffickers	9	5.6
Help received from other persons		
Friends	56	35.0
Family members/relatives	32	20.0
Brokers/pimps/agents/brothel owners/sex workers	47	29.4
Police/politicians	2	1.2
No response	23	14.4
Reasons for involving other persons		
Were already involved in commercial sexual exploitation	54	33.8
Were friends	32	20.0
Already had huge networks in trafficking	33	20.6
Were already providing young/fresh and beautiful girls	6	3.8
No response	35	21.8

Table 9.4: Previous occupation of the traffickers

<i>Previous occupation</i>	<i>Number</i>	<i>Per cent</i>
Previous victim of CSE	58	36.3
Skilled labour	35	21.9
Petty business	11	6.9
Service	13	8.1
No work	34	21.2
No response	09	5.6

The networking and contacts of the traffickers play a very important role in the recruitment of new traffickers. As noted earlier, the ‘graduation’ of brothelkeepers to trafficking has been substantiated by case study No. CS-DL-15. The fact that the respondents had entered the world of trafficking due to their earlier contacts with the key players, augmented and cemented by support from the other stakeholders, clearly shows the nexus between them and the organised nature of the trafficking crime. It is also important to note that 1.2 per cent of the respondents had been helped by the police and politicians to enter this trade. Though the percentage is very small, it raises disturbing questions about the complicity of law makers and enforces with law breakers.

9.5 Trafficking fraternity

Almost one-third of the respondents stated that their family members were involved in trafficking. Of these, 43.1 per cent said that their spouses took part in their business, 21.6 per cent even involved their children and 35.3 per cent said that their siblings, cousins, etc., also joined in. Clearly, they treat trafficking like a ‘family business’. Over a third of the respondents, 35 per cent, stated that their informers had turned into traffickers. These were spotters employed by the traffickers, at some point in time, to spot or locate vulnerable persons, who were eventually trafficked. This indicates that a substantial chunk of the traffickers begin as ‘amateurs’ in the field. This process of graduating to a higher rung in the trafficking hierarchy should be taken note of by the law enforcement agencies. Though the police personnel working in the field, especially in the source areas and along the transit routes, may find it difficult (though not impossible, as case studies show) to reach the master trafficker, who may be located outside their areas, the spotters are very much on the prowl in their jurisdictions. If these officials are alert, such offenders can be brought to book and the trafficking operation be cut short.

Only 13.1 per cent of the respondents said that the trafficked victims eventually become traffickers themselves. They did so because of the long-standing association of the traffickers with the trafficked victims and the influence of the former on the latter.

9.6 Modus operandi of traffickers

The traffickers adopt various methods of traffic in women and children. Usually, the ingenuity of the trafficker, coupled with the vulnerability of the victim, determine the modus operandi that is used. The available literature shows that the following methods have been commonly employed for trafficking in women and children in India: (a) offering them jobs as domestic servants; (b) promising jobs in the film world; (c) dangling before them jobs in factories; (d) offering money; (e) luring them with 'pleasure trips'; (f) making false promises of marriage; (g) befriending them by giving goodies, (girls who have run away from home or are street children are highly vulnerable to the traffickers); (h) offering to take them on pilgrimages; (i) making other kinds of false promises and (j) coercion.

The vulnerable situation in which the woman finds herself is a contributory factor in trafficking. The economic dependence of most women and their low social status leaves them with a relatively narrow range of options for eking out a livelihood. Women with no assets and hardly any alternatives have been easy targets of traffickers, who are able to persuade them to give in to commercial sexual exploitation in order to support themselves and their dependents. The trafficker modulates his strategy according to the specific situation. The more vulnerable the victim is, the easier it is for the trafficker to lure her. The accessibility of the trafficker to the prospective victim is an important factor in trafficking. The method adopted is usually influenced by the proximity or otherwise of the trafficker to the victim.

With regard to the sample under study, over half the respondents, around 52 per cent, lure victims by offering jobs and/or money (see Table 9.5). People living in abject poverty are most susceptible to this kind of inducement, as shown by case studies from various states. The traffickers use their intelligence sources to understand the various factors which contribute to the victim's sense of vulnerability and chose their bait accordingly. Many young girls from Nepal were lured by promises of jobs in the film world of Mumbai.

Around 16 per cent of the respondents made false promises of marriage to persuade the girls to come away with them. This is a very serious matter. Not only the victim, but her family members, relatives and the community are also cheated by the trafficker. Young girls from economically poor sections, as also middle class families, are susceptible to such deception. This method is often used by traffickers in places where the sex ratio is highly skewed. Several examples of trafficking to Haryana and Punjab, especially those districts where the proportion of the female population is much below the national average, have been widely reported in the media.

Table 9.5: Modus operandi of the traffickers

<i>Method</i>	<i>Number</i>	<i>Per cent</i>
Offering money/jobs	83	51.9
Making false promises of marriage	26	16.3
Befriending/enticing with attractive offers	17	10.6
Using coercion/force/threat	8	5
No response	26	16.2
Total	160	100

Over 10 per cent of the respondents said that they befriended the victims. While no direct promises of jobs or marriage were made, such enticements were usually implied. The victims were also lured by capitalising on their likes and preferences. Case study No. CS-KR-3 shows how the keenness to visit the film world (not a job or employment) was utilised by the trafficker to trap two innocent girls from families which were not poor. Attraction to the glamour of films was exploited to dupe the victims.

Surprisingly, only 5 per cent of the respondents stated that they use coercion or force to kidnap the victims. This is in sharp contrast to the nearly 80 per cent who resorted to subterfuge and deception. Thus, trafficking is distinct from kidnapping/abduction, which involves a high degree of coercion. However, this picture needs to be qualified. Traffickers prefer to underplay the use any pressure or coercion with their victims, as most of them wish to propagate the view that trafficking is a crime only when force is used.

Significantly, 44.4 per cent of the traffickers mentioned that they use some form of disguise to carry out their operations. The rest did not think that any façade was necessary. The fact that well over half the traffickers confessed to carrying out their criminal activities in the open underlines the impunity with which they operate.

9.7 Cost of trafficking

Trafficking is, without doubt, a very lucrative business. It requires low investment but ensures high profit. While a little more than a quarter of the respondents, 26.3 per cent, spent less than Rs. 5,000 per girl, 7.5 per cent spent between Rs. 5,000 to Rs. 10,000, 15 per cent spent between Rs. 10,001 to Rs. 20,000 and 5.6 per cent spent more than Rs. 20,000 on each girl. The remaining traffickers refused to respond (see Table 9.6). The minimum amount spent was Rs. 1,000, while the maximum was a mind-boggling sum of Rs. 90,000.

Trafficked girls are classified based on certain parameters. The ‘cost’ of the girl depends on whether or not she measures up to these parameters. Case studies from Bihar (No. CS-BH-2) and West Bengal (No. CS-WB-11) have brought out the method of classification. It is often based on the following hierarchy of ‘demand factors’:

- Physical appearance (features/looks, build)
- Age (younger girls are more in demand)
- Region (girls from a particular region are more in demand in certain brothels)
- Complexion (fair-skinned girls are preferred)
- Submissiveness (readiness to surrender to all kinds of perversions and exploitation)

Table 9.6: Money spent on trafficking a girl/woman

<i>Amount (in Rs.)</i>	<i>Number</i>	<i>Per cent</i>
1,000 – 5,000	42	26.3
5,001 – 10,000	12	7.5
10,001 – 20,000	24	15.0
More than 20,000	9	5.6
No response	73	45.6
Total	160	100

Note: Minimum amount spent was Rs.1000; maximum amount spent was Rs.90,000.

The cost per trafficked person varies from place to place and depends on the demand factors. Demand increases during certain times of the year. For example, during the festival seasons, trafficking is at its peak. Such vagaries of demand have a bearing on the cost of procurement.

It is important to note that the respondents who refused to provide information on the cost factor constitute a sizeable chunk, 45.6 per cent. Clearly, they did not wish to let out their trade secrets. Their silence points to the awareness on their part that trading in girls is an illegal activity, which they are nevertheless carrying out with impunity.

Regarding the mode of payment to those who help the traffickers in their operations, 28.8 per cent stated that they pay on a ‘commission’ basis and 30.6 per cent said that they oblige the helpers in various ways. Only a small percentage (3.8) of the respondents said that they make monthly payments. Presumably, this is possible only in those cases where there is a regular ‘supply’ of girls. The rest of the traffickers refused to speak on this issue.

On the question of the maximum amount spent by a trafficker in order to lure and traffic a woman/girl, half the respondents mentioned a figure of Rs. 20,000 and 10 per cent said that the maximum amount was above Rs. 20,000. Again 40 per cent of the respondents did not respond to the question. As to the reason for making the payment, around a quarter disclosed that it was for procuring ‘virgin’ girls and 18.8 per cent said that such large sums of money were used to bribe parents or relatives. The remaining respondents stated that they had to incur heavy travel expenses. On the question of putting together the amount required for ‘procurement’, 42.5 percent stated that they generated their own income and 57.5 per cent revealed that the payments were made by the pimps/brothel owners. The latter figure clearly establishes the nexus between traffickers and the other exploiters.

The traffickers’ links with the family members of the victims was also examined. According to 60.6 per cent of the respondents, the family members do receive payments from the traffickers in lieu of the trafficked girl. A huge majority, 92.8 per cent, said that the parents/guardians receive the payments. The rest of the respondents stated that the recipients were the husbands of the victim. However, 55.7 per cent said that the share given to the family members is less than 10 per cent of what the trafficker earns. Such is the vulnerability of the victim and her parents that she can be ‘purchased’ for paltry sums. More than three-fourths of the respondents, 76.3 per cent, stated that family members ‘sell’ the women/girls to traffickers because of poverty and unemployment. While 10.3 per cent mentioned greed for money as the reason, 13.4 per cent cited tradition and community customs. The traffickers’ perception regarding the motives of the family members for giving up the victims to traffickers can provide pointers to the strategies that need to be devised for the prevention of trafficking.

9.8 Trafficking own relatives

Traffickers seem to have no qualms about trafficking even their relatives. Though it is a difficult question for a trafficker to answer, a fifth of the respondents (33 in all) admitted that they had trafficked their own relatives. Of these, 30.3 per cent had trafficked their own daughters, 39.4 per cent had trafficked their sisters and cousins, 9.1 per cent their legally wedded wives, and over a fifth their nieces. Three-fourths of the respondents who had trafficked their relatives had done so when the victim was under 18 years of age; even more disturbing, 39.4 per cent had trafficked the victims when they were in the 11–15 age group. On being asked as to why they had not spared even their own relatives, 48.5 per cent were candid enough to say that it was greed for money and 45.4 per cent had no hesitation in admitting that it was easy to exploit their own relatives. The rest (6.1 per cent) refused to respond.

9.9 Sexual abuse of the trafficked victims

Of the 160 traffickers who were interviewed, 26.9 per cent revealed that they sexually assault the trafficked victims. These were, of course, male traffickers. Of these, a fifth said that they had abused one or two of their victims, 41.9 per cent admitted to abusing three to ten victims and 37.2 per cent had abused more than 10 of their victims. These stark figures show the high levels of exploitation that the victims are subjected to by the traffickers. The latter were also questioned about the first sexual abuser of the trafficked victim. Only a quarter said that the first sexual abuse of the victim takes place in the brothel at the hands of the client. The rest of the respondents admitted that the exploitation begins much before the clients start visiting her in the brothel. Significantly, 3.1 per cent of the traffickers stated that the first abuser was a policeman or a politician (for links between them, see Table 9.11).

9.10 Source, transit and demand areas

Almost half the respondents admitted that they maintained contacts with other traffickers. Of these, 71.6 per cent claimed that they networked with other traffickers on a regular basis. The majority of the respondents, 60.6 per cent, stated that it was a common practice to work for other traffickers. The network between the source, transit and demand areas emerges as a major source of strength for the traffickers. It appears that any area can be a link place for the traffickers, provided they are able to locate vulnerable persons.

The districts listed as source areas by the traffickers include Dindugal, Madurai, Trichy and Chengelpet in Tamil Nadu; Trivandrum and Thrissur in Kerala; Vijayawada, Rajahmundry, Anantapur, Hindupur, Kakinada, Vishakapatnam, Pedapuram, Telengana, East Godavari, West Godavari and Guntur in Andhra Pradesh; Dholpur, Bharatpur, Alwar and Tonk in Rajasthan; Gaya, Muzaffarpur, Patna, Kishanganj, Katihar, Purnia, Araria and Madhubani in Bihar; Mangalore, Gulburga and Raichur in Karnataka; Solapur in Maharashtra; Maharajganj in UP; Murshidabad and 24 Parganas in West Bengal; and many places in Orissa, Kashmir, Assam, Goa, Nepal and Bangladesh.

According to 63.1 per cent of the respondents, the selection of the source area is determined by the vulnerability of the women and girls located there. A fourth of the traffickers said that poverty and unemployment were the determining factors, while 11.3 per cent cited cultural sanctions as the criteria for selecting the target areas. Almost half the respondents, 48.1 per cent, disclosed that their source areas were exclusively rural. A similar number stated that they sourced women

and girls from both rural and urban areas. Only 3.8 per cent said that they focus exclusively on urban areas. While identifying their potential victims, the traffickers use yardsticks such as social deprivation, broken homes, lack of awareness and other factors which place them in a vulnerable situation.

The traffickers were asked to list the places where they supply trafficked women and girls. It is important to note that the demand areas include not only cities but also smaller towns. The places mentioned by the traffickers include Bharatpur, Alwar, Jaipur and Jodhpur in Rajasthan; Tindivanam, Dindugal, Madurai and Salem in Tamil Nadu; Pondicherry; Goa; Hyderabad and Guntur in Andhra Pradesh; Gaya and Patna in Bihar; Bangalore and Mangalore in Karnataka; Pune, Mumbai and Thane in Maharashtra; Agra, Lucknow, Banaras and Gorakhpur in Uttar Pradesh; various places in West Bengal, Orissa, Punjab, Kashmir, Kerala; as well as places outside India like Bangkok, Kenya, South Africa, Bahrain, Dubai and Muscat. The majority of the traffickers, 58.1 per cent, stated that the supply of girls was linked to the demand patterns. Greater the demand, more the supply. According to a fifth of the respondents, profit considerations prompted them to select the supply area. Some traffickers are also concerned about the risks involved. Around 6 per cent stated that they supply women and girls to those areas where they can remain anonymous, and 15 per cent of the traffickers said that they supply to areas where law enforcement is poor.

The place of transit is an important linkage, especially in long-distance trafficking. The respondents cited several cities and townships, between the demand and the supply areas, as transit centres (for details see Chapter 4 on the profile of the study area). Regarding the kind of activities take place in a transit area, well over half the traffickers, 56.2 per cent, refused to answer; a fifth stated that brokers and agents sexually assault the trafficked persons. Around 24 per cent of the respondents said that they look after the victim very well (thereby meaning that they do not abuse them) during transit. In order to keep the trafficked persons under control at the transit places, the traffickers use different tactics. While 40.6 per cent stated that they become friendly with the victims, 8.8 per cent revealed that they drugged the victims and 3.1 per cent said that they pay them in advance. Almost half the traffickers did not respond.

The mode of transport used to move the victims depends on the trafficking route. The majority of the traffickers stated that they use buses, trucks or trains. Only a small percentage use hired vehicles. Traffickers prefer to use public transport, as it provides anonymity and helps them to escape the attention of law enforcement agencies. Probably, they are also able to evade the watchful eyes of NGOs, several of which have started intervention centres in some trafficking-prone areas.

An important focus of the study was the issue of cross-border trafficking. The respondents were asked about the mechanics of cross-border trafficking. The few who gave some information said that they bribe the police or take the help of local brokers/agents. A huge majority of the traffickers, 93.7 per cent, chose not to answer this question. Their silence implies the existence of an international network which they do not want to expose.

On the question of the traffickers' links with criminals and criminal gangs, 16.9 per cent said that all traffickers have such links, 45.6 per cent stated that some traffickers do, and 37.5 per cent said that they did not know of these links. Traffickers in the first two categories stated that such

linkages are essential for the continued survival of themselves and their trade. It is his organised criminal nexus that perpetuates trafficking.

9.11 Profile of the trafficked victims

According to the socio-economic profile provided by the traffickers, 54 per cent of the victims belonged to the lower strata of society, 31 per cent were from middle class families and 15 per cent came from the upper strata (see Table 9.7). While it is the poor who are predominantly vulnerable, no stratum is safe from trafficking. Poverty, by itself, is not the only factor which puts potential victims at risk. If traffickers are able to approach and establish links with women/girls from other strata, who are otherwise vulnerable, the latter can be and are being trafficked.

Table 9.7: Age and socio-economic profile of the trafficked victims

Age group (in years)	Socio-economic status			Total	
	Low	Medium	High	Number	Per cent
Below 16	1,000	508	206	1,714	26
16–20	1,513	850	299	2,642	39
21–25	635	418	279	1,332	20
26 and above	473	295	220	988	15
Total	3,621	2,071	984	6,676	100
Per cent	(54)	(31)	(15)	(100)	

The age profile of the trafficked victims presents an important dimension. Around a quarter are children below 16 years of age and 65 per cent are below 20 years of age. Among the former, 58.3 per cent are from the poor strata of society. Thus, children, especially from poor families, are most vulnerable to trafficking. The state-wise distribution of the trafficked persons, including the number of children, based on the data provided by the interviewed traffickers, is shown in Table 9.8

Table 9.8: State-wise distribution of trafficked persons

State	No. of trafficked persons	No. of trafficked children below 16 years
Delhi	60	10
Bihar	1,240	337
West Bengal	602	159
Goa	649	165
Tamil Nadu	1,890	555
Karnataka	589	127
Andhra Pradesh	472	87
Maharashtra	377	116
Uttar Pradesh	641	144
Assam and Meghalaya	45	0
Rajasthan	113	14
Total	6,676	1,714

The respondents were asked to provide figures of the women and girls they had trafficked. Most of the traffickers either did not remember the exact number (as it was too large) or were reluctant to give precise information. When prodded by the researchers, they did respond. However, there was a conscious attempt to downplay the numbers. Based on the data gathered from 160 traffickers, the total number of persons trafficked by them works out to 6,676 (see Table 9.7). On an average, an interviewed trafficker had trafficked 42 persons.

The traffickers were aware that the family members who are ignorant about the fact that the woman/child has been trafficked, take up the matter with the police. While 22 respondents stated that the family members had lodged missing persons reports with the police in more than one instance, 9 traffickers stated that the family members had taken similar steps in more than ten instances where the woman/girl had been trafficked by them. According to the respondents, when the family members of a trafficked woman or child are not involved in the trafficking, they tend to lodge a missing person report with the police.

9.12 Demand–supply pattern

A huge majority of the traffickers, 82.5 per cent, stated that they supply women/children on demand. The rest said that they do not get any specific requests. The latter appear to be the occasional traffickers unlike the others who supply on a regular basis. As to whom the women and children were supplied, over half the respondents (53.8 per cent) said that the demand came from brothel owners and others associated with brothels. The rest stated that it was from various quarters — 22 per cent spoke of clients, 12.1 per cent cited business persons, 9.1 per cent mentioned politicians and 3 per cent referred to police personnel. The nexus between various players in the trafficking world is writ large on the demand–supply pattern.

The frequency and nature of the requests that the traffickers receive in a month were also examined (see Table 9.9 and Table 9.10). Girl children form the largest group among the exploited. Around 69 per cent of the traffickers stated that there was a high preference for girl children. The demand for virgin girls, a major pull factor, contributes to the girl children's high degree of vulnerability to trafficking.

Table 9.9: Frequency of requests for women/girls received by traffickers

<i>Requests per month</i>	<i>Number</i>	<i>Per cent</i>
1–5	50	31.2
6–10	12	7.5
More than 10	14	8.8
Nothing fixed	28	17.5
No response	56	35.0
Total	160	100

Table 9.10: Trafficked persons for whom demand is high

<i>Category</i>	<i>Number</i>	<i>Per cent</i>
Girl children	110	68.8
Adult women	20	12.5
Male children	02	1.2
No preference	28	17.5
Total	160	100

The traffickers were asked to list the specific attributes of the trafficked persons which were sought after by the clients. The preferences were as follows:

- Good physical features and body shape
- Virgins and those young in age
- Readiness to succumb to exploitation
- Mix of various parameters

Around 21 per cent of the respondents gave maximum weightage to the physical appearance of trafficked persons. A fifth each cited virginity/youth and readiness of the victim to tolerate and succumb to all kinds of exploitation and perverse acts as the main criteria. The remaining traffickers mentioned a combination of two or more of the listed above. Information was also sought on the plight of trafficked women when they grow old. Around 64 per cent of the respondents stated that they leave the 'profession' for some other — be it taking up a petty business or working as maidservants in brothels or other households. The rest said that these women become brokers, brothel owners or traffickers. The respondents were also aware of the fact that many of these women face extreme poverty and lead a very harsh life. The traffickers admitted that once displaced from their homes, such women find it extremely difficult to return and reintegrate into their communities. Unable to go back to their homes, they become dependent on others in the brothel.

9.13 Child trafficking

Trafficking in children for commercial sexual exploitation is the ultimate violation of human rights. According to Section 375 of IPC, sex with a child under 16, even with consent, is an offence. In order to understand the trends, causes and dimensions of child trafficking, the respondents were interviewed in detail on various related issues.

Only 40 per cent of the traffickers admitted that they had trafficked in children. Of these, almost 80 per cent stated that the purpose was commercial sexual exploitation. The rest cited non-sexual exploitation, which includes begging, domestic labour, industrial labour, etc. Around 23 per cent of these traffickers said that they indulge in trafficking of children without the consent of their parents and family members. Only 29.7 per cent stated that they always traffic in children with the consent of the family members. According to 46.9 per cent of the traffickers, they obtain the consent of the family members only sometimes. As to who were the family members who gave their consent to the trafficking of children, a staggering 85.7 per cent pointed a finger at the parents. The remaining respondents had obtained the consent of other family members, including stepfathers, stepmothers, uncles, brothers, and even caretakers of orphans. The involvement of parents and other family members in the trafficking of children poses a serious challenge to the law enforcement agencies and even the community. Their informed consent makes them culpable. The law does not exonerate anyone, even if parents are involved in the offence.

On the question of whose help they took for trafficking in children, 62.5 per cent of the respondents mentioned pimps and brothel owners. This was especially so in the case of children who were already in extremely vulnerable situations — be they children of victims of CSE or those staying in brothels. This point has been substantiated by a case study of such children in a Mumbai brothel (No. CS-MH-8).

The motivation for trafficking in children was also examined. The majority of the traffickers said that it was the high demand for virgin girls and young children that motivated them to traffic in children. This pressure comes from clients, other traffickers and other stakeholders in the exploitative world. Three-fourths of the respondents said that they traffic in virgin girls because many clients demand them for safe sex, in view of the popular myth that sex with virgins can cure them of HIV and other serious diseases. Another reason cited was the high premium placed on sex

with children, making it more profitable for brothels and traffickers to traffic in children. Thus, child trafficking is driven by commercial considerations.

The number of children trafficked by the respondents was also analysed. Only 40 per cent of the respondents replied to this question. Of these almost three-fourths admitted to having trafficked in girl children. Among them, over 45 per cent had trafficked up to 10 girls in one group, almost a fifth had trafficked up to 30 girls in a group and 9.4 per cent had trafficked more than 30 girls in a group. Among the respondents who had traded in male children, 6.3 per cent had trafficked up to 10 boys in a group, 14 per cent had trafficked up to 30 boys in a group and less than 7 per cent had trafficked more than 30 boys in a group. Unlike the trafficking of individuals or small groups, mass trafficking is easier to detect and prevent. The fact that these traffickers got away with mass trafficking of children, both female and male points to both the laxity and complicity of enforcement agencies.

Regarding the age profile of the trafficked children, half the respondents had trafficked in children less than 15 years of age, 9.4 per cent had trafficked in children who were under 10, and the rest had trafficked in children belonging to the 16–18 age group. The youngest child who had been trafficked (as stated by one of the respondents) was three years of age. Children below 10 years have been trafficked from Bihar, West Bengal and Tamil Nadu. Children under the age of 16 have been trafficked from Tamil Nadu, Bihar, Goa, West Bengal, Uttar Pradesh, Karnataka and Maharashtra (see Table 9.8).

9.14 Women and child pornography

The traffickers were also asked whether women and children were exploited for pornographic purposes. Under 6 per cent admitted that they had trafficked in women and children for pornography. Trafficking for this purpose had been carried out in Kerala, Karnataka, Tamil Nadu, Andhra Pradesh, Maharashtra and Bihar. Children from Karnataka, Andhra Pradesh and Madhya Pradesh were also trafficked to other countries, such as the Gulf, England, Korea and the Philippines for pornographic purposes. Most of the respondents expressed a marked preference for teenagers. While almost 2 per cent stated that the trafficked persons were used for pornographic photographs, just over a per cent said that they were used for shooting pornographic films. One of the traffickers disclosed that he had seen the pornographic material that had been produced by exploiting the children he had trafficked. Another revealed that the materials was purchased by foreigners.

9.15 Trafficking for non-brothel-based exploitation

The traffickers' role in non-brothel-based commercial sexual exploitation of women/girls was examined. They posed as attendants in lodges, guest houses and massage parlours, and as bartenders in beer bars, to carry out trafficking for CSE. Among the respondents who said that they were involved in such activities, 25 had trafficked up to 10 girls, 9 had trafficked between 10 and 20 girls, and 22 had trafficked more than 20 girls for the purpose of exploiting them as call girls. Moreover, 22 respondents had trafficked up to 10 girls, 12 up to 20 girls and 14 more than 20 girls for purposes of sexual exploitation but under the garb of providing them jobs as receptionists/ attendants in lodges and guest houses. In addition, 14 respondents had trafficked up to 10 girls, 7 up to 20 girls and 19 more than 20 girls for exploitation in massage parlours and beer bars. In recent years, these relatively new avenues of exploitation have been rapidly expanding. They

ensure greater anonymity for clients as well as victims and escape the attention of law enforcement agencies.

9.16 International links

The international links of the traffickers were also probed. A huge 80 per cent did not respond to the question whether they had visited other countries for the purpose of trafficking. Among those who did, well over 10 per cent had visited one country outside India, 8.1 per cent had visited two countries and 1.3 per cent have visited three or four countries. An overwhelming majority of the traffickers (84.4 per cent) stated that the purpose of the visit was to sell/buy girls. The rest had travelled abroad in connection with associated activities, like arranging dance/song programmes and exploring possibilities for trafficking. The places used by traffickers to carry out transborder trafficking include Nepal, Dubai, Muscat, Bahrain, Bangkok, Kenya, South Africa, England and the Gulf countries. During data collection, the respondents also revealed that they had trafficked male children to Saudi Arabia and other Gulf countries in order to make them beg.

9.17 Traffickers and the police

Trafficking is a cognisable offence under ITPA, wherein the police have powers to prosecute the offenders. In this context, the traffickers' links with the police were examined. The majority of the traffickers, 68.1 per cent, said that they had links with police officials (see Table 9.11). The linkages were acknowledged by traffickers in all the states surveyed except the North-East. The maximum number of respondents who spoke about links with the police were from Karnataka, followed by Tamil Nadu. When asked whether the police were aware of their activities, 61.2 per cent answered in the affirmative, 18.8 per cent gave a negative reply and a fifth declined to speak on the issue.

Table 9.11: Traffickers' links with police and politicians

<i>Connections with</i>	<i>Number</i>	<i>Per cent</i>
Police		
Yes	109	68.1
No	43	26.9
No Response	08	5.0
Politician		
Yes	91	56.9
No	58	36.2
No Response	11	6.9

On the question of payment in cash or kind to the police to evade arrest, 77.6 per cent admitted to doing so; the rest said that they did not pay anything to the police. As to the method of payment, 71 per cent stated that they paid in cash and 17.1 per cent said they paid in kind. This includes allowing 'free sex' with the trafficked victims. Nearly 12 per cent refused to respond to this question. The case study on the G.B. Road red-light area (No. CS-DL-1) describes the monetary arrangement between the police and the brothel owners. The latter have to pay the police for 'registering' the trafficked victim in the brothel. That is, once the trafficked victim is brought to the brothel, the police 'makes note' of this by taking a sum of money from the brothelkeeper. If the person is a minor, the amount paid is higher. The brothelkeeper, in turn, 'debits' this amount from the account of the trafficked victim and thereby ensures servitude and debt bondage.

Regarding their attitude to the police, 44.4 per cent of the traffickers said that they were afraid of the police; the rest said that they were not. While 13.1 per cent revealed that they were scared of criminals and goondas, only 5 per cent said that they were afraid of social workers and community members. Well over a third of the respondents stated that they were afraid of no one. These figures indicate the unbridled freedom and impunity with which most traffickers carry on their business, with little to fear from the law enforcement agencies and virtually no challenge from community workers.

9.18 Arrest and jail of traffickers

More than half the traffickers, 52.5 per cent, stated that they had never been arrested. When seen in conjunction with the figure mentioned in the previous section — over 60 per cent of the traffickers stated that the police were aware of their activities — this data raises serious questions about the capacity and willingness of the designated agencies to uphold and enforce the law. As to how they had managed to evade arrest, 18.1 per cent of the traffickers stated that they had bribed the police, 16.9 per cent said that they went into hiding and the rest refused to respond.

Over a third of the traffickers, 35.6 per cent, had been arrested once or twice. Around 6 per cent had been arrested three to four times and 5.6 per cent more than four times. The Immoral Traffic Prevention Act, 1956, has provisions authorising the law enforcement agencies to keep traffickers who have been involved in more than two offences under surveillance.

Among the respondents who had been arrested, a fifth stated that they were never sent to jail. Of these traffickers, 14 persons said that they had managed to save themselves by bribing the police. It is a serious matter that the arrested persons were released, especially when trafficking is a serious and non-bailable offence. Suspects can be let off only when there is no evidence of their involvement, not otherwise. When those responsible for enforcing the law themselves subvert it, tackling the problem becomes that much more difficult.

The grounds on which the traffickers were released from the courts were also examined. Bail, rather than and not jail, appears to be the common practice. The vast majority of those who had been sent to jail, 86.7 per cent, stated that they were bailed out easily. Among them, 48.1 per cent said that they themselves or their relatives paid the bail amount and 51.9 per cent said that it was a broker or brothelkeeper who bailed them out. The practice of leniency in bail matters, as disclosed by the traffickers, relating to the organised crimes of trafficking is cause for grave concern. It needs to be addressed by the criminal justice system, especially the judicial officers and prosecutors who handle such cases.

9.19 Traffickers' vocation, income and expenditure

The study attempted to find out whether trafficking was a full-time job. While 44.4 per cent of the respondents stated that they had no other work, 18.8 per cent said that they doubled up as sex workers. The rest of them had some petty business, probably as a front for their illegal activities. Of these, the majority did not respond to the question as to how much they earned from other occupations. Around 28 per cent stated that their monthly income from other occupations was less than Rs. 5,000.

When questioned about their economic status, the majority of the traffickers placed themselves on the middle of the scale. Regarding their annual earnings and expenditure, most of the respondents were not very forthcoming as they were well aware that trafficking is a crime. However, during the interviews, it transpired that not only the traffickers, but even the law enforcement officials were mostly unaware of any provision in the law whereby illegal incomes (those generated from criminal activities) can be confiscated and forfeited. The investigators therefore managed to extract this information from the respondents with a lot of difficulty. Moreover, extra efforts had to be made by the researchers to reconfirm and cross-check the details, so as to ensure the credibility of the data.

Table 9.12: Annual income from trafficking

<i>Earning (in Rs.)</i>	<i>Number</i>	<i>Per cent</i>
Up to 20,000	17	10.6
20,001– 50,000	26	16.2
50,001–1,00,000	34	21.3
More than 1,00,000	47	29.4
No response	36	22.5

Table 9.13: Annual expenditure on trafficking

<i>Expenditure (in Rs.)</i>	<i>Number</i>	<i>Per cent</i>
Up to 25,000	46	28.7
25,001–75,000	37	23.1
75,001–1,50,000	10	6.3
More than 1,50,000	13	8.1
No response	54	33.8

Around 29 per cent of the traffickers stated that they earn more than Rs. 1 lakh per year from trafficking. A similar percentage stated that their annual expenditure on trafficking was only up to Rs. 25,000. These figures confirm the widely acknowledged fact that trafficking is a highly profitable business, which generates a substantial surplus. In order to understand the net income of the traffickers a state-wise balance sheet of their earnings and expenditure was drawn up (see Table 9.14). The 160 traffickers have a total annual income of Rs. 2,77,46,000, with per head average of earnings of Rs. 1,73,412. Their total annual expenditure works out to Rs. 83,20,666, with an individual average Rs. 52,004. The annual net income of all the traffickers covered by the study comes to Rs. 1,94,25,334, with a per head average of Rs. 1,21,408.

Table 9.14: State-wise annual 'balance sheet' of traffickers (in rupees)

<i>States</i>		<i>Earnings</i>	<i>Expenditure</i>	<i>Net income</i>
Delhi (N=10)	Mean Maximum Sum	2,07,000 6,00,000 20,70,000	84,000 3,00,000 8,40,000	1,23,000 4,00,000 12,30,000
Bihar (N=20)	Mean Maximum Sum	1,92,100 10,00,000 38,42,000	42,000 3,10,000 8,40,000	1,50,100 6,90,000 30,02,000
West Bengal (N=11)	Mean Maximum Sum	1,00,000 1,00,000 11,00,000	10,000 10,000 1,10,000	90,000 90,000 9,90,000

States		Earnings	Expenditure	Net income
Goa (N=16)	Mean Maximum Sum	80,875 8,00,000 12,94,000	32,500 4,00,000 5,20,000	48,375 4,00,000 7,74,000
Tamil Nadu (N=15)	Mean Maximum Sum	1,06,000 6,00,000 15,90,000	30,000 2,50,000 4,50,000	76,000 5,00,000 11,40,000
Karnataka (N=22)	Mean Maximum Sum	76,136 2,00,000 16,75,000	34,772 75,000 7,65,000	41,363 1,50,000 9,10,000
Andhra Pradesh (N=20)	Mean Maximum Sum	71,500 2,00,000 14,30,000	33,600 1,00,000 6,72,000	37,900 1,80,000 7,58,000
Maharashtra (N=18)	Mean Maximum Sum	3,95,277 25,00,000 71,15,000	1,37,425 5,00,000 24,73,666	2,57,851 20,00,000 46,41,334
Uttar Pradesh (N=13)	Mean Maximum Sum	2,44,615 15,00,000 31,80,000	55,384 1,50,000 7,20,000	1,89,230 14,40,000 24,60,000
Meghalaya and Assam (N=5)	Mean Maximum Sum	1,00,000 1,00,000 5,00,000	20,000 20,000 1,00,000	80,000 80,000 4,00,000
Rajasthan (N=10)	Mean Maximum Sum	3,95,000 10,00,000 39,50,000	83,000 3,00,000 8,30,000	3,12,000 7,00,000 31,20,000
Total (N=160)	Mean Maximum Sum	1,73,412 25,00,000 2,77,46,000	52,004 5,00,000 83,20,666	1,21,408 20,00,000 1,94,25,334

In order to identify the causal relationship of two important variables — the number of persons trafficked and the number of times the trafficker was jailed — with the income generated by the trafficker, a multiple regression analysis was carried out. The functional form in the regression analysis can be stated as:

Income = f (no. of persons trafficked, no. of times the trafficker was jailed)

The multiple regression values¹ can be written in a linear equation form as:

Income = 1,59,354 + (527.48 x number of persons trafficked) – (19275.38 x number of times sent to jail).

¹ Regression results: Income generated = f (no. of people trafficked, no. of times jailed)

Independent variables	Unstandardised coefficients		T- value	Significant level
	Coefficients	Std. error of coefficients		
Constant	159354.349	28541.059	5.583	0
No. of persons trafficked by the trafficker	527.483	261.969	2.014	0.046
No. of times the trafficker was jailed	-19275.388	28704.735	-0.672	0.503
R Square = 0.028				

The regression analysis shows that there is an inverse relationship between the income generated by the trafficker and the number of times he or she is jailed. Thus, any laxity in enforcement of the law, resulting in fewer instances of conviction and imprisonment of traffickers, augments their earnings from trafficking.

Often described as the merchants of human misery, traffickers are organised criminals who exploit and trade in helpless women and children. Their complex web of links with other exploiters allows their tentacles to reach far and wide. The data shows that in the given context of distortions of law enforcement and justice delivery, it is the victims of trafficking who are usually punished, with the trafficker having the last laugh. Unless there is a paradigm shift — whereby the traffickers are brought to book, made to compensate for the damage and harm done to the victims, and the illegal assets acquired are confiscated — there can be no justice for the victims and no real solution to the problem of trafficking

9.20 Traffickers' concerns

The study attempted to assess the attitude of the respondents to trafficking. Under two-thirds of the traffickers viewed it as a problem. Around 39 per cent conceded only partially that trafficking is a social evil, while a fourth accepted this for the most part. The rest did not consider it to be a problem at all. The respondents were also asked whether there was any solution to the problem of trafficking. Almost half opined that the problem could not be solved, 43.1 per cent were not sure whether it could and 9.4 per cent replied in the affirmative. The suggestions given by this minority included employment generation programmes in the source areas, self-control by men in the demand areas and NGO intervention in appropriate places. As a corollary to this question, all the respondents were asked as to how they would proceed if they had the power to stop trafficking. A huge 87.5 per cent chose not to answer. The rest of them said that employment generation and poverty alleviation programmes, along with awareness generation at the grass-roots level, were needed to address the problem of trafficking. It is important to note that the suggestions made by the respondents did not include any action to be taken against the traffickers themselves.



Rescued children trafficked for labour and other exploitation

The Action Research on Trafficking in Women and Children has taken a comprehensive and holistic view of the problem of trafficking and tried to cover trafficking of women and children for all types of exploitation. Indeed, at the core of any definition of trafficking should be the recognition of the fact that it is non-consensual and exploitative. And it is this non-consensual nature of trafficking that distinguishes it from other forms of migration. The “Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, (2001)”, which supplements the United Nations Convention Against Transnational Organised Crime, (2000), has provided an expanded definition of trafficking and highlighted its basic exploitative character. It further says that ‘exploitation shall include not only sexual exploitation but also forced labour or services or slavery or practices similar to slavery’.

In India, a large number of children are trafficked not only for the sex ‘trade’ but also for other forms of non-sex-based exploitation that includes servitude of different types, viz. domestic labour, industrial labour, agricultural labour, begging, organ trade, camel jockeying, false marriage, etc. In this chapter, an attempt has been made to study the problems of trafficked children (male and female), victims of these various forms of exploitation, and is particularly focussed on those who have been rescued. In this connection, it is necessary to bear in mind that under the ILO Convention 138, the term ‘Child Labour’ generally refers to any economic activity performed by persons under the age of 14. However, not all work performed by children is detrimental or exploitative. Child labour of concern is generally that which prevents effective school attendance or is performed under conditions hazardous to the physical and mental health of the child.

As the outset, it needs to be clarified that at present, there is no one clear legal definition of the child. The legal definition varies with the specific legislation. Under the Child Labour (Protection and Regulation) Act, 1986, a child means a person who has not completed fourteen years of age. Under the Juvenile Justice (Care and Protection) Act, 2000, the age is 18 years for both boys and girls. The Convention on the Rights of the Child (CRT) defines a child as “every human being below the age of 18 years”. This definition is also reiterated in the U.N. Convention against Transnational Organised Crime. This study has accepted the definition of the child under the Juvenile Justice Act as one who is below 18 years of age.

During the course of the Action Research, the researchers interviewed a large number of children rescued from different types of exploitative situations. Locating the rescued children was a difficult and daunting task. It was found that many rescued children had been repatriated to their native places and hence, could not be contacted. The researchers also interviewed only those child victims who had been trafficked. Finally, 510 children trafficked for non-sex-based exploitative

purposes, spread over 12 states, could be interviewed. Ample care was taken by the researchers to keep the sample broad-based by including children rescued from different forms of servitude in different parts of the country. Analysis of the rich harvest of primary data thus collected throws revealing light on the socio-economic background of the trafficked children, the nature of their exploitation after being trafficked and the factors and forces that pushed them to this abyss.

Personal profile

Age: Out of the 510 rescued trafficked children (hereinafter called ‘victims’) who were interviewed, 63.3 per cent were under 15 years of age, which included 14.7 per cent in the age group of six to 10 years and 21 per cent in the age group of 11-12 years as well as 27.6 per cent in the 13-14 years age bracket. Those children who were 15 and above included 24.7 per cent in the age group of 15-16 years and 11.4 per cent who were above 16 years of age. The rest of the children (0.6 per cent) could not state their age. Among the respondents, 71.4 per cent were males and the rest were females. This happened because the interviewers in this research had greater access to rescued male children and, therefore, this gender disproportion should not be considered as representative of the entire universe of trafficked children.

Education: The education profile of the victims was also looked into by the researchers. It was found that whereas 12.3 per cent have studied up to a maximum of the second standard, 16.7 per cent up to the third or fourth standard, 9.4 per cent up to the fifth standard and 10.8 per cent above the fifth standard, the majority, i.e. 50.8 per cent of the victims, had never been to school or had any education. Illiteracy looms large as one of the most crucial vulnerability factors in trafficking.

All the 251 children who had some schooling had eventually dropped out from school and, therefore, they were questioned about the reasons for the same. While 34.3 per cent had to leave school due to poverty and 27.9 per cent had to discontinue studies in order to supplement the family income, a miniscule section of 2.8 per cent children were disinterested in studies. More importantly, in respect of 11.9 per cent of the respondents, their family members had sold them even while they were studying. The rest of them had left their studies due to various reasons including physical abuse by relatives.

The dropout children (251 nos.) were further asked about their age at the time they had left their studies. While 2.8 per cent had to drop out when they were only six years old or less, 45.8 per cent had to drop out when they were between seven and 10 years of age, 29.9 per cent were made to drop out when they were between 11-14 years old and the rest when they were above 14. This shows that many of these children were forced to discontinue their studies even before they entered their teens.

The data thus clearly points to the fact that illiteracy is one of the most important vulnerability factors behind trafficking of children. As the parents of most of these children are poor and lack basic education, they find it difficult to send their children to school. And unless children are able to go to school, it will not be possible for them to break out of the illiteracy trap. The burden of being unlettered will continue to haunt them.

Family history: The general perception is that child labourers come from families with large number of children and parents are often compelled to send one or more of their children to work since they cannot afford to send all of them to schools. Girls are particularly in a very disadvantaged position. Very often, they are sent to work in order to enable their brothers to attend school.

The data collected from the field, however, presents a somewhat different picture. The respondents were asked about the number of children in the age group of five to 14 years in their families. Significantly, 51.0 per cent of the respondents had only one male child in their family, 32.2 per cent had two male children and only 16.8 per cent had three or more male children in their family. Similarly, 51.6 per cent of the respondents had one girl child in their family, 28.2 per cent had two girl children and only 20.2 per cent had three or more girl children in their family.

Again, the parents of most of the children were uneducated, if not illiterate. Only 1.9 per cent of the children had parents who had studied up to the middle level and the parents of 1.8 per cent had studied up to higher secondary. Parental vocations included activities like labour, gardening, rickshaw pulling, carpentry, etc. Some parents were also watchmen, weavers, gardeners, etc.

Economic condition: Conscious efforts were made by the researchers to gather data about the income of the families of the trafficked victims. While 38.6 per cent of the respondents' families had monthly incomes up to Rs.500, 20.8 per cent had incomes up to Rs.1000, 28.4 per cent had incomes up to Rs.2000 and only 12.2 per cent of the respondents had monthly incomes above Rs.2000. The majority of the respondents had one earning member in their families. On the whole, most of the respondents hailed from poor and deprived families.

Age at the time of trafficking

Among the 510 victims, 12.9 per cent could not recollect the age at which they were trafficked. While 37.8 per cent were 10 years or under when they were trafficked, 41.7 per cent were in the age group of 11-14 years and 7.6 per cent were between 15 to 17 years. This shows that more than three-fourths of the respondents were trafficked when they were less than 15 years of age. Apparently, vulnerability to trafficking is inversely proportional to age.

Persons responsible for trafficking

The primary data shows that in a large majority of the cases, the family members or persons known to the family, though not related, were responsible for trafficking the children. According to 39.6 per cent of the respondents, either their family members or their relatives were responsible for trafficking them and 53.5 per cent said that persons known to the family, though not related, were responsible. Only in 6.9 per cent of the cases, the traffickers were total strangers. Many of the respondents in this category stated that they would be able to identify these strangers. This is an important point to be taken note of by the law-enforcement authorities. In many cases, careful and sustained interviewing of the trafficked victims by the investigating officials may provide useful clues to trace out and detect these strangers responsible for trafficking the children.

Modus operandi of the traffickers

Nearly 75 per cent of the respondents stated that they were tricked by the promise of lucrative jobs. Most of the respondents hailing from poverty-stricken families could not resist the blandishments. While 5.9 per cent of the respondents (who were girls) were deceived by false promises of

marriage, 3.3 per cent were taken in by the lure of adoption, which turned out to be a ploy for trafficking. Thus, the traffickers changed their *modus operandi* after taking into account the typical vulnerabilities of the victims.

About 45 per cent of the respondents further stated that they had gone with the traffickers of their own volition. But searching interviews revealed that they were actually beguiled by the tempting promises of the traffickers. Further, consent is immaterial in the case of children and it has no legal validity.

Significantly, in a large number of cases (41.2 per cent), the children were forced by their parents and family members to go with the traffickers. To understand the motivations of the family members who threw them into the clutches of the traffickers, the respondents were asked as to whether their parents or family members had received money from the traffickers. To this query, 28 per cent answered in the affirmative and 38.7 per cent in the negative. The rest did not know if any such transactions had taken place. The respondents who replied in the affirmative were further quizzed to find out who had taken the money. Among these 143 respondents, 68.5 per cent stated that their parents had taken the money and the rest of them said that their relatives had accepted the money. Very often, the amount of money paid to the parents was paltry. In a majority of the cases, the traffickers did not pay more than Rs.5000 and could thus acquire their human cargoes at absurdly cheap prices. This poignantly highlights the tragic vulnerabilities of the benighted children and the limitless scope for their exploitation.

Trafficking is a fragmented but, at the same time, an organised operation. In the chain, there are pimps and procures who aid and abet traffickers in their heartless but lucrative operations. The traffickers are also dexterous and devious in their operations. They very often utilise some known contacts for trapping the victims.

Group trafficking

Respondents also revealed that there were cases of group trafficking, when a large number of children from the same village were lured away by the traffickers. As many as 54.1 per cent of the respondents said that group trafficking was often done from the same village and many of the groups included more than four children.

Transit

Even during the transit, the children were subjected to physical torture and exploitation. Failing to withstand it, some of them tried to escape from the clutches of the traffickers. Among the respondents, 24.1 per cent stated that they tried to escape while in transit whereas 75.9 per cent did not try at all as they were numbed by fear. Among those who tried to escape, quite a few spoke of various forms of physical and mental torture and exploitation and some (1.6 per cent), even of sexual abuse.

Food supply

As regards food supply, whereas 49.2 per cent of the respondents expressed the view that the quantity was sufficient, the others felt otherwise. Similarly, 41 per cent considered the quality of food served to them as average and the rest were positively unhappy about the quality of the food. However, the majority of the respondents had serious grievances regarding non-availability of

other essential items like clothes, bedding, soaps for bath, footwear, etc. Again, the majority of the victims (82.5 per cent) stated that there were no fixed hours of work and the exploiters wanted to extract maximum work from them, often making them slog for long hours.

Income

Income of the respondents was looked into. The data given in Table 10.1 shows that compared to the workload and long working hours, the wages received by the trafficked victims were very poor. This constitutes a very serious violation of their human rights and cruel exploitation of their helpless situation. In most of the cases, wages of the trafficked victims were collected by their family members or brokers/agents. In this connection, it is worth mentioning that though the trafficked children are grossly underpaid, the traffickers make an enormous profit from this 'trade in misery'. Case study No. CS-TN-28 uncovers the staggering profits that accrue to the traffickers.

Table 10.1: Monthly income of the respondents (in Rupees)

<i>Income categories</i>	<i>Number</i>	<i>Per cent</i>
Upto 300	92	18.0
301– 600	71	13.9
601 – 900	32	6.3
901 – 1200	32	6.3
Above 1200	24	4.7
No Income	259	50.8
Total	510	100

Sexual abuse at the workplace

Most of the 510 respondents did not reply to this embarrassing question. However, 64 respondents (12.5 per cent) stated that they were sexually abused at the workplace. This includes 46 boys and 18 girls and the sexual abusers were mostly the employers, staff of the employers, employer's son and sometimes, the senior co-workers.

Rescue operations

Most of the respondents were rescued by the police, some by the officials of the Labour Department and others by NGO activists. A number of respondents were able to free themselves from the clutches of the exploiters by running away from the hellholes and in some cases, they were rescued by their parents, relatives and friends. It is unfortunate that very few have been rescued by the officials of the labour department, on whom devolve the key responsibility of preventing exploitation of child labour. The majority of the respondents also talked about the unsympathetic, non-caring and unsupportive attitudes of the rescuing officials. This calls for an agonising re-appraisal of the present manner and strategies of rescue operations. Association of responsible NGOs in rescue operations, as has been suggested in some foregoing chapters, has to be seriously considered.

Conditions in the rescue homes

Most of the rescued victims were lodged in rescue homes, where many of them were also interviewed. They were asked to comment on the existing facilities at the rescue homes. Their level of satisfaction is reflected in Table 10.2:

**Table L-2: Satisfaction level of different services
in the rescue home**

<i>Available facilities</i>	<i>Percentage of satisfaction</i>
Toilet	39.6
Bathroom	37.6
Sleeping place	41.4
Clothes	38.6
Health facilities	38.2
General hygiene	40.2
Food	41.4
Staff behaviour	37.8
Behaviour of inmates	35.1
Recreational facilities	33.1
Security	46.3

The table reflects the high level of dissatisfaction among the victims regarding the facilities in the rescue homes. Indeed, conditions in most of the rescue homes were far from satisfactory and the situation calls for corrective interventions.

Exploitation at the workplace

Research also uncovered ruthless exploitation of trafficked children at the workplace and the various forms and manners of exploitation. A case study from Punjab (case study No. CS-PB-2) provides a grim account of children trafficked from West Bengal and forced to work in different jewellery establishments in Guru Bazar in Amritsar. The children were forced to work for long hours for measly wages and subjected to horrendous physical and mental exploitation. According to 53 minors who were later rescued by the police from these sweatshops, their parents were assured by the contractors that they would be offered handsome wages. But in reality, they had to work under the most difficult and unhygienic conditions and kept in dungeon- like rooms and never allowed to return home. Guru Bazar in Amritsar is known for fine jewellery. In jewellery workshops, as in many others, children are preferred as artisans because they work for long hours with small wages. Moreover, they are more docile and easier to manage than adults.

Performance in the circus

Many other cases uncovering various forms of cruel and heart-rending exploitation of children came to light during the action research. One such is abuse of children in a circus troupe. For case study No. CS-DL-03, the researchers of ISS interviewed 13 young girls who were rescued from a circus troupe in Delhi. The rescued children, aged between eight to 21 years, were trafficked from different districts of Nepal and brought to Delhi to work in circus troupes. They were lured by the promise of handsome salaries to be earned by working in the circus. They were also excited at the prospect of leading glamorous lives. In the circus troupe, the children had a harrowing time and were often beaten up by the trainers for the slightest mistake. They were paid a beggarly amount of Rs. 5 a day for performing in three shows in the circus. These girl children were also subjected to sexual exploitation by men working in the circus. They were under constant surveillance and not allowed to step outside the circus arena. The rescue of the girls was made possible by the intervention of two NGOs of Nepal, namely, ABC Nepal and Pravasi Nepali Mitr Manch. In fact, the officials in the National Study Team had facilitated the rescue and post-rescue activities. The study shows that Nepali girls are lured to join Indian circuses on the pretext of 'learn work and

also earn'. At times, parents themselves send their children to Indian circuses, as they see no harm. They are seldom able to contact their children as the circus is always travelling and, therefore, never come to know the problems and agonies of these children.

Camel jockeying

Focus group discussions with certain police officials in Chennai, who wanted to remain anonymous, and with NGOs, namely Socio-Legal Aid Research & Training Centre (SLARTC, Calcutta) and Bangladesh National Women Lawyers' Association (BNWLA, Dhaka), exposed another form of cruel and exploitative use of children, i.e. for camel jockeying. Only very young boys are trafficked to serve as camel jockeys. They have to be young and small-built in order to be light on the camel's back. They are tied to the backs of the camels so that they do not jump off in fright during races. The ropes that are used to bind the children to the camels sometimes become loose and the boys can be thrown off the camel and dragged between its legs over stones and sand. The boys are also underfed to reduce the burden on the camel. Children who fall to the ground are often trampled to death by other camels on the track. The camel races are popular in the United Arab Emirates. In 1993, the Camel Jockey Association of the United Arab Emirates prohibited the use of children as jockeys but these rules are often honoured in the breach.

As reported in the press, a number of Bangladeshi boys were rescued in India while being trafficked to become camel jockeys. The normal route taken by the traffickers is to reach Calcutta from the Bangladesh border and thereafter, to take trains to Chennai and Bangalore and from there, to take flights to the Middle East. Documents are fabricated to escape the notice of law-enforcement agencies. Peter Beaumont of *Observer International* has reported that "the trade in boys for camel racing has long been the subject of a campaign by both the UN and Anti-Slavery International. Evidence, however, suggests that the practice is becoming more prevalent".

So far, there are only a few instances in which action has been taken against the traffickers responsible for trafficking children from Bangladesh to India and the Middle East for camel racing. This is a serious organised crime and constitutes an egregious violation of human rights. In case study No. CS-TN-2, instances of trafficking of children for camel racing and their brutal exploitation by the traffickers have been documented. Determined action by Indian and Bangladeshi authorities acting in unison to put an end to this grotesque transgression of human rights is called for.

Begging

A large number of children are trafficked for the purpose of begging. Here, children with physical disabilities are in the most vulnerable position. Poverty and physical disabilities are the ideal combination for children to be trafficked. As disabled children induce sympathy among the alms-givers, this puts the child beggar at serious risk of being deliberately maimed in order to increase his or her earning potential. Case study No. CS-WB-23 uncovers the sinister ploy of drugging of children for the purpose of begging. After drugging the child, the so-called beggar uses the sleeping toddler to evoke compassion and seek alms. Some poor parents who cannot feed their children earn money by renting out their children on a daily basis to these beggars. This case, which was unearthed by the researchers after persevering efforts, is likely to be the tip of the iceberg. Many other children are probably being abused in a similar manner. Though the researchers could not ferret out further information, it is likely that a network is operating for the exploitation of children

in this manner. Further thorough investigation by law-enforcement agencies and action to expose the network is called for.

Children are exploited for begging not only inside the country but outside also. There are press reports as well as other reliable secondary data regarding trafficking of children to Saudi Arabia for begging during the Haj. In 1997, a large number of Bangladeshi children were deported to India from Saudi Arabia, where they were taken on the pretext that they would visit Mecca. Indeed, they remained in the country and were forced to beg from the pilgrims there. On their return to India, it was discovered that several of them had broken limbs. It has been further reported that the traffickers are not only well-organised but also understand the supply market well. By sending the children to Mecca, the agents not only ensure profits but also cater to the religious sentiments of the parents, who, as devout Muslims, feel happy and elated when their children get the chance to travel to Mecca for free.

Domestic services

Trafficked children are also used for cheap domestic services. The use of domestic servants in the homes of upper class and middle class families is one of the most widespread forms of child labour. Children employed in domestic work live within the confines of private homes and thus remain 'invisible'. Case study No. CS-GA-11 speaks about the trafficking of children for domestic labour in Goa. Case study No. CS-TN-16 highlights the plight of children trafficked for domestic labour from Tamil Nadu to Kerala. Most of the trafficked children were school drop-outs or had never been to school. The parents were agricultural labourers or domestic wage earners, who, because of grinding poverty, were not in a position to feed their children. In Tamil Nadu, districts like Salem, Virudhanagar and Villupuram are known vulnerable areas for trafficking of children for domestic labour.

The case studies show that the procurement of child domestic workers has become commercialised and is highly exploitative. Sometimes, relatives are also involved. The common perception that domestic servants work in a protected environment has been negated by the findings of the study. On the contrary, these children are highly vulnerable to exploitation and are difficult to protect because of their young age and also because they are confined to the household, with very little contact with the outside world. The child domestic workers are often recruited by brokers and agents. Children from poor rural families, many of them as young as six to 10 years old, are recruited. They are subjected to horrendous working conditions. Very often, they are made to work for seven days a week, with no holidays and little time for leisure and rest. Most of them are illiterate and are not allowed to attend school. They remain separated from their families for long periods of time and are not allowed to visit them. Child domestic workers are often made to sleep in bathrooms, terraces, open courtyards and are generally not given proper bedding.

Case study No. CS-TN-16 illustrates how children brought for the ostensible purpose of domestic labour are often abused sexually, since children are in great demand for sexual purposes. The parents do not file complaints to the police either because of ignorance or because trafficking takes place with their knowledge. An illegitimate act is thus legitimised.

Case study No. CS-GA-11 shows how domestic child workers in Goa are brought from different parts of India through agents. The agent takes money from the parents of the child and

the employer as well. He is the contact person for both the parents and employers. Conditions of work are terrible. The victims live in the houses of the people employing them and on an average, earn less than Rs.500 per month. The Goa case study also shows that 85 per cent of the domestic child workers are girls.

Trafficking for adoption

Trafficking for adoption is another sinister game of the traffickers. Case study No. CS-AP-6 gives a first-hand account of trafficking for adoption in Andhra Pradesh and case study No. CS-GA-13 deals with the same issue in Goa. In this connection, the complexity and dimensions of this burgeoning problem require elaboration. The need for giving up children for adoption arises in situations where the biological parents or near relatives are not able to look after the child or when the child is abandoned, with no trace of the parents. Generally speaking, Indians are not very enthusiastic about adopting children, and even when they do adopt, the preference is for boys rather than girl children. In contrast, because of widespread unavailability of children for adoption in developed countries, there is great demand for Indian children for adoption and this has prompted many undesirable organisations and unscrupulous individuals to become active in trafficking of children for adoption.

Some tribal communities in Andhra Pradesh (particularly the Lambada community) have featured as prominent supply sources for inter-country adoptions. Sale of children has been reported from Lambada habitations in Rangareddy, Nalgonda, Medak and Mahboobnagar districts of Andhra Pradesh. Sale of children from Salem district in Tamil Nadu has come to notice following cases of thefts of babies from hospitals. Gender discrimination, extreme poverty and underdevelopment of rural communities are some of the main causative factors behind the sale of children by their parents.

It has come to notice that the racketeers employ middlemen (or middlewomen), who go to villages to procure babies and then resell them to institutions or individuals, who in turn sell the children to foreign adoptive parents at a very high price. Case study No. CS-AP-6 reveals that in Andhra Pradesh, agents appointed by the adoption agencies are paid small amounts to go to poverty-stricken areas of the state and lure parents to sell their babies. Some agencies in Nalgonda district are known to have even paid the husbands of pregnant women as advance booking. In some cases, children have been procured by adoption agencies through kidnapping or lifting of babies from hospitals and nursing homes. Some of these middlemen/agents also include nurses working in primary health centres, government hospitals as well as private hospitals. Some of the dubious agencies involved in the trafficking of children for adoption have figured in media reports. The case of Precious Moments Adoption Centre of Hyderabad, as reported in the press, is typical. The police busted the racket and found that the institution had been procuring children by obtaining relinquishment deeds from biological parents in favour of the institution. The police seized a number of relinquishment deeds that were false and fabricated, and were unable to trace most of the biological parents whose names figured in the deeds.

In this connection, it may be mentioned that the Supreme Court of India, in the case of Laxmikant Pandey vs Union of India (WP, CrI No. 171/1982), looked into the complaints of malpractices indulged in by social organisations and voluntary agencies engaged in the work of

offering Indian children in adoption to foreign parents and laid down the requirements in the matter of inter-country adoptions. The Apex Court held it desirable that a Central Adoption Resource Agency (CARA) be set up by the Government of India, with regional branches, so that they can act as clearing-houses of information and forward applications of foreigners to one or other recognised social or child welfare agencies in the country. The Court also opined that the practice of demanding large sums of money in consideration of giving a child in adoption is a pernicious practice, which is “really nothing short of trafficking in children.”

In pursuance of the directives of the Supreme Court, the Ministry of Social Justice and Empowerment has set up the Central Adoption Resource Agency (CARA), which regulates and monitors the working of the recognised social/child welfare agencies in both in-country and intra-country adoptions and provides guidelines for the adoption processes to be followed. The Ministry of Social Justice & Empowerment also notified, on 29th May, 1995, the Revised Guidelines for Adoption of Indian Children, 1995 to regulate inter-country adoption. Various state governments have also issued orders with regard to adoption cases. The Andhra Pradesh government has issued an order prohibiting biological parents from relinquishing their children to orphanages on grounds of poverty. Indeed, there is need not only for a comprehensive national legislation dealing with various issues linked with adoption to safeguard the interests of children, but also for effective implementation of the court ruling, the legal provisions and administrative orders.

Organ transplant

In the course of the action research, it came to notice that traffickers were luring poor people, including children, to donate their organs by offering big sums of money. Case study No. CS-PB-1 shows the *modus operandi* of the traffickers and their middlemen, who hoodwink people to sell their organs. The donors, who are mostly poor people, are categorised by their blood groups and thereafter, lawyers file false affidavits on behalf of the donors as well as the recipients. The operating doctors conduct laboratory tests for the donors in a diagnostic centre and charge between Rs.75,000 to Rs.1,25,000 as fees for conducting illegal kidney transplants. The donors get only about 15 to 20 thousand rupees for donating a kidney and most of the money is pocketed by the traffickers and their middlemen. After the kidney transplant takes place, the donors are quickly released from hospital. There are many instances where donors have died due to lack of post-operative care. Recently, during investigation of illegal kidney transplant cases, the Punjab Police have uncovered the murky role of some doctors, hospital managers and members of the Authorisation Committee, who were acting in cahoots with the traffickers.

However, it may be mentioned in this connection that similar organ transplant cases, particularly kidney transplant, occur all over the country. A huge transplant industry has grown up in India after drugs were discovered in the seventies to control the body's rejection of foreign objects. The World Health Organisation (1991) viewed the commercialisation of human organs as “a violation of human rights and dignity” and enunciated a guiding principle which states that “the human body and its parts cannot be the subject of commercial transaction”.

Before the Organ Transplantation Act, 1994, there was no legislation in India prohibiting the sale of organs. The Organ Transplantation Act, *inter alia*, establishes an Authorisation Committee to grant approval based on fulfillment of specified technical and medical requirements. The Act

has been ineffectual because of weak and tardy monitoring at the level of the Authorisation Committee. Documents presented to the Authorisation Committee continue to be forged since no mechanisms have been put in place to verify the correctness of the papers submitted. Moreover, proper implementation is wanting in many states.

Most countries require living donors to be family members or allow organs to be removed from cadavers, usually accident victims. Because of the stringent rules regarding organ transplants in other countries, India (along with China) has become a big centre for organ transplantation.

Many doctors are also worried about the long-term consequences of these activities. They point out that a number of HIV positive patients are trying to sell their kidneys to earn a living. The trade in human organs has been widely condemned because of its financially exploitative nature and its abuse of medical ethics. Vigorous implementation of the Organ Transplantation Act is called for to curb this cancerous evil.

Trafficking for marriage

Two interesting case studies (case study Nos. CS-AP-1 and CS-AP-17) have revealed how minor girls are sent to Arab countries after marrying them to Arab nationals. A number of brokers and agents are involved in these operations. They try to convince the parents to give up their daughters in marriage by luring them with handsome offers of money and hopes of bright lives for their children. Foreigners intending to marry young girls engage middlemen to locate suitable brides. Hyderabad has become a frequent destination of many of these persons. Agents of the Arab nationals scout the city for pretty girls from vulnerable families. After the marriage takes place, the girl is made to leave her house without giving the parents time to check the antecedents of the groom and the credibility of the agents.

After some time, the Arab national leaves the girl and she is left at the mercy of the brokers. The brokers then sell the girls to the brothels of Mumbai, Pune, etc. However, as the parents of the victims are ignorant of the law and their rights, they seldom come to the police to lodge complaints. In a study done by an NGO (Prajwala) in Hyderabad, many such cases of trafficking of girls for fake marriages have come to notice. It is, however, a crowning pity that no effective intervention has come either from the civil society or law-enforcement agencies to stamp out this deleterious practice.

Debt bondage

Case studies have also revealed instances where, in return for money advance or credit, a person has pledged his labour or that of a child for an indefinite period of time. Children, thus, become commodities in the process. Parents pledge them like chattels to pay off their debts. The initial loan for bondage can be quite small. However, the borrowing family is illiterate and not able to understand the interest calculations of the loan-givers. Written agreements are viewed as unnecessary and interest rates can be exorbitantly high.

It is an unfortunate fact that, despite the enactment of the Bonded Labour System (Abolition) Act, 1976, the reprehensible bonded labour system, in some form or the other, prevails in different parts of the country. “We have to go a long way to wipe out this outrage against humanity,” said the Supreme Court in the case of *Bandhua Mukti Morch vs. Union of India* (AIR 1984/SC).

Conclusion

The foregoing analysis uncovering the brutal exploitation and sufferings of victimised trafficked children is also a pointer to the wider and far more intractable problem of child labour in the country. The research study has shown how benighted children work for long hours for a pittance in extremely miserable and exploitative conditions. Indeed, the Dickensian world of child labour is spread all over the country and not limited to one region alone. Unfortunately, the problem of child labour, and the concomitant problem of trafficking of children for this purpose, persists because of lack of enforcement of existing legal and constitutional provisions. The traffickers are thus able to function with impunity.

The Indian Constitution provides an impressive set of rights for children. Article 24 of the Constitution prohibits employment of children below the age of 14 years in any factory, mine or other hazardous activities. Article 39 of the Constitution lays down that childhood and youth should be protected against material and moral abandonment. Article 45 provides that the state shall endeavor to provide, within ten years from the commencement of the Constitution, free and compulsory education for all children until they reach the age of 14. Further, Article 32 of the UN Convention on the Rights of the Child, which was ratified by India in December 1992, provides that “the state parties recognise the right of the child to be protected from economic exploitation and from performing any work that is likely to interfere with the child’s education and to be harmful to the child’s health or physical, mental, spiritual and social development”. The 93rd Constitution Amendment, which has inserted Article 21A, provides for free and compulsory education for all children of the age of six to 14 years in such a manner as the state by law may determine. This may be interpreted to mean that any work hazardous or non-hazardous which blocks children’s access to education violates Article 21A. In its Annual Report (1995-96), the National Human Rights Commission has unequivocally expressed the view that the problem of child labour will persist until compulsory education for all children up to 14 years of age is realised. Indeed, poverty cannot be held as an excuse for child labour. Poverty has not prevented many developing countries from making primary education compulsory. It may also be mentioned that in many countries, diffusion of mass literacy preceded the industrial revolution and there was introduction of primary education by governments when the levels of poverty were high. Modern states regard education as a legal duty and not merely a right.

Child labour and its exploitation is a complex issue and a multi-pronged strategy is required to deal with it. A very important step to counter it is the proper enforcement of existing legal and constitutional provisions. A strong political and societal will is necessary for this purpose. Unfortunately, it has been found to be missing so far.



Migration and trafficking

Introduction

Migration is understood simply as a process of movement by people from one place to another, with an objective in mind. It is however, a process of some complexity. M.S.A. Rao states, "...it is a shift in the place of residence for some length of time..." (*Rao 1986: 19*) and is rooted in the economic, socio-cultural, ecological and political realities of a society. It is while examining trafficking in all its dimensions, that one's attention shifts to migration. The concern of this focus is mainly a search for more effective strategies, to combat trafficking, especially in the area of prevention, without violating the rights of migrants.

Radhika Coomarswamy's report provides important indicators for the possible intersections between trafficking and migration (*United Nations 2000*). The two recent reports published by Raymond and Blanchet have made this relationship the basis of their studies. The relationship is stated to be important because an understanding of migration trends and patterns; factors promoting migration; and the processes involved in migration; will play an important role in combating trafficking (*Raymond 2002*). Unlike the relationship between trafficking and other phenomena, migration and trafficking appear to intersect at almost all levels. It seems that the exploitation of migration by trafficking is the dominant nature of this relationship. Evidently, they first intersect at the crossroads of physical movement. At a structural level it looks as though migration provides the basis and the context in which trafficking occurs. The fact that these contexts create a high degree of vulnerability for the people within them is apparent. That the character of the migration process provides the opportunity and means for the enactment of trafficking is undeniable. The relationship between these two processes suggests a possibility that trends in migration influence trafficking. This chapter is an effort to understand this linkage and influence.

Movement

The commonality of the element of movement between the phenomenon of migration and trafficking is the central factor around which this relationship is built. This gives rise to a need for some clarifications at the conceptual level in the Indian context. In the international discourse on trafficking, physical movement to a site of exploitation is an inherent component of the concept. Coomarswamy also states that trafficking is distinguished by a combination of coerced transport and coerced end practice (*United Nations 2000:9*). However, in the Indian discourse on trafficking, traditional practices followed by Indian tribal populations and the practice of bonded labour creates a dilemma. In such cases the site of exploitation and the place of origin may be the same. These are classified as cases of trafficking, although the component of movement is missing. This particular argument

then, points towards a need for further classification and exploration into the question of how people end up in various exploitative circumstances. For instance, should traditional practices be considered a distinct form of recruitment in commercial sexual exploitation or should they be classified under trafficking? If they were to be classified as distinct categories, then it would be possible to have cases of trafficking within recruitment practices based on tradition. Similarly in cases of bonded labour, a distinction may need to be made – between a migrant bonded labour (mostly trafficked) and local bonded labour (*Human Rights Watch 1995*). These arguments are not applicable in the case of children.

Illegal migration and smuggling

Due to the common component of movement, there is also a lack of clarity in the understanding of the relationship between illegal migration, smuggling and trafficking. These are not overlapping concepts as they are sometimes mistaken to be. The second part of the UN Convention on Organised Crime clarifies the distinction between a smuggled migrant and a trafficked person, the main distinguishing factor being that of coercion (*Gallagher 2001*). Smuggling refers to a process by which an agency is used to enter a country illegally. This agency is paid for the service either financially, or in the form of material benefit. Smuggling usually suggests an illegal entry into a foreign country; but human trafficking does not necessarily involve border crossing (*Icduygu and Toktas 2002: 29*). Exploitation is a key element in trafficking, whereas it is not the ‘foremost’ characteristic of smuggling. They also differ in terms of the timeframe of the relationship and profit source (*APHRN 2002*).

Illegal migration has many variants and refers to people who are without a legal status in the country of residence. This could happen through being smuggled into the country or extending their stay beyond the valid visa dates. The “difference between trafficking and irregular migration is in the level of control that the migrating person has over his/her own actions.” (*Briain 2001: 2*). Misunderstandings arise mainly due to the likely occurrence of human rights abuses in people smuggling; the lack of sufficient and reliable data because of the illicit nature of these types of migration; and the ability of traffickers to manipulate these processes, to achieve their ends (*APHRN 2002: 30; Skeldon 2000*).

The exploited migrant and a trafficked person

The issue of consent in physical movement brings to fore, the problem of distinguishing between an exploited migrant and a trafficked person. Trafficked people do not have the opportunity of informed consent with respect to the experiences they undergo (*United Nations 2000; ESCAP 2003*). Cases of exploited migrants are offences in themselves, but they need not be cases of trafficking. However, the majority of trafficked people will be exploited migrants. The decisive factors in distinguishing between the two will be, the nature of consent; the intention of the agency (that is responsible for them being in that position) involved; and in addition, the difference between the information made available at the start of the journey as compared to the circumstances they find themselves to be in at the end of the journey. Phil Marshall raises the question of the stage at which a contract dispute would become exploitation. A difficult and complex situation arises when migrants agree to work and accept exploitative relations, perceiving themselves “to be better off than if they stayed home”. Even in the case of a clear distinction, a difficult situation

may arise when a “raid on a brothel identifies a 17 year old migrant as a trafficking victim and an 18 year old as an illegal migrant and illegal sex worker”(Marshall 2001).

Relationship at the contextual level

The nature of the relationship between migration and trafficking is characterised mainly by the exploitation of migration through the phenomenon of trafficking. This exploitation occurs at the structural (contextual) level as well at the process (operational/action) level of the two phenomena. At the structural level the migration phenomenon, involving a shift in physical space from a place of origin to a place of destination and its multiple associative aspects, provides the basis for and the context in which trafficking is enacted. It is this population movement, moving for different durations (permanent, semi-permanent and temporary) (*Srivastava and Sasikumar 2003*) and reasons, which provides the backdrop to trafficking.

The scale of the migration process indicates the pervasiveness and normalcy of the phenomenon and “it spans all countries and virtually affects every town, village and rural area of the world”(IOM *n.d.: 10*). The 1991 Census of India revealed that internal lifetime migrants (migrants by birthplace) totalled 222.6 million. Female persons constituted 168 million of this number; the ratio of female migrants to the total female population was 40.3 per cent, whereas the ratio of male migrants to the total male population was only 13.9 per cent. “Recent evidence based on NSS figures for 1992-1993 and 1999-2000... suggests an increase in migration rates – from 24.7 per cent to 26.6 per cent over the period. This evidence suggests that the proportion of migrants of both sexes, in both rural and urban areas, increased during the last decade of the 20th century”(Srivastava and Sasikumar 2003).

The circumstances and situations that influence migration are usually examined in terms of push and pull factors. Push factors are associated with sending regions and pull, with receiving regions. These factors are inter-dependent, and are classified as economic, political, socio-cultural or environmental in nature. The push factors include: growing inequalities in wealth between and within countries; economic decline; lack of economic opportunities and under-development of an area, characterised by poverty, under-employment, landlessness and impoverishment among rural populations; discrimination; population pressure; harsh economic policies; limited access to resources; lack of opportunities for local employment that would allow women to explore better jobs, or acquire greater skills to obtain a more secure future; and lack of basic subsistence. The pull factors are listed as: real or perceived differences in wages; more and better employment opportunities in destination areas; demand for female migrant workers in more developed regions; an economic boom in destination areas; a growing number of women and men in destinations who relegate domestic work to hired help; and the increasing acceptance of the practice of prostitution.

A dynamic relationship between two regions, involving the interplay of various factors, results in migratory streams, patterns and flows. Some of these are more likely to provide contexts in which people become vulnerable to traffickers. For instance, trafficking is most likely to occur in the context of labour migration, as migration propelled by factors of labour demand and supply, is a dominant mode of migration. Blanchet describes trafficking as an aspect of migration, which occurs in the context of labour migration (*Blanchet 2002*). Political instability, inequalities, natural disasters, discrimination, and violence within the family, are some of the other factors, which

create contexts in which migration is usually undertaken, and in which trafficking is likely to occur. Some other contexts and how people become vulnerable in these contexts are dealt with below. An important reason for the creation of push and pull factors encouraging population movement is the uneven development of regions. Contrary to popular perception, a study of trafficking found that “developed areas with improved infrastructure have invariably been the source as well as the destination of trafficking in women” (*Pandey et al. 2002*). However, in these areas 79.55 per cent of trafficked people still belonged to landless households and families depending on wage labour for survival (*Ibid.*). A contention from ‘new economics’ theories may help in explaining these findings, which state that “areas with more unequal income distributions are more likely to send migrants than those where income is less unequally distributed” to “ameliorate a sense of relative deprivation” (*Sasikumar 2004*).

Globalisation is another important reason for the uneven development of regions. The globalisation process and its level of involvement in a region generate different patterns of migration (*Skeldon 1999*). Skeldon lists five regional divisions, on which he has elaborated, with reference to women in the Asia Pacific region. Within this, he has identified the patterns that are likely to involve trafficking of women. As internal migration, and especially the migration of women for economic reasons, is not well studied – whether such patterns exist in the Indian context is a subject for further research. Globalisation also leads to the development of improved communication systems, information, and transport systems. These factors fuel people’s desire to move, and affect their decision to move, as they become aware of living standards in developed regions.

Vulnerability

Migration then occurs in asymmetrical environments and “always involves relations of power, whether these are between states, cities and rural areas, or regions; between migrants and non-migrants” (*Gardner and Osella 2003*). This asymmetry makes migrants vulnerable. Migration becomes a major source for recruits in trafficking, since people in situations that are likely to propel them towards seeking better lives elsewhere, are likely for the same set of reasons, to fall prey to traffickers. The human rights perspective sees trafficking as ‘a crime against migrants’, in which the women’s (migrants) desire to migrate is preyed upon. This group is one of the largest groups vulnerable to traffickers. Women and children are vulnerable to being coerced and deceived at the sources of origin, during the journey while migrating, or at sites of work after reaching the transit point or destination. How people become vulnerable in contexts has been explored according to various factors creating those contexts.

Economic factors

Migrating labour ranges from people who move for personal and professional development, usually middle class professionals, to semi-skilled, unskilled and low-skilled workers, moving to areas offering higher wages for relatively low skills. While migration involves risk for all those who undertake it, whether highly skilled or less so, trafficking mainly involves people at the lower end of the skill level scale. For the latter group, with minimal skills, migration is more an issue of survival. “Internal mobility is critical to the livelihoods of many people, especially tribal people, socially deprived groups and people from resource-poor areas” (*Srivastava and Sasikumar 2003*). Women and children form the largest group of this unskilled paid labour. According to the 1991

Census of India, a large number of women migrants were agricultural labourers (44.1 per cent) and cultivators (37.6 per cent); only 3.2 per cent were in household industries and 15.1 per cent were in other activities. These migrants are “exposed to large uncertainties” (*Ibid.*) and are also more willing to take risks, so they are likely to get trapped more easily. Migrant labour from this category is also preferred because they may lack the requisite support structures to defend or demand their rights, both during migration and at the new work sites. Their limited ‘bargaining power’ impairs their ability to overcome vulnerability or resist exploitation. Findings from the field survey conducted during this study reiterate that a majority of the respondents (52.4 per cent) were trafficked in the context of a search for livelihood. The socio-economic profiles of women and children interviewed clearly indicate that they belong to the low-skilled workers category. About 50 per cent of the respondents in ARTWAC had a monthly family income of up to Rs.1,000 only.

Labour migration satisfies demands for labour at all levels of the economic sector, while trafficking supplies mainly to the unorganised and exploitative sectors of the economy. This is supported by the findings of ARTWAC. The majority of the ‘victims’ were trafficked into commercial sexual exploitation, domestic work, rag picking, begging, and other unskilled jobs. The nature, terms and conditions of work in these sectors gives them little hope of voluntary and legitimate recruitment in the local labour force. They must perforce look for people elsewhere. Migrants searching for better opportunities do manage to find a better life most of the time, but some may become trapped in situations which are exploitative. These people are then at a greater risk of being trafficked. An instance of this may be seen in Nepal, where people move during certain periods of the year, to work in the carpet industry. Conditions of work are exploitative, and women fall for false decent work offers by traffickers (*Human Rights Watch 1995, Sangroula 2001:12*).

Political factors

Although globalisation has rendered acceptable the movement of goods and capital, the movement of people is not so easily accepted. Strict immigration laws are passed by the state in an attempt to continue to be in-charge of this flow of people. However, it seems as though its authority is in the process of being corroded by the growing incidences of illegal migration and trafficking. This situation is reflected in a recent news report, which estimates the number of illegal Bangladeshi migrants in Delhi alone to be around two lakhs. Authorities are apprehensive of their involvement in illegal activities. Identification and deportation are the main aims of the concerned agencies.

Most reports consistently state that restriction on migration tends to encourage illegal migration, which in turn creates higher risks of people being trafficked. Migrants may fall prey to traffickers while looking for means to enter a country illegally, maybe with the help of smugglers. As illegal migrants, they will be at a higher risk of being trafficked, because of their fear and avoidance of authorities, which becomes one of the mechanisms of controlling them. The opposite situation i.e. when the immigration laws are too lax, as in the case of India and its border situation with Nepal, may also create problems. The porous nature of the border between these countries has allowed trafficking to flourish and the close cultural and historical ties make it very difficult to place restrictions.

Another political aspect of the problem is that governments put women and children at risk of being trafficked by failing to provide opportunities for education, shelter, food, employment,

relief, access to structures of formal state power and freedom from violence (*United Nations 2000*). Situations and contexts are thereby created, which compels them to seek alternatives elsewhere, leading to migration. The absence of appropriate social security measures for women and children in situations of distress forces them to move. These circumstances, which usually remain invisible, place them at risk of being trafficked (*Raymond 2002*). This is clearly illustrated by the numerous case studies on how women are pushed into the trade.

Refugees or internally displaced people because of political instability due to war, civil strife, state reorganisation, conflict, race and ethnic conflicts, oppression, militarism, internal armed conflict, religious persecution and human rights violations, all generate migration. Most recently, trafficking networks responded to the war in Kosovo and the consequent exodus of refugees by increasing recruitment of Kosovars. In extreme situations people may be willing to go with traffickers in the hope of being rescued and then using the laws and safety nets of the host country to obtain legal migrant status. This has been reported in cases from the European Union where people choose this method, not knowing the extent of exploitation awaiting them (*IOM 2001: 11*).

Migrant women are also made vulnerable when the state follows policies that are extremely strict towards immigrants. In the Indian context, this aspect becomes relevant only if one considers the emigration of Indian women workers. An example of this maybe seen in the case of Thai and most other Asian women who work in Japan as domestics. They are legal workers but are not allowed to change jobs in the first two years of employment and thus become highly dependent on the whims of their employers. In Singapore and Malaysia, women domestic workers are banned from getting pregnant and are subject to pregnancy tests every six months (*Raymond 2002*).

Socio-cultural factors

Social discrimination and disturbed families, with problems of alcohol, drug, physical or sexual abuse fuel a desire to move away, especially in the case of girls/women and children who more easily fall for false promises. Women and children in situations of instability trust agencies or people, who may use the opportunity to traffic them. Runaway girls/women and children are at a greater risk of being trafficked. The field data collected for the ARTWAC bears out this point. Among the 561 survivors of commercial sexual exploitation who were interviewed, about 65 per cent of the respondents belonged to troubled and distressed families. Moreover, out of 510 rescued trafficked child labourers who were interviewed, 72 per cent of the respondents whose parents were both alive, were from disturbed and unstable families.

Breakdown of traditional family structures and support systems increases the responsibility of women to support families, who then tend to take greater risks while migrating to provide incomes for their families, by sending remittances. Women also tend to look for alternatives because of their expanding sense of economic and personal autonomy, greater levels of independence and mobility thus increasing the numbers who migrate. They tend to be at a greater risk as they are in a vulnerable position without their community's support (*Raymond 2002*).

Demand created by migrants

Another factor playing an important role in creating vulnerability is the preference for women of a certain race or ethnicity. They are considered exotic and sold as such by the sex industry, which

puts migrant women of certain ethnicity and cultures at risk, as in the instance of women from Nepal being trafficked to India.

Not only does migration provide trafficking with victims, it plays a crucial role in sustaining the demand, especially in the sex industry. Most studies on prostitution report that migrant labour forms a significant proportion of their clientele. The highway sex-work sector services a mainly commuting population of truck drivers and migrant labour. A preference is shown for women from similar backgrounds, and this may increase a demand for women from certain communities. Ali reports that the possibility of trafficking increases along such routes, where a large number of male migrant labourers in an area create a demand for sex workers of similar linguistic and cultural background, leading to a migration of sex workers (*Ali 1997:33*) and this may lead to an increase in trafficking from those areas. In a similar vein, the need for anonymity felt by clients in prostitution or by paedophiles encourages sex tourism centres, which in turn encourages trafficking.

Ecological migrants and trafficking

Ecological migrants are people who have been displaced because of environmental factors. Their normal means of livelihood gets disrupted and they are unable to find subsistence from the land. It is usually the destitute and the indigenous people who are most affected. People move because of elemental disruptions, like cyclones or other natural disasters. The destabilisation and displacement of populations increase their vulnerability to exploitation and abuse through trafficking and forced labour (*United Nations 2000*). Large-scale migration and consequent trafficking of girls has been reported after the cyclone disaster in Orissa, and after the earthquake devastated Latur in Maharashtra. The migrants who try to move out for safety are highly vulnerable to trafficking (*Pandy et al. 2002*). Development, urbanisation, biological disruptions, deforestation, land erosion and lack of access to man-made resources, also lead to large-scale displacement of local populations.

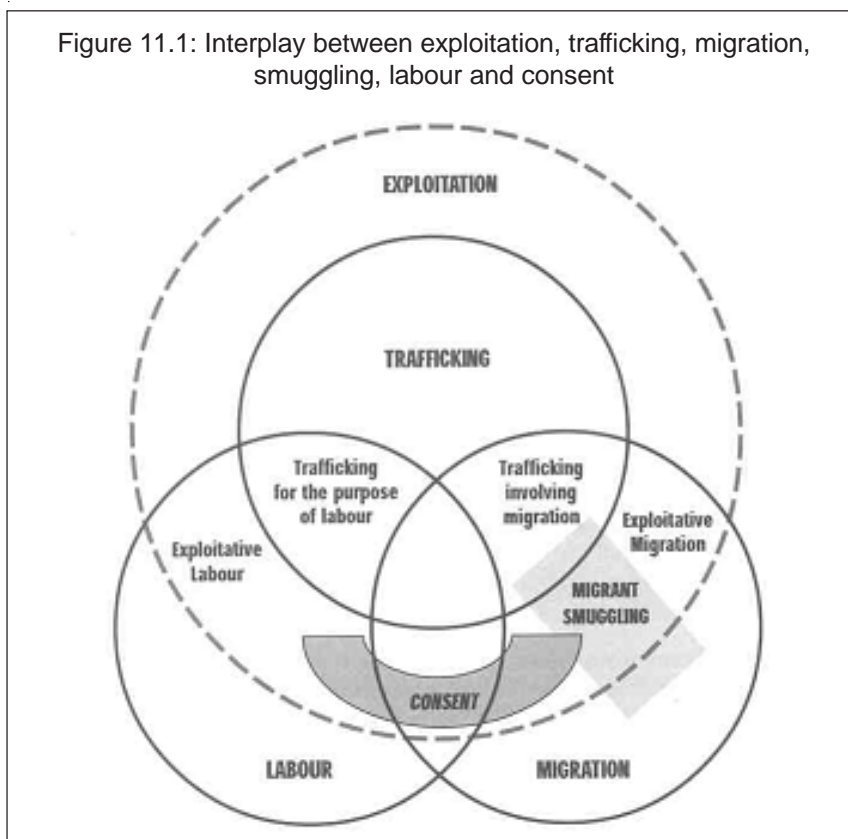
Interplay of consent in migration, trafficking and smuggling

People may consent to certain types of exploitation. “However, a person can never consent to trafficking” (*UN. 2003, p.27*). Even if there is a manifest consent, it is, in fact, a façade of consent and not ‘informed consent’. Trafficking means much more than the organized movement of persons for profit (Recommended Guidelines of the UN High Commission for Human Rights, 2002). The critical additional factor that distinguishes trafficking from migrant smuggling is the pressure of force, coercion and/or deception throughout, or at some stage, in the process – such deception, force or coercion being used for the purpose of exploitation. In this context, the model developed by ECOSOC (see figure 11.1) explains the interplay among the various related concepts (*UN.2003.p.27*).

Exploitation of the nature of the migration process

At the level of process, the relationship between migration and trafficking may be defined as being opportunistic in nature and to the advantage of traffickers. The characteristics of the migration process provides traffickers with opportunities to implement their plans and achieve their goals by manipulating it. Possibilities of manipulation are opened due to elements of relocation, use of an agency, the unknown, legitimate reasons and initial investment required while migrating.

Figure 11.1: Interplay between exploitation, trafficking, migration, smuggling, labour and consent



Source: ECOSOC, 2003

The redefinition of social relations and development of new identities is an inherent part of the migration process (*Gardner and Osella 2003*) due to a shift in physical space. The basic action of moving in migration assists the traffickers in their attempts to 'relocate' targets, away from their communities. This movement, which is towards demand centres, is the beginning of the process of isolating them and changing or forging a new identity to that of a person under some one else's control. For over 90 per cent of the cases interviewed by ARTWAC, a shift in their location was a part of their experience of being trafficked. The exceptions were cases where children of prostitutes were forced into prostitution by their parents.

In cases of deception or fraud, the unascertained elements in the migration process works to the great advantage of the traffickers. The promises they make cannot be easily confirmed, especially in cases where the 'victims' are in remote areas, or their literacy and awareness levels are low. The alien and unfamiliar nature of the destinations makes any attempts at escape or possible support for the 'victims' difficult. Victims are also transferred from one place to another to ensure anonymity in the initial years (*Karmakar 2001:64*) and to prevent them from establishing contacts, who might assist them in escaping. This element also assists the traffickers in maintaining a false image. Data collected from survivors and brothel owners during the research substantiates this point of inter-brothel transfer of victims and transfer of victims from brothels to non-brothel based places of exploitation and vice-versa.

Relocation for purposes of work or marriage, are the most likely reasons for undertaking migration. Thus, plans to move away towards a job opportunity, or to move away after marriage,

are customary practices and acceptable actions. These existing realities lend weight to trafficker's arguments and provide a legitimate reason. This is reflected in the figure quoted by the ADB (Asian Development Bank) study, according to which 35 per cent of the women were trafficked from Nepal on the pretext of good jobs and marriages (*ADB 2002:15*). The data from ARTWAC shows that a majority of them were lured by promises of 'good jobs', employment with good emoluments or vocations. 52.4 per cent of 'survivors' stated this as a reason. Around 68 per cent of the 'victims' and 74.5 per cent of the interviewed trafficked child labourers also stated this as a reason for being deceived by the traffickers.

In India, a high percentage of female migration is due to marriage. Traffickers often use promises of marriage or fake marriages as a means of shifting women from their families and communities. One study reveals the case of a trafficker who "married thirty Nepalese girls in one year, selling them one by one to Indian brothels and then returning to Nepal to marry again" (*Shalini 1996: 40*). A study on international migration in the context of Bangladesh and India describes this process in detail. Agents working on both sides of the border send a matchmaker, usually a female who is an original resident of a nearby village, to find recruits. A secret marriage is conducted, and they move across borders, illegally assisted by a smuggling agent. The girl is then sold to another. Even if she is not sold, she is taken to her husband's place, where she is kept in slave-like conditions and made to work in the bangle factories in exploitative conditions. "They do not consider Bengali girls as human beings, rather commodification has reached to such an extent that they are in a position to treat them in any manner whatsoever" (*Association 1995: 16*). Another aspect of this is reflected in media reports, which speak about large-scale trafficking of girls from Orissa and Assam, to Haryana and Punjab for 'marriage'.

The process of migration requires an initial investment. The amount depends on the distance and nature of the process. Traffickers offer to provide these amounts, especially to people in conditions of poverty, and thus easily befriend their victims and gain their trust. Later, this amount is used as a means of controlling them in the form of a debt bondage, which the victims are told they have to pay back. "The fee charged by Chinese agents for smuggling and trafficking persons to premium destinations such as the USA, ranges from US\$30,000-50,000, which may imply lifetime slavery or bondage for repayment" (*Wickramasekera 2002: 24*).

Modern transportation facilitates large-scale movement of people over longer distances, which in turn facilitates the traffickers in moving people more conveniently and in larger numbers.

Social networks

For a normal migration process to be initiated, some form of a link is an essential component in the decision to migrate. This link may be in the form of job offers, a friend or relative in the city, an agent, or some information about existing opportunities elsewhere. One of the most potent contributory factors to this aspect of the migration process is the social network or 'migrant community network'. These networks are established over time and act as links between labour supplies and markets. The networks and links are crucial, and provide the necessary support systems for successful migration. Such networks are not always "composed of primordial links" (*Gardner and Osella 2003*). They gain members legally and illegally. Existence of similar networks in trafficking has been confirmed from the fieldwork in this study.

Some of the most socially isolated and deprived families may not “have access to such social networks” (*Gardner and Osella 2003*). Traffickers assume the role of an agency providing this link. Migration and trafficking then, may move in sync, in a series of similar steps, but the intention of the agency inducing the movement and the end purpose in trafficking are entirely different in nature. In trafficking, while the process is ongoing, the victim’s perception of what is happening is different from the trafficker’s. Even if consent is manifest, it is in fact a façade of consent and not ‘informed consent’ (*ESCAP 2003*). This deception makes it difficult to identify victims and traffickers in transit.

In migration, “locations between which migrants travel remain closely interconnected through flows of ideas, people and goods” (*Gardner and Osella 2003*). As former migrants, traffickers are themselves most likely to maintain such links. These original migrants are potential traffickers because of their local knowledge of source and destination areas. They are the people who will have local knowledge, cultural or geographical, of source as well as destinations, while also being familiar with transportation routes. Data collected from brothel owners substantiates the fact that they go back to their villages of origin for fresh recruits. Sangroula states that a “segment of pimps grew out of the Nepalese workforce in India ... the high demand for Nepalese girls in India attracted a number of migrant Nepalese workers in smuggling of girls from Nepal” (*Sangroula 2001: 10*). Case study no. CS-GA-1 (see Volume II for details) shows that when law enforcement caught up with the recruiters from Karnataka, the outflow to Goa diminished. However the traffickers’ linkages continued the trafficking, and met with the demand situation in Baina, Goa, by turning to Andhra Pradesh as their source of recruitment.

The migration process in general is said to involve considerable risk during transit between place of origin and destination. The experience of migration is that of being uprooted and alienated. Migrants experience multiple ruptures from family, friends and community, leading to this displacement being a traumatic experience. At the destination point they face numerous challenges, like new languages, ignorance of cultural variations and vulnerability to exploitation by employers, especially for persons in domestic work, or in workplaces unregulated by safety, health, decent conditions and minimum wage protections (*Abella 2001*). Trafficking, because it involves migration, includes all of the above. In addition, trafficked people undergo the trauma of dealing with the criminal means employed to transfer them and the loss of control over their lives and bodies.

As a consequence of being trafficked, it is most likely that trafficked people will remain migrants, even after achieving a certain level of independence from their exploiters over a period of time, due to a real or perceived lack of options and alternatives. For instance, women in cases of commercial sexual exploitation may not desire to return home because of the stigma or the mindset of being ‘spoilt’. Where children are concerned, even if they manage to escape, they will often not be able to find their way home, and thus the chances of being further exploited are high. To achieve the aim of long-term labour exploitation they are compelled by their exploiters to stay on at the destinations.

Migration and cross border operations in trafficking

The movement towards a destination may correspond to internal migration or to external migration. In the case of movement across borders, the nature of the process with its requirement of various

documents, immigration and border checks, influences the nature of the trafficking process. Greater resources and planning are needed for trafficking to be successful. Thus there is more likelihood of organised crime, networks across borders, involvement of smugglers and forgers. Traffickers may use legal or illegal means of entry and exit:

- **Legal entries and exits** are made by using normal immigration procedures, like family reunification programmes or student or tourist visas. For instance, twenty-five million persons enter the United States annually with temporary visas, such as tourist and student visas. Traffickers, using forged or legal documents, make use of these options. Once women enter, they can be moved from place to place, overstay the temporary visa time period, and kept in prostitution until they are caught or leave the country by other means (*Raymond 2002*).
- **“Legal exit but illegal entry** occurs when the necessary entry visas cannot be obtained from the desired country of destination, but the individual can obtain the necessary passport and exit permits”(*Skeldon 2000: 24*). They legal passports are usually stamped with false visas.
- **Illegal exit and illegal entry** involves the use of fake documents or no documents, and usually includes a bribe to the officials or border guards. People may be moved using a combination of land, sea or air. They may use smugglers for assistance in trafficking people. Wickramasekera quotes from a study by Linard, “With no visa and little money, many prospective migrants have no choice but to turn to the modern day slave traders. In addition to the risks they run (including being sent home if caught) it could cost them US\$3,000 to go from the Philippines to Kuwait, between US\$4,000 and US\$6,000 from Bangladesh to Germany, and US\$25,000 from China to the United States” (*Wickramasekera 2002: 20*).

The influence of migration trends on trafficking

Given the above relationship, it is likely that migration trends may influence trends in trafficking. It is not possible to draw any conclusions, but similarities in observed patterns have been noted. In an attempt to examine the influence of migration trends on trafficking, the first element that comes to mind is the apparent similarity of direction towards the destination points taken by migration and trafficking – i.e. most “trafficking routes replicate migration routes”(United Nations 2000: 23). This becomes evident if one examines the directions of international migration and trafficking. Trafficking routes move inwards, from Bangladesh and Nepal to India, and out, towards the Middle East. These routes correspond to international migration routes. Case study No. CS-TN-2 substantiates the point that traffickers use known migration routes to avoid detection and carry on trafficking under the façade of migration. Case study no. CS-UP-1 shows that in nine months time, the number of people who migrated from Nepal to India was 3,535. Of these, 100 persons were suspected to be involved in trafficking. Their detailed interaction showed that 65 were trafficked girls and 35 were male traffickers. They were promptly handed over to the Nepalese authorities and thereby the 65 girls were saved from trafficking. Although no statistics can be quoted to confirm this, most reports indicate that an increase in the volume of migration has been accompanied by an increase in the number of people being trafficked internally and across borders.

Rural areas are the predominant source of migrants, and correspondingly, ARTWAC found that 68.6 per cent of trafficked women and children were from rural areas. Another similar pattern

is observed when data on inter-state migration and intra-state migration is compared to results from 'trafficked victims' movements. According to the 1991 census, the percentage of women who moved for employment purposes within districts in their states was 44.8; and 18.9 per cent moved to other states. ARTWAC found that among the twelve states studied, eight of them had a higher percentage of women being trafficked within the state. In the case of short duration migration, a higher percentage of women are among the inter-state migrants (27.9 per cent). As the necessary data is missing, no conclusions can be drawn. A significant difference is seen in the case of migration streams. The dominant stream in migration is from rural to rural but in the case of trafficking, the dominant movement is towards urban centres. The low rate of rural to urban migration for females suggests an unavailability of supportive networks. This absence may assist traffickers.

The trend of increasing number of women moving in the Asia Pacific region has led to a "feminisation of migration" which means that the population movements in the region are being dominated by women (*Skeldon 1999: 5*). This in turn is because of the "feminisation of poverty" in the region and world over, due to many complex factors. (*United Nations 2000: 20*). This trend may also be one of the causal factors, for the increase in trafficking of women in the region.

Among inter-state economic migrants, the "southern states have a comparatively larger share in female economic migrants" (*Srivastava and Sasikumar 2003: 5*). In the sample of 'victims', and survivors who were interviewed in this study, it was found that the three states of Andhra Pradesh, Tamil Nadu and Karnataka are among the top five source areas. Brothel owners also identified these three states among the top five source areas. The relationship if any, between an increasing number of women migrants and trafficking in India, is not fully explored. Some migration studies on women in India have taken notice of the category of female migrants who migrate out of economic necessity, in significant numbers, and not as part of a household or because of marriage. In the case of short duration migration a higher percentage of women are among the migrants.

Another trend in the Asian region is of migrant flows to international destinations are being increasingly dominated by semi-skilled and unskilled workers. They typically face numerous problems in sending and receiving countries, as they lack bargaining power. This category generally comprises construction workers and female domestic workers. As seen earlier, they are also more vulnerable to traffickers. This trend may be responsible for an increase in trafficking (*Wickramasekera 2002:15*).

The commercialisation of the recruitment industry is an important feature. They follow various malpractices and have played a role in the increase of irregular migration, which in turn makes people more vulnerable to traffickers. "They tend to send workers abroad without firm job orders and charge exorbitant fees. This is a common practice in the Middle East where sending country agents link up with local intermediaries (*kafeels* or sponsors) to recruit labour, which may have no relationship to actual employer demand. The outcome is that a large number of workers who enter countries such as Bahrain or Kuwait, find that there are no jobs waiting for them, and immediately fall into irregular status and traps" (*Wickramasekera 2002: 17, 24*). Blanchet, in her study also reports similar instances.

The likelihood of male migrants being employed after rural-urban migration is higher than for females, and this unemployment status in unfamiliar surroundings could make them vulnerable

to trafficking. According to the 1991 Census Report, 55 per cent of the male migrants were employed after migration. While only 13 per cent of female migrants were employed after migration. “Thus among females, moving from a rural to urban area apparently lowered the likelihood of being employed”(United Nations 1994:6).

Illegal migrants are perceived as a threat and are treated as criminals when they themselves could be victims of trafficking. Discourse over this issue is dominant in receiving countries, especially the developed regions, which usually follow a policy of repatriation of trafficked people. Case study No. CS-DL-33 substantiates the point. In spite of the fact that the young girl was trafficked from Bangladesh to Mumbai, she was declared an illegal immigrant and penalised. (see Volume II for details).

Solutions to trafficking from a migration perspective

An understanding of migration will play a significant role in formulating preventive strategies, as it assists in identifying the vulnerable section; in identifying likely supply areas; routes followed; and guide interventions in transit. In the concern to combat trafficking, it should not be forgotten that many of the women and children initially desired to move. This movement is initiated in the hope of finding a better life and finding solutions. Therefore any intervention must keep in focus the human rights perspective of the migrant person.

Phil Marshall suggests that the problem of trafficking should be resolved from the point of view of migration. He is critical of the response of governments, NGOs and various networks, which equate trafficking with organised crime, which he feels has proved ineffective. According to him as long as markets exist, as seen by past efforts, law enforcement agencies remain unable to deal adequately with issues like prostitution or drug control. Monitoring forced labour would be more effective than border monitoring when combating trafficking. He emphasises the need to recognise the fact that people will continue to migrate, as it is a rational human response. While discussing trafficking in the international context, Marshall suggests that the view that the major cause of trafficking is irregular migration be acknowledged; and feels an appropriate change in the response would be needed to tackle it. A migration based approach is suggested. This would involve regularisation of migration; re-examination of the issue of sex work; providing alternatives to migration; protecting the rights of migrants and facing the challenges of rescue, return and reintegration. He also suggests the building of capacities to measure the impact of trafficking programmes, like the Inter Agency Participatory Project, to track migration over time, from selected villages in different areas (Marshall 2001). Mapping of migration routes may assist in understanding the direction and flow of people. This will prove useful, not only in identifying likely supply and destination areas of trafficking, but will also assist in monitoring whether it has increased or decreased. It may also provide clues as to the areas which should be targeted, for awareness building.

Monitoring foreigners entering the country and maintaining records may assist in tracing the offenders, especially in cases of sex tourism. The onus is on the state to promote socio-economic development of areas of significant migration so people are provided with choices other than migration. Moreover, it would be a useful exercise to provide agencies dealing with trafficking vital indicators that would enable them to distinguish between a migrant and a person who has

been or is being trafficked. This may prove helpful not only in preventing people from being trafficked in transit, but also help in rescue work. As Blanchet states “Seeking to document trafficking elements within the migratory scenario, emphasis was given to the following points: Who initiated the process and who decided the migration? Who paid for it? Who accompanied the migrant? What was the work promised and what was the work actually demanded or forced upon the woman? How did the woman consent/or not consent to the demands made on her? How did she cope with her decision afterwards? Did she earn as promised and could she control her income? How did her family receive her as she returned? Was she empowered within her family or community following migration, or did the opposite happen?” (Blanchet 2002: 16). Some other characteristics which need to be documented are the level of freedom of movement a person has; the lack of fear and self image; knowledge of local sites, transport routes, neighbourhood; a basic knowledge of the local language; and above all, an awareness of her rights. The Sanauli experiment (see case study no. CS-UP-1) was appreciated by all concerned because it was not an intervention into migration, but an exercise in generating awareness of rights and in doing so, the police and social workers could separate trafficked victims from migrants. (see Volume II for details).

There is a need to re-examine laws for migrant labour to provide them better protection from exploitative employers and widen the ambit of the law to include other types of workers besides construction labour.

Summary and conclusion

Some of the similarities between migration and trafficking which stand out are that they both involve movement; usually have some kind of an agency or network involved in this movement; thrive in poverty, unstable conditions and disruptions created by different factors; and follow similar directions in space. They are both influenced by factors like labour demand and supply, globalisation and state policy. The differences are that the intention of the agent in trafficking is always exploitation, it is non-consensual; always exploitative; and unlike migration, is totally demand driven. Even if there is consent, it is not “informed willing” consent, obtained after apprising the person of the entire situation. Thus migration and trafficking directly influence each other in matters of direction, volume, and the nature of the process. The relation is manipulative in terms of opportunities, recruits and exploiters. Exploitation is the hallmark of this relationship, as trafficking occurs, subsumed under this ongoing movement of people, driven by its own demand for people and exploiting the migration process to achieve its agenda.

Migration and trafficking are inextricably linked to each other, although they are different processes. Besides providing the base for trafficking, it is observed that the situations and circumstances influencing people to migrate are the same factors that make them vulnerable to traffickers. Migrants form one of the potential target groups for traffickers, making them vulnerable at all stages of the migration process. Traffickers use the uncertainties and risks involved in the migration process to their own advantage. To turn a normal human being into an obedient slave, they commit the grossest forms of human rights violations. Trends in the migration process influence trafficking because of the links between the two processes.

In conclusion, one can say that migration is an important phenomenon that influences and sustains trafficking by providing an easy supply of people. The discussion presents in detail, the

points of distinction between migration and trafficking as well as the linkages between the two. Understanding the relationship between migration and trafficking is crucial to helping us understand the process of trafficking and in mapping the vulnerability of geographical areas. It is a critical component in planning effective preventive and other strategies to combat trafficking, while still protecting the people's right of movement.

Table 11.1: Data regarding movement of interviewed Active Sex Workers Or 'Victims'

Respondent State	Persons trafficked within the state		Persons trafficked into the state		No Response		Total Respondents
	Respondents	Per cent	Respondents	Per cent	NR	Per cent	
Andhra Pradesh	102	99	1	1	-	-	103
Bihar	34	34.4	23	23.2	42	42.4	99
Delhi	0		84	96.6	3	3.4	87
Goa	2	3.2	51	81	10	15.8	63
Karnataka	61	95.3	0	0	3	4.7	64
Maharashtra	27	22.9	58	49.1	33	28	118
North East*	23	60.5	4	10.5	11	29	38
Rajasthan	96	96	4	4	-	-	100
Tamil Nadu	63	58.3	18	18	27	25	108
Uttar Pradesh	31	34.4	36	36	23	25.6	90
West Bengal	33	55.9	22	22	4	6.8	59
Total	472		301		156		929

*North East includes Meghalaya and Assam

Table 11.2: Data regarding the country of origin of the interviewed Active sex workers or 'victims'

State	Origin of Respondent (country/state)	Per cent
Andhra Pradesh	192	20.7
Assam	14	1.5
Bangladesh	10	1.1
Bihar	40	4.3
Chhatisgarh	5	0.5
Delhi	-	0
Goa	3	0.3
Gujarat	3	0.3
Himachal Pradesh	1	0.1
Jharkhand	4	0.5
Karnataka	102	11
Kerala	5	0.5
Madhya Pradesh	9	1.0
Maharashtra	43	4.6
Meghalaya	13	1.4
Nepal	10	1.1
Orissa	7	0.8
Punjab	1	0.1
Rajasthan	106	11.4
Sikkim	1	0.1
Tamil Nadu	69	7.4
Tripura	1	0.1
Uttar Pradesh	41	4.4
Uttaranchal	6	0.6
West Bengal	87	9.4
Non Responses	156	16.8
Total	929	100

Tourism and Trafficking

Introduction

Tourism is today the world's largest industry, contributing around 11.6 per cent of the GDP and employing approximately 9.4 per cent of the labour. Currently, about 2.4 million tourists arrive in India every year. This comprises 0.4 per cent of the world's total tourist traffic (fiscal year 2000). According to one estimate, 40 million tourists, constituting 4 per cent of world's tourism traffic, are expected to visit India by 2020. A study conducted by the Centre for Monitoring the Indian Economy (CMIE) shows that the number of tourists arriving in India rose from 20,26,743 in 1999-2000 to 21,52,848 during the period 2000-2001. Foreign exchange earnings from inbound tourists in the same period grew from US\$ 2,443 million to US\$ 2,717 million. (Tourism Related Commercial Sexual Exploitation in the Eastern Coast of India, Equations, Bangalore, 2002). Tourism impacts Indian society in both positive as well as negative ways. Tourism promotes development, brings in foreign exchange and facilitates cultural interaction and integration. At the same time tourism also provides anonymity and opportunity for various illegal activities. Of late, aggressive tourism promotion has placed greater emphasis on its leisure and recreational aspects. Many tourists have interpreted this as an opportunity to gratify their sexual proclivities. When a tourist is in a foreign land, the cloak of anonymity relieves him from the social and legal constraints of his own country. A Japanese proverb goes, "the traveller knows no shame, away from home he becomes less moral" (Patkar & Patkar 1999). And this is how the concept of sex tourism has evolved. The anonymity enjoyed by tourists, coupled with their craving for pleasure and excitement, and the poverty and unemployment of the local people, contribute to the growth of commercial sexual exploitation in areas frequented by the tourists. Not all tourists are sex tourists but some of them definitely are.

Child sex tourism

In India, the abuse by tourists of both male and female children, has assumed serious dimensions. Unlike Sri Lanka and Thailand, this problem has not been seriously tackled or discussed openly and has remained more or less shrouded in secrecy. The likelihood of child abusers being caught and punished is also low. The silence of the community and its unwillingness to speak out and openly discuss the issue has further compounded the problem.

Paedophilia

Many sex tourists are paedophiles who seek out children to satisfy their sexual urges. They can be of any nationality and come from different professional backgrounds. Though some of them are loners, paedophiles are usually members of highly organised networks (*Desai 2001*). They are

also very cautious in their operations. Many of them make frequent changes of accommodation and communicate through coded messages. There are some who take the indulgent view that paedophiles are pathological cases, in need of treatment. “Thus we become absorbed”, says R.J. McLachlan (*Lanning 2001*) “with their psychological makeup and neglect what should be our overriding concern, namely their behaviour and action. It is their behaviour and action that destroy children’s lives and it is these that should be the focus of law enforcement”.

Modus operandi

This research study revealed some interesting facts about the modus operandi of the paedophiles:

Running an orphanage: This is a typical modus operandi of many paedophiles. In a well-known and well-publicised case in Tamil Nadu, a Swami of a religious sect, running an orphanage in a sprawling campus, was found to be a child abuser. A large number of children residing in the orphanage were exploited by the accused over a long period of time. The sordid happenings in the orphanage came to light when the police raided the place on the complaint of an escaped child and arrested the Swami.

Good Samaritan: In another well-known case, one Will Heum, a Dutch national, who posed as a Good Samaritan, set up an orphanage called ‘Little Home’ in Poonjeri village, 3 Km. from Mahabalipuram in Kanchipuram district in Tamil Nadu. There were 42 school children (19 girls and 23 boys) in the age group of 10-20 years in the orphanage. Heum used to drug the children and subject them to sexual abuse. His crimes were exposed when one of the children escaped and filed a complaint with the police. During the police investigation it transpired that in the name of charity, Heum, with the help of his wife, had been abusing the inmates of the orphanage over the past eight years. The total number of abused victims is not yet fully known. Heum also entertained a large number of foreigners at his place, and allowed them to sexually exploit the children.

Films and Documentaries: Another paedophile modus operandi is to claim to be producers of films and documentaries. This stratagem came to light in the case of a Swiss couple arrested by the police in Mumbai. A case study (see case study no. CS-GA-8) prepared by ISS researchers with inputs from Wise, Mumbai, reveals how the couple used to pick up girls from the streets by tempting them with toys, food, chocolate, etc. A Mumbai NGO called ‘FACSE’ (Forum Against Child Sexual Exploitation) learned of the couple’s activities and informed the police. When the police raided the hotel room, they found the male accused sandwiched between two minor girl children, all nude. The second accused, the wife of the first accused, was taking photographs. The man held a high position as a General Manager in a multi-national pharmaceutical company and the woman was a trained nurse. At the time of arrest, the man was mainly concerned about his laptop, which had recorded and stored all the materials. It was seized and confiscated by the police, who found that the couple was involved in a child pornography photography and circulation racket. The materials indicated that the accused routinely visited other Asian countries as well. The police investigated the case and filed charge sheets against the accused persons under relevant sections of the Indian Penal Code. The court convicted the accused persons and ordered payment of compensation to the victimised children and recorded its appreciation of the work done by the dedicated team of police officers. It also stressed the need for sensitivity in dealing with children involved in cases of paedophilia and acknowledged the trauma of children who depose before the courts in such cases.

Factors affecting the growth of child sex tourism

Some of the factors responsible for the growing phenomenon of child sex tourism are:

1. The feeling among foreign tourists that children of third world countries can be exploited and that the chances of detection are slender
2. A belief that children are less likely to have contracted sexually transmitted diseases and hence sex with them is safe
3. The mistaken notion that sex with virgin girls cures HIV
4. That governments of many developing countries, with a view to encouraging tourism, turn a blind eye to this problem.

Child Pornography

Child pornography and sex tourism are closely linked. Indeed the crimes are mutually reinforcing. Sex tourists have been on the forefront in the production of pornographic materials in the form of pictures, films, etc. depicting nude children and sex with children. They are also involved in trafficking pornographic materials; and this work has become easier with the advent of internet technology. Hardened child sexual exploiters are often found to be producing, collecting and circulating child pornography. A child sexual exploiter captures images of his prey and then circulates them. In a raid in Stockholm, Sweden in 1996, Swedish police discovered blue films on the beach boys of Sri Lanka. The footage ran for over 300 hours (*Patkar & Patkar, 2002*). "Aggressive paedophiles," writes FBI expert Kenneth Lanning, almost always collect child pornography. They may be outwardly respectable but they will have a disputed home or work background. Experienced offenders are adepts in identifying vulnerable children from broken or disputed home background (*Lanning, 2001*)."

Goa: In India, Goa, a small state in the west coast of India has become a sex destination for many visiting tourists. The research paper prepared for ECPAT (an International voluntary Agency against Child Prostitution in India) by Dr. Julia O'Connell Davidson and Jacqueline Sanchez Taylor in 1966, states that "A small number of men who might be described as hardened sex tourists have identified Goa as a site in which they can accommodate cheaply their sexual interests (*Desai, 2001*)."

There is a growing fear that if steps are not taken to check tourism-related paedophilia, "it will be institutionalised."

Sex tourism in Goa became known all over the country after the infamous case of Freddy Peats. Peats had been operating in Goa since 1980 without arousing suspicion. He was considered a respectable man, a Good Samaritan, who provided shelter to young homeless boys and girls. He was in fact actually involved in luring young children into prostitution and subjecting them to sexual exploitation. The discovery of nearly 2,300 photographs of nude children, some of them engaged in sex, in some cases with Peats, illustrated the depths of his depravity. Investigation of the case by the Central Bureau of Investigation also brought to light the involvement of paedophiles from Australia, Sweden, Thailand, France and Germany. In this case, the CBI took over the investigation of the case on the orders of the High Court, in pursuance of the writ petition filed by the social activist Sheila Barse. The investigation revealed that a number of foreigners used to visit Freddy Peats' orphanage and take the boys out to have sex with them. Sometimes the boys were taken to different hotels and sexually abused over a period of time. Peats was convicted and

sentenced to long-term imprisonment. The other accused persons involved in the case are absconding. The modus operandi of Freddy Peats (see case study no. CS-GA-8) were varied, devious, and ingenious. Children were kept under control not simply by coercion but by deceit. They were brainwashed to accept sexual activities as natural. One of the boy victims had stated during the investigation that he was taken to Germany and kept there for six months. Paedophiles often buy children's silence by portraying the abuse as education, or as a game, or with threats and violence, thus pressurising them into not disclosing the 'special secret'.

Sources: Sources for procurement of children for sex abuse are:

- children living in hutments on the beach
- children of migrant labourers left unattended by their families
- children brought to Goa by foreign tourists from other states

The intermediaries are beach boys, shack owners and former victims of paedophiles, serving as procurers.

Goa Children's Act, 2003: One stumbling block in the prosecution of paedophiles has been the absence of laws dealing comprehensively with the problem of paedophilia. Fortunately, the Goa Children's Act 2003, a landmark legislation, addresses several issues of child sex exploitation in an integrated manner. Some salient features of the Act are:

- The term 'trafficking' has been given a legal definition for the first time
- Sexual assault has also been given a wider definition to incorporate in itself every type of sexual exploitation. Punishment has also been enhanced
- Responsibility for ensuring safety of children in hotel premises is placed on the management. Unrelated adults cannot take children to hotel rooms
- Stringent measures have been provided to regulate children's access to pornographic materials in the electronic media and the internet

The Act also provides for the setting up of Victim Assistance Units, including social workers, to help children in trauma; and the setting up of children's courts, to try all offences against the children. The mandatory sensitisation of law enforcement personnel and setting up of a Children's Court (Section 27) are bold steps prescribed by the law. The Act attempts to allocate the responsibility of child protection and prevention of abuse to several sections of society. However, much will hinge on the manner in which the Act is enforced.

Kerala: Sex tourism has also become a problem in Kerala, which has witnessed a tourist boom since the early '80s. The National Geographic has listed Kerala as one of the world's fifty 'Must see destinations'. Along with the growth of tourism, there has been an increasing victimisation of young children. DARSHAN, an NGO group, has made a research study of the problems of sex tourism in Kerala. The study mentions that the Kerala Women's Commission received numerous letters of complaint from women tourists, about sex tourism in Kovalam. They even rescued 11 girls belonging to Lambada community of Karnataka from Kovalam in October, 1998 (Manoj & Thomas, 2002-2003). Brothels also arrange package tours to tourist destinations for their customers. The research paper contains case studies showing the exploitation of trafficked females at the hands of the tourists. In one case, a girl was deceived by the promise of a job and forced into

commercial sexual exploitation. She perforce had to accompany local tourists to various places like Ooti, Nelliampathy and other places and satisfy their sexual urges. The clients paid the victim well.

DARSHAN's study also reveals how hoteliers in areas like Qullion, Alleppy, Ernakulam promote sex tourism, because such services bring them extra income. Victims are often projected by the agents as college girls in search of fun and excitement, wanting to earn an extra buck. In places like Alleppy, foreign tourists come and stay in houseboats. This houseboat sex tourism is a new and thriving concept. It is safe, as there are no raids on the houseboats (Patkar & Patkar, 2002). In Kerala, although places like Kovalam and Fort Cochin have become sex tourism hot spots, police records indicate that enforcement agencies have turned a blind eye to the problem and cases have seldom been registered under the Immoral Traffic (Prevention) Act. The study mentions the case of a 'sex worker' from Mangalore and Goa who shifted her operations to Varkala, a major tourist spot, because of the growth of sex tourism. She earns well from sex work and possesses houses and vehicles of her own. She says that there is demand for sex not only from foreign tourists but also among the locals, including a number of political figures.

With the accent on tourism promotion, bars and pubs have proliferated in different tourist destinations. A study of trafficked bar girls around Mumbai conducted by two NGO groups – Save our Sisters (SOS) and VEDH – reveal a very disturbing picture. There are about 2,000 bars in Greater Mumbai, where a large number of the girls work, averaging about 50 girls per bar. Thus there are now approximately one lakh bar girls in Greater Mumbai alone. Most of the bar girls come from Bangladesh, Nepal as well as different cities in India. The 'push' factors are mainly economic, such as sale of family land, debt, expenditure on marriages and lack of any other skills. A number of girls who were interviewed said that natural disasters like flood, drought etc. force them to leave their homes. In a majority of the cases, male family members made the decision to send them to Mumbai, and the girls usually had no choice. 75 per cent of the bar girls are under 25 years of age.

The girls face physical, social, as well as sexual abuse. Since the girls are paid on an hourly basis, they have to put up with whatever clients want. In the bar, older girls train them in so called manners, etiquette and dance. If the girls are virgins, they are, within a few weeks of their arrival at the bar, introduced to 'special clients', who include VIPs, like local politicians, government officials etc. The 'special clients' prefer virgin girls, due to their fear of contracting sexually transmitted diseases (STD). Many of the interviewed girls said that they had to go out with clients and submit to their sexual demands. Although many of the girls initially joined the bars to work as dancers or waitresses, a good many of them became victims of sexual exploitation as a fall-out of globalisation and tourism promotion.

A study titled "Tourism related commercial sexual exploitation of children in the Eastern coast of India" conducted by the NGO, Equations, reveals that most of the children they interviewed were trafficked from places in and around certain identified tourist spots. In the case of Mamallapuram in Tamil Nadu, the children were from Perambur, Saidapet and other nearby places. It was found that many of these children are mobile and accompany tourists on their visits to nearby states. For instance, children from Puri, a tourist destination in Orissa, are often taken to Hyderabad by the visitors. Again, a majority of the children are from either broken families or families affected by poverty and debt bondage. Most of them are between the ages of 8 and 18

and have little or no education and. They were procured by people, who were known to them or trusted by their families. It was found that many victimised children in both Puri (Orissa) and in Digha (West Bengal), were from families engaged in fishing. The family income had fallen drastically, because fishing is no longer a viable occupation due to operation of trawlers. This has compelled them to offer their children to visiting tourists for a financial consideration. (Tourism Related Commercial Sexual Exploitation in the Eastern Coast of India, Equations, Bangalore, 2002). Victims of paedophilia often have ambivalent feelings towards their abusers. Paedophiles shower attention on the children in the form of gifts. Most of the victimised children, who are from environments of emotional and material deprivation, are unwilling to make incriminating statements against the paedophiles.

In Orissa, the city of Puri, with its beautiful beach and temple of Jagannath, is an important tourist spot. In Puri, the local people depend on tourists for survival, and so they do not protest, even though they know enough about what is happening (Pandey & Sugata 2002).

Tourists from West Bengal and other parts of Orissa come to Puri with their so-called families, and become friendly with beach boys, trinket sellers and other vendors, subsequently engaging them in sexual relations. Many children have mentioned that they had sex with a varied range of tourists who paid them Rs.50 to Rs.200.

It is hard to measure the incidence of child sex tourism as it is difficult to conduct quantitative research on such a clandestine and illegal industry. Qualitative research and anecdotal evidence suggest that child sex tourism is growing and spreading into different regions of the world. There is also evidence that over the last few years increasing number of sex offenders, particularly from western industrialized countries, are shifting their operations to less developed countries due to increasing vigilance and action against paedophilia in their own countries. Britain's Conservative newspaper, the Daily Telegraph, observed on 25th March 1996, that "India is fast replacing countries in South East Asia as the destination for paedophiles. Stricter laws against child abuse and the growing incidence of AIDS in Thailand, Cambodia and Philippines has led to an increase in demand for child prostitution in India..." There are fewer laws against child abuse in India, the beaches of Goa in the West and Kovalam in Kerala are the main destinations for those seeking child prostitutes (Desai, 2001).

Preventive Measures

The United Nations Declaration on the Rights of the Child (1989) asserts that the child shall be protected against exploitation and shall not be subject to trafficking in any form. Article 34 speaks of bilateral and multilateral measures to prevent:

- i. inducement or coercion of a child to engage in any unlawful sexual activity
- ii. exploitative use of children for prostitution, unlawful sexual practices and pornographic purposes

The Optional Protocol for the Convention on the Rights of the Child (CRC) contains further provisions to be incorporated in domestic and international laws and multilateral agreements to cover the crime of sex tourism.

Various countries and international organisations have taken steps to counter the menace of child sex exploitation, child pornography and child sex tourism. In Thailand, such initiatives include prosecution, blacklisting and license revocation of sex tourism operators. Top hotels require guests to register minor visitors. The Brazilian government is fighting sex tourism by asking hotels actively discourage commercial sexual exploitation of children on their premises. Hotels participating in such programmes receive an extra star in their quality rating. Brazil also distributes brochures to visiting tourists, making them aware of the penalty for exploiting the minors. France, Germany, Belgium, Netherlands and Italy have introduced a luggage tag condemning sex tourism. In the Netherlands, a warning against child sex tourism is included in the travel-wise brochure issued by the Ministry of Foreign Affairs.

Global Cooperation

The need for global cooperation to fight the menace of child sex tourism is paramount. This is an internationally organised crime and a global perspective and coordinated plan of action are necessary to deal with it. The tourist-sending countries must pass extra-territorial legislation to prosecute those nationals who visit other countries to engage in sex with children and women. The destination countries must also enact and enforce stringent laws that punish the exploiters and their collaborators in the commission of this crime. Child pornography, which is closely associated with child sex tourism is a technically advanced crime. It is therefore necessary to set up trained and equipped police units to combat internet-based child pornography. Strong messages against sex tourism must be displayed at strategic places, citing legal and penal provisions and cautioning the possible victims.

Central and State governments should put in place a monitoring mechanism with the cooperation of other stakeholders, such as hoteliers, tour operators, local authorities, etc. to ensure the children's safety. A comprehensive policy for dealing with the problem must be worked out, with provision for rehabilitation packages for the victims.

Preventive Steps

Some useful preventive measures would be:

- a. Extraterritorial legislation passed by the Central Government, to try any citizen of India who travels within or outside the country with an intention to have sex with the children; or engages in sex with children; or knowingly enters into arrangements which result in sex with women and children
- b. Strong messages against sex tourism displayed at strategic places, publicising legal and penal provisions and cautioning potential sex tourists
- c. Mandatory reporting by technicians, studio owners and agents who take on film processing works on sexually explicit, pornographic and audiovisual materials that come to their notice.

The National Human Rights Commission, in collaboration with UNIFEM, organised a one-day sensitisation programme on January 12, 2003 on Prevention of Sex Tourism, with a view to sensitising senior representatives of the hotel and tourism industry to various issues relating to sex tourism and trafficking. Some of the recommendations made during the one-day sensitisation programme deserve early consideration. These include:

1. Regular sensitisation of staff and other functionaries in the hotel and tourism sector, - journalists, tour operators, airline operators and other personnel associated with hotel and tourism industry
2. Preparation of guidelines, hand-books and manuals aimed at the prevention of sex tourism and trafficking. Distribution of publicity materials to appraise international tourists of the legal repercussions of sex tourism and trafficking.



Culturally Sanctioned Practices and Trafficking

The present chapter deals with culturally sanctioned practices and their relationship with trafficking. It begins by tracing the genesis of these practices and their prevalence in India. While doing so, it also traces the link between these practices and trafficking. Thereafter, it deals with the degeneration of some of the practices and how this degeneration has led to trafficking and commercial sexual exploitation. Towards the end, the paper details the initiatives taken by the central and the state governments for the rehabilitation of girls and women who have been victims of these culturally sanctioned practices.

All over the world, the institution of religion has come to play a predominant role in shaping societies. It is the foundation on which the normative structure of society stands. This dependence on religion emerged with the belief in a power superior to human beings, which directs their destiny and controls nature. Its practical dimension is expressed through a number of ways in any given culture of the society. Its perceptive and doctrinal aspects include moral and social theology, philosophy of religion, and dogmas. Hence, innumerable forms of ceremonies, worships, rites, moral teachings, mystical experiences, and knowledge of supernatural power have come to exist since time immemorial, in addition to a number of aberrations, superstitions and exploitative customs/traditions in the name of religion. The reference here is to the existence of culturally sanctioned practices in India, in particular, the cult popularly referred to as the devadasi system and its various forms, under which a girl is dedicated to a deity or object of worship or to a temple. Besides the aforementioned, certain communities like the *Rajnat* of Rajasthan, the *Bedia* of Madhya Pradesh and the *Bachada* of the Rajasthan – Madhya Pradesh border also have some socially sanctioned practices enabling trafficking and commercial sexual exploitation.

The term devadasi is a Sanskrit word denoting *deva* — the God, and *dasi* — female slave, which literally means ‘female slave of the God’. Many believe that devadasi is the feminine form of *devadasa* — a man who is enslaved for the service of a deity. Interestingly, this cult continues to exist even today throughout India with some regional variations. In fact, the institution of dedication of young girls to temples or deities happens to be a pan-Indian phenomenon. However, it came to be known by different names at the local and regional level. For instance, to describe these women in Goa, the term used is *bhavin*. On the west coast, it is *kudikar*, *bogam* or *Jogin* in Andhra Pradesh, *thevardiyar* in Tamil Nadu, *murali*, *jogateen* and *aradhini* in Maharashtra, *jogati* or *basavi* in Karnataka, *ganika* in Orissa, *nati* in Assam and so on. Perhaps one reason for usage of different terms could be on account of the different traditions followed and languages spoken all over the country (Chakraborty, 2000; Shankar, 1990; Tarachand, 1991).

Genesis and Prevalence of Culturally Sanctioned Practices

There is no substantial evidence of the origin of culturally sanctioned practices in India, though it has been suggested by historians that the devadasi system was known in prehistoric cities in India like Harappa and Mohenjodaro of the Indus Valley civilization. Among such evidence which invites attention is the bronze 'dancing girl' figurine.

It is to be mentioned that even the *Arthashastra*, a treatise on government and economics ascribed to Kautilya, the chief advisor of Chandragupta Maurya, does not mention anything about the custom of dancing girls in temples. There is no direct reference found even in classics like Vatsyana's *Kamasutra* (250 A.D.), which deals in detail about courtesans (Shankar, 1990: 40).

The genesis of the devadasi cult and its regional variations is usually traced back to the custom of worshipping the Mother Goddess, whereby young girls were voluntarily dedicated to the service of God by their families to ensure fertility of the soil as well as secure blessings for the community as a whole. It is believed that this custom of dedicating girls to temples primarily emerged as a substitute for human sacrifice.

Another interesting theory which is prevalent relates to the belief that offering something to the deity was rewarded bountifully. So, when the devotees came to the shrines with problems such as bad health, poverty, barrenness, etc., the priests often interpreted these as the wrath of the deity and suggested that they should offer one of their daughters to the service of the deity. Using this concept of divine desire, the priests thus started demanding girls, that too virgins, from the devotees. (Singh, 1997: 29).

Some believed that the interaction between the Brahman patriliney and the strong tie of matriliney and matriarchal families in South Indian society, was also instrumental in the development and popularity of the devadasi system in South India. In the absence of a male heir in the family, some women would temporarily revert to the system of descent through their daughter (*marumakkathayam*). The daughter would be dedicated to the temple as a devadasi, among whom, descent was always in the female line. (Singh, 1990: 44-46).

In South India, historical and literary records show that culturally sanctioned practices in the form of the devadasi system began to flourish during the Pallava and Chola dynasties from the sixth to thirteenth century A.D. They were in origin a special and venerated group of women attendants, some of whom, like the Vestal Virgins of Rome, were dedicated to the temple at birth or when quite young. (Thapar, 1966: 211). They were required to participate in almost all the daily rituals and occasional ceremonies. It was a matter of prestige for the temples to employ devadasis in good number. Being in the service of the deity, the devadasi was accorded both ritual sanctity and social eminence. Important social occasions and functions were not considered auspicious and complete without the presence of a devadasi. She was a welcome guest to every marriage pandal, and it was the devadasi who prepared the *tali* (*mangalsutra*/marriage badge) for the bride. But the system was abused and eventually, in many temples, the devadasis degenerated into shamefully exploited victims of CSE, with their earnings being collected by the temple authorities. In contrast, the city courtesans, who were usually highly accomplished women, were treated with deference. Courtesans had a certain freedom of movement in that they could defy social conventions to a greater degree than most other women.

It is to be mentioned that though in South India devadasis were a common feature in almost all the major brahmanical temples, particularly the Shaivite ones, there were well-defined regions in which the institution attained its maximum growth, e.g., it was more popular in Chingleput, North Arcot, South Arcot, Thanjavur, Tirunelveli and Tiruchirapalli districts of modern Tamil Nadu; Krishna, Guntur and Nellore regions of Andhra Pradesh and Dharwar and Kolar in Karnataka. The result of all this was that the number of devadasis went on increasing and in the course of time, they became so numerous and widespread in South India that they emerged as a separate sub-caste, with their own traditions, rules of behaviour and etiquette, and their own panchayat, whose decisions were binding on all members.

This fact has been corroborated by K.C. Tarachand (1991) in his book entitled *Devadasi Custom – Rural Social Structure and Flesh Markets*. He mentions that in Central Karnataka, the term *Basavi* is used to denote devadasi. And, there are many categories of *basavi*, such as, *gudi-basavi*, *jati-basavi*, *balagada-basavi*, *ura-basavi*, *nandikola-basavi*, *chowri-basavi*, and so on.

In Andhra Pradesh, references to these culturally sanctioned practices are found in respect of dancing girls called by the name of *bogam*. These dancing girls were found both amongst Hindus and Mohammedans. For Hindu *bogams* the titles *sani* or *nayaka* was attached to their names and for Mohammedans *jan* or *nayakan* was attached. The *bogams* were originally attached to the temples of Shiva and Vishnu as servants of the Gods (Shankar, 1990: 48). Today, most of them earn their living by dancing, singing and prostitution. This fact has also been confirmed by case study No. CS-AP-24. Similarly, in Tamil Nadu, a practice known as *mathamma* exists. This practice is found in Vellore and Thiruvallore districts of Tamil Nadu, which share their borders with Andhra Pradesh. For more details, see case study No. CS-TN-07.

In Konkan and Goa, there are *bhavins*. Describing these women, Jogan Shankar (1990) quotes Marcus Fuller, a Christian missionary, who travelled in Western India, i.e. Goa and Konkan, in 1898, in his book *Devadasi Cult — A Sociological Analysis*. She has written, “These women were in the service of the idols in the temple of Lord Mangesh in Goa and places round about, and in parts of the Konkan. Some of these women are presented to the gods in infancy by their parents Their business is to attend to the temple lamps, and keep them trimmed; to sweep and smear the floor; to wave the *chauri* over the idol; serve the *hukka* to the congregation; and to serve in general the visitors of the temple.” (Shankar, 1990: 49-50). The existence of devadasis in Goa has also been substantiated by case study No. CS-GA-7.

Muralis in Maharashtra are girls dedicated to God Khandoba in their infancy or early childhood by their parents. This deity is popularly believed to be an incarnation of God Shiva. The headquarters for the worship of God Khandoba is at Jejuri in Pune district. There is also another place of worship called Pali in Satara district. Quoting Fuller again, Shankar writes, “Poor deluded women promise to sacrifice their first born daughters if Khandoba will make them mothers of many children. Then after the vow the first born girl is offered to Khandoba and set apart for him by tying a necklace of seven cowries around the little girl’s neck. When she becomes of marriageable age, she is formally married to Khandoba or dagger of Khandoba to become his nominal wife. Henceforth she is forbidden to become the wedded wife of any man, and the result is that she usually leads an infamous life earning a livelihood by sin. Some of these girls become wandering *muralis*. Others become ordinary public women in any town or city; while a few are said to live

for years with one man. The parents of such girls do not feel ashamed to take her earnings, because they belong to Khandoba, and what they do is not sin in the eyes of his devotees. *Kunbis, Mahars, Mangs* and other low castes make *muralis* of their daughters in this fashion.” (Shankar, 1990: 50).

Interestingly, the high caste people who visit Jejuri to pay their vows never give their own girls to Khandoba, but buy children from low-caste parents for a small sum of money, which is not a difficult thing to do, and offer them instead of their own children.

These *bhavins* and *muralis* are considered of a lower order than the devadasis or the nautch girls. Under whatever name these women may pass and however much the details of the customs among them may differ, the principle is the same in all — exploitation under the garb of religion and custom.

Culturally sanctioned practices, including the institution of devadasi, existed in Jagannath Puri, Orissa also. Many devadasis are attached to this temple even today. Along with these devadasis dedicated to Lord Jagannath, there were innumerable devadasis in Puri devoted to hundreds of minor shrines, who were having sexual relations with priests, pilgrims and sadhus of this sacred complex.

This apart, research studies have shown that in Orissa and Bengal, one came across women who were referred to as *kasbi*. The term *kasbi* is derived from the Arabic word *kasab* which means profession. The word denotes profession but not caste. Referring to R.V. Russell, Jogan Shankar writes that when a *kasbi* girl attains adolescence, her mother makes a bargain with some rich man to be her first consort. Oil and turmeric are rubbed on her body for five days as in the case of a bride. A feast is given to the member of her caste and the girl is married to a dagger, wailing seven times around the sacred post with it. Her human consort then marks her forehead with vermilion and covers her head with the headcloth seven times. In the evening, she goes to live with him for as long as he wishes to maintain her, and afterwards, takes up the practice of her profession (Shankar, 1990: 45-46).

It is interesting to note that culturally sanctioned practices such as the devadasi system in comparison to South India and other parts of the country, were not so popular and widespread in northern India. One reason for this could be the alien rule, whereby the whole of North India was affected by fierce battles one after the other, so much so that Hindu temples faced complete destruction right from the advent of the Turkish and Afghan Sultans (Delhi Sultanate) to that of the Mughal rule. It is stated that Aurangzeb issued public proclamations prohibiting singing and dancing and ordered all the dancing girls to either marry or leave the kingdom (Tarachand, 1991: 11). An anarchical period followed the death of Aurangzeb and lasted up to the advent of British rule in India. This period became notorious because the standard of morality among the princes and public men sank to the lowest level. Their sensuality affected their court and through them it reached the general populace. As a result of this, there was enormous increase in prostitution. These women were called for dancing at wedding feasts or other private entertainments. Dancing and prostitution had become inseparable in India since the earliest period (Shankar, 1990: 41-42). The existence of different kinds of culturally sanctioned practices in South India as compared to the North could be due to the fact that the faith and beliefs of the people of South India were not affected by the invasions or influences from outside.

However, in northern India one came across castes such as *tawaif*, *gandharb* and *patur* who were dancers, singers and victims of CSE. The following passage quoted by Shankar (1990) from W. Crooke in his book *Devadasi Cult: A Sociological Analysis*, gives details.

The term *tawaif* is a general one, but is chiefly used for Mohammedan girls, while the Hindu branch is usually called *patar*, *patur*, *paturia* (from Sanskrit *patra* — an actor). When they are nubile, the *patar* girls marry a pipal tree and then commence their career of prostitution. One of the numerous sub-castes is known as *rajanya*, which appears to be only one, whose members actually dance in the Hindu temples. Prostitution is said to be rare among them. The *patars* have Krishna as their personal god and Shiva, in the form of Mahadeva, as their guardian deity.

Among the *tawaifs* the rites are interesting. The girl is taught to dance and sing when about seven or eight years old. At the commencement of her training, sweets are offered at a mosque and then distributed among Mohammedan *faquirs*. At the first lesson, the master receives a present of sweetmeats besides his pay. When the girl reaches puberty, certain rites and rituals are performed and the brethren are feasted and the girl is ready for her first paramour. After the price is fixed she goes to him, which rite is known as *sar-dhankai*, or ‘the covering of the head’. When she returns after her first visit, the brethren are again given sweetmeats, after which follows the rite of *missi* or ‘blackening of the teeth’. She is dressed like a bride and paraded through the streets, afterwards attending a party with singing and dancing. The teeth cannot be stained until the feast is held. Crooke comments that at Lucknow this rule was relaxed. “After the rite of *missi*, the girl ceases to wear the nose ring, and hence the ceremony is sometimes known as *nathni utrana* or ‘the taking off of the nose ring’”. (Shankar, 1990: 42-43)

Similarly, among the *gandharbs* also a similar custom was prevalent which continues to exist even today in northern India. These people are mainly concentrated in places like Banaras, Ghaziabad and Allahabad. They were Vaishnavites and the god Ganesha was the patron of the dancing girls since they revered him as the lover of music. There were then certain gypsy tribes named *bedias* and *nats* who were dancers, acrobats and prostitutes in Rajasthan and Madhya Pradesh. Primarily entertainers, these communities were known to have played an important role in the 1857 mutiny against the British. This incurred the wrath of the British authorities, who cracked down on them by including them on the Notified Tribes and Criminal Tribes List. They were stripped of the right to own or till land, and even had to report to the local police if they wanted to stay overnight at any village. The oppressive policies pauperised them, and left them with very few livelihood options. The second blow came with the *zamindari* system. Being entertainers, it was customary for the women and girl children to perform at functions organised by the *zamindars*. Although they occasionally ‘served’ their patrons by granting sexual favours, they were not professional prostitutes. When the *zamindari system* was abolished, they lost their former patronage. Over time, the definition of entertainment was expanded. Women took to prostitution out of economic compulsion, and men justified this on grounds of tradition. Things deteriorated to a point where many women were

prevented from marrying and instead, were pushed into prostitution. Even today, this custom prevails in villages inhabited by these communities in both Rajasthan and Madhya Pradesh (Gathia, 1999: 78-109).

It may be mentioned here that for several other communities in North India, which were traditionally entertainers, prostitution has become their mainstay today. Among them are the *Sanis*, *Bairas*, *Harias*, *Kanjars* and *Sansis*. Girls from these communities are formally initiated by their families into prostitution as a means of livelihood (VHAI, 2002: 157).

A pilot study on *Migration, Trafficking and Sites of Work: Rights and Vulnerabilities* conducted in Rajasthan and Gujarat in the year 2001 by an NGO, Jagori, exemplifies a phenomenon known as *naata* in Rajasthan. This is a practice of 'bride price' in some communities, where, traditionally, the father of the bride was given a certain 'price' for the services of his daughter by the groom. If the woman wished to change partners at a later stage, it was possible to negotiate for this change in 'attachment' as long as the man with whom she wished to go would pay a negotiable price to the groom and the father. In today's context, this has been a cultural mode of enabling trafficking and exploitation.

During the course of this study on trafficking in women and children, the researchers found the prevalence of inter-district and intra-district trafficking and commercial sexual exploitation amongst the *Bedia* community in Bharatpur and Dholpur districts of Rajasthan. It may be noted that like the other communities mentioned above, the practice of commercial sexual exploitation is accepted amongst the *Bedia* community also. For details, see case study No. CS-RJ-3.

Degeneration of Culturally Sanctioned Practices Leading to Trafficking

There is no denial of the fact that culturally sanctioned practices, such as the devadasi custom, which developed as a purely religious institution, saw a gradual decline when degenerated practices began to be associated with it, especially that of commercial sexual exploitation. However, despite its degeneration into a great social evil, these practices could not be done away with because of royal patronage. As the ruling class on the one hand, and the priestly class and the nobility on the other, depended on each other's support, the vices connected with some of these practices continued to grow by leaps and bounds. This fact remains true even today as can be seen from research studies conducted on the subject. For example, Harshad R. Trivedi's (1976) study entitled, *Scheduled Caste Women: Studies in Exploitation*, shows how women belonging to the Scheduled Castes are encouraged to undergo initiation ceremony, and accept the devadasi way of life. Later on, such women are allured to take up the profession of prostitution either at local or at city red-light areas. He offers an important reason for the continuity of the devadasi cult in this area. "Most Harijan families in a village usually get full labour only for three months in a year during drought in the area even this is not possible Under such acute circumstances they look for different sources of income. Particularly, when even religious begging *joga* by a devadasi too, does not turn out to be a profitable occupation In recent times commercial prostitution in which both devadasis and non-devadasis are involved, has been more gainful. Therefore in recent years the reason why a poor Harijan family desires to dedicate a daughter as devadasi is to get cash rewards through her visitors. For this reason they choose the best looking daughter so that she may be able to attract more customers." (Trivedi, 1976: 84-85).

According to another estimate, girls dedicated as devadasis to *Yellamma*, *Hanuman* and *Khandoba* temples in the Maharashtra–Karnataka border area number about 2.5 lakhs (Ranjana, 1983:24). After initiation as devadasis, women migrate either to nearby towns or other far-off cities to practise prostitution. The backward areas of Belgaum district such as Saundatti, Kokatnur and Yellamman Gudda are more prone to this cult. These areas thus became the chief source for urban brothels. This fact has been validated in case study No. CS-KR-1.

In his book mentioned above, Jogan Shankar has referred to a Bangalore-based voluntary service organisation, Samyukta Mahila Vedike (Joint Women's Programmes), which conducted a survey of this area. The survey revealed that 98 per cent of households with devadasi background belonging to the Scheduled Caste community practise prostitution. The study came out with striking findings. Some of them are as follows: (i) The devadasi system is still alive as dedication of girls to deities is still practised and the system of devadasi blends into commercial prostitution under the garb of religion. (ii) Dedication gives them some sort of justification for the practice. They feel that whatever they indulge in, is in the service of the goddess. Thus, there is no social stigma. (iii) Poverty is another factor which contributed in increasing the devadasi clan. And, (iv) Socially devadasis enjoy better positions than other women of their community.

Similarly, Tarachand's (1991) study entitled, *Devadasi Custom – Rural Social Structure and Flesh Markets*, once again reiterates that the devadasi system is contributing to the growth of commercial prostitution today and that this relation between the devadasi custom and commercial prostitution is quite ancient and close. Based on the data collected from commercial prostitutes in Gaum city of Karnataka state, his study points out that though it is against tradition, a sizeable percentage of devadasis were commercial prostitutes.

Moreover, compared to other commercial prostitutes, devadasis in the profession are safe against customers and law enforcing agencies. Their status as religious functionaries prevents the police and the law courts from arresting and punishing them. As a result, initiation of girls as devadasis has become a paying proposition, since the brothel-keepers attach this eligibility tag before taking girls into their establishment. Further, those who are already commercial prostitutes buy this licence to get immunity, thus raising the number of devadasis in the society (Tarachand, 1991: 129-130).

In the case of brothels/houses run by senior devadasis, when they need new girls, they visit villages which are known to them. Since they regularly visit these villages every year and also during a particular season (December/January), their arrival is expected in the circles of families and castes which want to send their girls for prostitution. These procurers are usually elderly devadasis who have retired as victims of CSE and have become owners of brothels. They are well-fed, grandly dressed with expensive ornament and exhibit prosperity in all their activities by spending lavishly on friends and relatives. They do this to counter possible opposition from individuals or institutions to their stay and to garner support in their favour.

After selecting the required number of girls the procurers make advance payments to the family to initiate the girl into *devadasihood* at the earliest possible opportunity. This advance amount paid, however, is adjusted against the earnings of the girl, later on. After this arrangement, the procurer visits the police, travel agencies and other concerned to make arrangements for their

safe travel to their destination. Though the girls are brought back to the families only after the contract period is over, i.e. when they become old and/or ill, their return to their family is nonetheless assured. With this mutual trust and help, two groups work and this contributes to the continuation of the profession. (Tarachand, 1991: 117–119).

In this context, Jogan Shankar's study on *Devadasi Cult – A Sociological Analysis*, needs to be mentioned here. Based on case studies of 85 devadasis of Yellampura village, he mentions that at the time of the study, no instances were found of upper caste women being dedicated to the deity. The devadasi practice was, however, being followed by lower castes like *Holers*, *Madars* and *Samagars*. Here too, the functional relation of devadasis of the village with the local Yellamma temple deity was found to be insignificant and symbolic only. Recently, many of them have become more commercial as they want to try their luck in urban brothels. Even devadasis in villages have started inviting other clients on monetary considerations. The emergence of a new trend that pertains to deflowering of a devadasi who is destined for urban brothels through agents or *gharwalis* is now noticed. For the purpose of deflowering, a client is fixed by the concerned agent or *gharwali*. The girl, before commencing prostitution, is deflowered by that client, who pays a huge amount as *bakshish* (tips) to the *gharwali* or agent. During his study, a *gharwali* of Yellampura village, who operated her business at Kamatipura 14th Lane, Bombay, revealed that such a client also bears all the expenditure including the amount spent at the time of the dedication ceremony. She also revealed that there is a lot of demand for virgin girls in Bombay. Some *Sethjees* (merchants) extend advance money to *gharwalis* for such arrangements. To attract clients and ensure frequent visits by regular clients, the *gharwali* has to ensure that there were new faces and 'fresh girls' in her den. This trade compulsion forces her to establish contacts with those areas where the cult is being practised. These *gharwalis* advance money through agents to those families where a beautiful girl is dedicated and has not yet reached puberty. At a later stage, they succeed in their plot in booking the parents of the concerned girl and luring them to send their daughter with the *gharwali*. Usually, retired prostitutes who return and settle down in their native places assist both the *gharwalis* and the parents of a girl. They receive commission for this service.

Shankar's other findings were that childless devadasis too adopt female children and dedicate them to the deity to have somebody to look after them in their old age. In addition, the vested interests of the upper castes and classes always prevails. They encourage the lower castes, including untouchables, to practise the system in order to gain access to desirable women of lower castes to appease their extra marital sexual needs. Coupled with these factors, there is lack of awareness of the Karnataka Devadasi (Prohibition of Dedication) Act, 1982 among the cult-hit population. The police authorities also enforce this Act half-heartedly (Shankar, 1990: 156-167).

Initiatives by the Government

In order to rehabilitate victims of commercial sexual exploitation, the Central as well as the state governments have initiated several schemes and programmes. Some of these schemes include Support for Training and Employment Programme (STEP), setting up of Training-cum-Production Centres for Women (popularly known as NORAD), *Rashtriya Mahila Kosh*, *Mahila Samridhi Yojana*, etc. The Government of India has also drawn up a Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children.

Special mention needs to be made about the *Jawali* scheme launched by the Government of Madhya Pradesh with voluntary organisations in an attempt to eliminate commercial sexual exploitation in the state, especially amongst the *Bedia* community. This scheme focuses on children belonging to certain castes and tribes in which trafficking and sexual exploitation is an accepted norm.

In 1990, the Government of Maharashtra appointed a study group for the rehabilitation of victims of trafficking and commercial sexual exploitation. On the recommendation of the study group, a number of schemes are being implemented in the state. These include a monthly pension of Rs. 300 to devadasis over 40 years, and financial assistance of Rs. 10,000 for the marriage of unmarried devadasis or for the marriage of the daughter of a devadasi. This apart, hostels which provide vocational training and education have been built in several districts of Maharashtra. Assistance of Rs. 10,000 per year is also being given to registered NGOs who are working for eradicating the devadasi system from the society. Seed capital up to Rs. 35,000 is sanctioned to devadasis to start small businesses connected with agriculture, transport, rural development, cottage industries, small-scale industries, etc.

In Karnataka too, financial assistance of Rs. 10,000 is being given to couples where the bride is a devadasi. A special cell for the eradication of social evils like the devadasi system and other culturally sanctioned practices has also been created. The functions of the cell include creating public awareness and highlighting the harmful effects of these customs. Workshops and seminars are also held to highlight the benefits available under various schemes of the Directorate of Women and Child Development in Karnataka. (DWCD, 2001: 394-397)

The foregoing account shows that culturally sanctioned practices have continued to flourish and exist till today. Despite constitutional provisions and legislation enacted by the government to prohibit some of these practices, like the devadasi and *jogin* traditions, they have not been abandoned. The state governments too, on their part, have been implementing various laws and schemes for the social upliftment and economic rehabilitation of the victims but relief does not seem to be in sight, as somehow or the other, these exploitative practices continue to hold sway.



Missing Persons and Trafficking

[Preamble: Data on ‘missing persons’ was separately called for from all the states/Union Territories and from the six metropolitan cities. In order to facilitate uniformity, a proforma for data collection was prepared and forwarded to all the officials concerned. The Chief of Police of the concerned place as well as the Nodal Officers of the concerned states were requested to furnish the data. Reminders were regularly sent. The National Human Rights Commission also advised the Nodal Officers and the Police Chiefs of all the states to furnish the data. This was consistently followed up and, consequently, data was received from the following states/Union Territories: Andaman & Nicobar Islands, Andhra Pradesh, Arunachal Pradesh, Assam, Chandigarh, Chhattisgarh, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Orissa, Pondicherry, Rajasthan, Tamil Nadu, Tripura, Uttaranchal, Uttar Pradesh and West Bengal. Despite best efforts, data was not made available from Bihar, Jharkhand, Punjab and Sikkim. Collecting data from the six metropolitan cities, viz. Delhi, Mumbai, Calcutta, Chennai, Bangalore and Hyderabad was also not easy. The difficulty in data collection was due to several reasons. No central agency had all the required data. In many states, there is no appropriate repository or monitoring mechanism. Moreover, the available data was only about missing persons, but not about the persons who are recovered / retrieved / returned. Thus, incompleteness of the data in most of the states was a serious impediment to this study. However, due to efforts undertaken by certain officials in the states, the compilation could achieve satisfactory progress, though after a long period.]

It is important to mention here that persons who go missing can be reflected in different ways in the police records. All cases of abduction and kidnapping essentially mean that the persons have gone missing, maybe temporarily. The data on abducted and kidnapped persons finds place in the crimes registered in the police stations as FIRs (First Information Report) and is documented in the crime records. It is possible that many of these kidnapped and abducted persons continue to remain missing and, therefore, their numbers will only add to the list of missing persons. However, the focus of study in this particular chapter, as described in the following paragraphs, is with specific focus on the persons who are reported under the category of ‘Missing Persons’ in the police records.

The data so collected is unique in many respects. No other agency, governmental or non-governmental, has such data in a consolidated form. There is no study or analysis done on the data, especially in an all-India context. Therefore, as a part of the Action Research on Trafficking, systematic efforts have been made to study and analyse the data. The emerging scenario is presented below.]

The linkage between ‘missing persons’ and ‘trafficked persons’

In India, a large number of children and women are reported missing every year. Since the ‘Action Research’ on trafficking addresses the issues of women and children, this study on missing persons is also confined to these categories. It is a fact that out of the large number of women and children reported missing every year, many of them never return and are not located either. They continue to remain missing. Many a time, during rescue operations carried out by the police in the red-light areas, many children and women who are rescued turn out to be those who were earlier reported missing elsewhere in the country. Many case studies collected during the Action Research substantiate this missing link. This chapter is an effort to understand this mysterious link between ‘missing persons’ and ‘trafficking’.

During the course of the Action Research, the research partners were called upon to address the issue of the possible linkage between ‘missing persons’ and ‘trafficking’. It was suggested that when they interviewed rescued trafficked victims, it should be ascertained whether they were ‘reported missing’ at some point of time in their native places. During the interactive sessions with law-enforcement officials and NGOs, this point was further probed. The activities of Childline and other such agencies were studied and their help was solicited. Accordingly, a few case studies have come up in this regard, indicating the distinctive linkage of missing persons with trafficked persons.

Case study No. CS-DL-22 (titled ‘Linking Missing Persons with Trafficking’) speaks about several instances of children who have been trafficked from their community, but were reported missing in the local police stations. After a long time, these children were rescued from brothels or from other similar exploitative situations. The story of the 14-year-old girl ST, 10-year-old boy SJ and 15-year-old girl RK clearly points out to the fact that many children who have, in fact, been trafficked, are reported missing in their respective police stations. The case of Ms. SL is no different. She was a student of the 9th standard when she was reported missing in her native village in Raichur, Karnataka. However, the real story is different. She was trafficked by a man who was living in her neighbourhood. He befriended her and lured her for domestic work. She fell into the trap and accompanied him to Mumbai in April 2003. The man sold her to a brothel, where she was trapped for 20 days as a victim of CSE. After being rescued by the police, she remained in the Special Rehabilitation Centre at Deonar in Mumbai for a month. Due to the efforts of the Probation Officer of the Rescue Home and others, SL was restored to her parents in July 2003 with the help of Saathi, an NGO from Karnataka. Though she was reported missing in the police station, she had actually been trafficked. The local police did not make any effort to locate the missing person. Had she not been rescued from the brothel by the Mumbai Police along with the NGO, SL would have continued to suffer unbearable atrocities in Mumbai as a victim of CSE.

Case study No. CS-MH-5 (Missing child was not ‘MISSING’, but had been ‘TRAFFICKED’) speaks about PV, another young girl who was trafficked from the suburbs of Maharashtra and subsequently abused and sexually exploited in a beer bar. PV’s case, along with others mentioned above, speaks volumes about the ‘missing link’ in the story of missing persons, especially women and children. There was no sustained follow-up or systematic efforts to locate the person. Even when it was confirmed that PV had been trafficked, complaints about the ‘missing person’ remained as it is in the police records. Therefore, these case studies are clear pointers to the fact that all ‘missing’ children and women are not exactly ‘missing’.

In this context, the judgment delivered by the Additional Assistant Sessions Judge, Pondicherry, in Reddiarpalayam, P.S. Case no. 70/98, is important. A 15-year-old girl child was reported to be missing and the parents registered a missing entry in the police station on 3rd May 1998, that the daughter was missing since 25th April 1998. The police registered a ‘missing entry’ and carried out routine enquiries, but without any clue about where the girl was. On 5th July 1998, on receipt of a letter from the same girl, who had garnered enough courage to write to her mother about her plight in a brothel, where she was being sexually exploited, the police swung into action. They arrested two persons running the brothel where the girl was incarcerated, on the charges of buying and selling a girl child and trafficking. After trial, the two accused persons were awarded seven

years imprisonment and a fine. This case establishes the link between missing persons and trafficked persons.

These case studies are only illustrative of the mysterious link between trafficking and missing persons. The parents and guardians are usually unaware of the fact that their children have been trafficked (or maybe, even kidnapped/abducted). In such situations, even if they report to the police, the police station treats it as a case of a child 'going missing'. By and large, the orientation of the police in such a situation is that it is the child who has run away or managed to disappear. Obviously, this view tends to pass the blame on to the child. There may be cases where some children have run away from their homes on their own. But even here, the blame cannot be squarely put on the child. The reasons behind the child's 'truancy' can be the abusive family situation, peer group pressure, community situation or due to the involvement of criminals. Family situations which compel children to run away include homes where children are less cared for, harassed, abused, or subjected to traumatic experiences like incest, etc. Such situations can also be found in protective homes and such places where there is no proper direction or control. The peer group pressure which causes children to go missing are many, viz. exposure to adult ways at a very young age, or frustration at home leading to aggression outside by the peer group, etc. The community situation which causes children to go missing is commonly seen in extremely vulnerable situations like children living in brothels, slums, etc. Another important reason why children go missing is due to the involvement of criminals. This can be because of kidnapping/abduction or trafficking. The linkage between trafficking and missing persons has been established from the case studies cited above. This opens up a new dimension to the present-day scenario of law-enforcement. Since the study shows every possibility that a large number of children who are reported missing are trafficked and, thereafter, are being subjected to exploitation of different types, there is an urgent need to combat the problem of missing women and children. It was in this context that efforts were made, as part of this study, to understand the extent of the problem of missing children in India.

National data on missing women

Before entering into a discussion on the data of missing persons, it is important to understand the limitations in the data presented. The study has shown that a large number of instances of missing persons are not reported in the police records. There is wide discrepancy between the numbers in the police records and that in the records of Childline and other helplines. There is one more dimension to the scenario of missing persons. As per the data published by NCRB in *Crime in India, 2001* (page 187), a total of 35,439 unidentified dead bodies were recovered by the police and an inquest was carried out according to the law. The number of unidentified dead bodies was high in Maharashtra (8230), Uttar Pradesh (5310) and Andhra Pradesh (5290). Among the cities, Hyderabad (3849) and Delhi (2072) reported high number of unidentified dead bodies. It is possible that some of the missing persons would have died, whatever be the reasons. Once identified, they would be discounted from the number of missing persons as having been returned/recovered. If they continue to remain unidentified, they will not be discounted from the list. Therefore, a percentage of missing persons do form part of the unidentified dead bodies. However, feedback from the law-enforcement officials shows that this percentage would account for only a very small number. Since the sex disaggregated and age disaggregated data of unidentified dead bodies is not

available, this linkage between missing and unidentified dead bodies could not be drawn up in this analysis. Therefore, interpretations in the present chapter have to be read with this limitation in view. Accordingly, the focus of analysis in this chapter is with specific orientation to the persons who are reported in the police stations and police records under the category of 'missing persons'.

Table 1: Number of female adults reported missing

States/Union Territories	1996	1997	1998	1999	2000	2001	Total for 6 years	Yearly average	2001 over 1996*
A&N Islands	13	19	10	25	28	37	132	22	185% (+)
Andhra Pradesh	698	656	724	778	850	921	4,627	771	32% (+)
Arunachal Pradesh	12	16	14	27	21	42	132	22	150% (+)
Assam	297	289	317	385	442	459	2,189	365	55% (+)
Chandigarh	43	53	68	51	52	56	323	54	30% (+)
Chhattisgarh	115	94	107	106	119	95	636	106	17% (-)
Delhi	1,948	2,016	1,920	2,141	2,114	2,116	12,255	2,043	8% (+)
Goa	308	303	274	280	295	279	1,739	290	9% (-)
Gujarat	622	773	900	1,040	1,151	1,104	5,590	932	77% (+)
Haryana	78	76	101	105	129	143	632	105	83% (+)
Himachal Pradesh	203	157	178	212	227	218	1,195	199	7% (+)
Karnataka	1,682	1,693	1,724	1,572	1,630	1,766	10,067	1,678	5% (+)
Kerala	883	911	924	774	823	848	5,163	861	4% (-)
Madhya Pradesh	2,451	2,750	2,982	3,192	3,443	2,881	17,699	2,950	17% (+)
Maharashtra	7,466	7,793	7,578	8,410	8,590	8,781	48,618	8,103	18% (+)
Meghalaya	4	3	2	2	3	2	16	3	50% (-)
Nagaland	0	1	0	0	2	2	5	1	100% (+)
Orissa	241	168	250	275	300	300	1,534	255	24% (+)
Pondicherry	0	0	0	0	3	12	15	2.5	0%
Rajasthan	676	1,579	713	688	798	836	5,290	882	24% (+)
Tamil Nadu	2,143	1,874	1,996	2,112	2,222	2,218	12,565	2,094	3% (+)
Tripura	61	56	49	51	67	53	337	56	13% (-)
Uttaranchal	113	104	124	155	163	174	833	139	54% (+)
Uttar Pradesh	250	264	405	432	316	498	2,165	361	99% (+)
West Bengal	187	182	192	198	161	193	1,113	186	3% (+)
Total	20,494	21,830	21,552	23,011	23,949	24,034	1,34,870	22,480	17% (+)

(Source: Data received from the State Police agencies)* Shows increase (+) or decrease (-)

Table 1 presents the data of the total number of adult women reported missing during the six-year period of 1996 to 2001, from the states and Union Territories in India from where data has been received. The figures from Manipur, Mizoram and Jammu & Kashmir are nil on all heads and, therefore, not placed in the table.

Table 1 shows that in most of the states, the number of female adults reported missing increases year after year, though there are ups and downs in a few states. The number of female adults reported missing from the 28 states comes to 1,34,870, with an average of 22,480 women missing each year. The number reported missing in 2001, when compared with the corresponding number in 1996, shows an increasing trend in most of the states. The percentage of this increase in some states is phenomenal, for example, there is 185 per cent increase in Andaman & Nicobar Islands, 150 per cent increase in Arunachal Pradesh, 32 per cent increase in Andhra Pradesh, 55 per cent increase in Assam, 77 per cent increase in Gujarat, 83 per cent increase in Haryana, 100 per cent increase in Nagaland, 99 per cent increase in Uttar Pradesh, etc.

Total number of female adults who continue to remain missing

An effort was made to identify how many among the missing adult women were traced and how many were not. The number of such persons who continue to remain missing and are, therefore, untraced has been collated and presented in Table 2.

Table 2: Total number of female adults who continue to remain missing

States/Union Territories	1996	1997	1998	1999	2000	2001	Total for 6 years	Yearly average	2001 over 1996*
A&N Islands	1	2	-	4	7	5	19	3	400% (+)
Andhra Pradesh	192	129	117	150	118	184	890	148	4% (-)
Arunachal Pradesh	0	3	4	4	8	17	36	6	1600% (+)
Assam	115	101	116	145	207	184	868	145	60% (+)
Chandigarh	10	27	30	19	25	30	141	24	200% (+)
Chhattisgarh	39	19	16	16	24	34	148	25	13% (-)
Delhi	1,443	1,566	1,604	1,727	1,258	1,224	8,822	1,470	15% (-)
Goa	70	68	63	45	62	48	356	59	31% (-)
Gujarat	67	113	130	138	160	212	820	137	216% (+)
Haryana	29	37	61	39	65	88	319	53	203% (+)
Himachal Pradesh	72	54	79	72	77	68	422	70	6% (-)
Karnataka	195	184	251	218	262	311	1,421	237	59% (+)
Kerala	211	227	225	212	199	209	1,283	214	1% (-)
Madhya Pradesh	203	391	698	208	811	815	3,126	521	301% (+)
Maharashtra	1,403	1,503	1,570	1,448	1,686	1,812	9,422	1,570	29% (+)
Meghalaya	2	-	-	-	1	-	3	1	-
Orissa	188	136	212	227	260	235	1,258	210	25% (+)
Pondicherry	0	0	0	0	1	4	5	0.83	-
Rajasthan	85	95	100	95	121	122	798	133	44% (+)
Tamil Nadu	42	223	214	210	62	201	952	159	379% (+)
Tripura	1	1	1	7	17	6	33	5.5	500% (+)
Uttaranchal	24	29	20	31	28	28	160	27	17% (+)
Uttar Pradesh	92	119	158	140	152	204	865	144	122% (+)
West Bengal	143	115	124	142	104	140	768	128	2% (-)
Total	4,627	5,142	5,793	5,297	5,715	6,181	32,935	5,452	34% (+)

(Source: Data received from the State Police agencies)* Shows increase (+) or decrease (-)

Table 2 shows an increasing trend of untraced persons in almost all the states and Union Territories. The consolidated data from all the 24 states/Union Territories (except Jammu & Kashmir, Manipur, Mizoram and Nagaland, where there are no instances of missing persons) shows that during the given period, a total of 32,935 women continued to remain untraced. This makes an average of 5,452 women per year. The moot question is, where have all these women disappeared?

The number of untraced women in 2001, when compared to the corresponding number for 1996, shows an increasing trend in almost all the states/Union Territories. The percentage increase is 1,600 in Arunachal Pradesh, 400 in Andaman & Nicobar Islands, 60 in Assam, 200 in Chandigarh, 216 in Gujarat, 203 in Haryana, 59 in Karnataka, 301 in Madhya Pradesh, 379 in Tamil Nadu, 500 in Tripura and 122 in Uttar Pradesh.

Missing children in India

Table 3 presents the data on the total number of female and male children, under 18 years of age, reported missing from the various states/Union Territories in India.

Table 3: Total number of children reported missing in India

States/Union Territories	1996	1997	1998	1999	2000	2001	Total for 6 years	Yearly average	2001 over 1996*
A&N Islands	47	42	85	76	83	95	428	71	102% (+)
Andhra Pradesh	1,642	2,048	1,936	2,054	2,011	2,353	12,044	2,007	43% (+)
Arunachal Pradesh	36	26	23	86	95	112	378	63	211% (+)
Assam	576	585	612	850	1,030	1,055	4,708	785	83% (+)
Chandigarh	24	27	27	33	34	32	177	30	33% (+)
Chhattisgarh	156	175	137	183	170	165	986	164	6% (+)
Delhi	6,193	6,525	6,474	5,793	6,223	6,151	37,359	6,227	1% (-)
Goa	215	245	220	195	237	202	1,314	219	6% (-)
Gujarat	1,333	1,413	1,673	1,948	1,737	1,639	9,743	1,624	23% (+)
Haryana	188	166	225	283	325	318	1,505	251	69% (+)
Himachal Pradesh	181	157	153	145	142	154	932	155	15% (-)
Karnataka	3,943	3,861	3,574	3,533	3,530	3,523	21,964	3,660	11% (-)
Kerala	762	884	795	616	629	554	4,240	707	27% (-)
Madhya Pradesh	4,280	4,739	4,823	5,378	5,354	4,914	29,488	4,915	15% (+)
Maharashtra	14,470	13,988	12,797	14,045	13,875	14,108	83,283	13,881	3% (-)
Manipur	0	0	0	0	0	3	3	0.5	-
Meghalaya	14	10	15	13	19	15	86	14	7% (+)
Nagaland	4	3	5	5	4	8	29	5	100% (+)
Orissa	572	445	379	503	360	696	2,955	493	22% (+)
Pondicherry	7	0	0	1	2	35	45	7.5	400% (+)
Rajasthan	1,894	1,972	1,918	1,966	2,001	2,032	11,783	1,964	7% (+)
Tamil Nadu	2,511	4,553	4,596	4,943	5,606	5,498	27,707	4,618	119% (+)
Tripura	39	37	33	44	78	37	268	45	5% (-)
Uttaranchal	313	339	321	286	305	281	1,845	308	10% (-)
Uttar Pradesh	1,595	1,694	1,791	1,942	1,612	1,988	10,622	1,770	25% (+)
West Bengal	415	679	624	453	405	379	2,955	493	9% (-)
Total	41,410	44,613	43,236	45,374	45,867	46,347	2,66,847	44,476	12% (+)

(Source: Data received from the State Police agencies)* Shows increase (+) or decrease (-)

The number of children reported missing from the states/Union Territories mentioned in Table 3, minus those states/Union Territories with nil reporting, comes to an aggregate of 2,66,847, making an average of 44,476 children missing every year. The average reporting for a period of six years varies from state to state, with certain states having abnormally high figures. For example, the average number of children reported missing in one year in Maharashtra is 13,881, in Delhi, 6227, in Madhya Pradesh, 4,915, in Tamil Nadu, 4,618, in Karnataka, 3,660, in Andhra Pradesh, 2,007 and in Gujarat, 1,624. There is an increasing trend in the annual reporting of missing children in almost all the states. The percentage difference of the number of children reported missing in 2001 over the corresponding number of 1996 also shows increase in most of the states/Union Territories, with abnormally high rates of increase in Andaman & Nicobar Islands (102 per cent), Andhra Pradesh (43 per cent), Arunachal Pradesh (211 per cent), Assam (83 per cent), Chandigarh (33 per cent), Gujarat (23 per cent), Kerala (27 per cent), Nagaland (100 per cent), Pondicherry (400 per cent), Tamil Nadu (119 per cent) and Uttar Pradesh (25 per cent).

Total number of untraced children

Table 4 presents data on the number of children who were reported missing, but were neither rescued nor returned and, therefore, continue to remain missing and untraced.

Table 4: Total number of children who continue to remain missing

States/Union Territories	1996	1997	1998	1999	2000	2001	Total for 6 years	Yearly average	2001 over 1996*
A&N Islands	-	2	1	4	7	11	25	4	1000% (+)
Andhra Pradesh	251	353	277	352	325	446	2,004	334	78% (+)
Arunachal Pradesh	6	2	2	20	58	59	147	25	883% (+)
Assam	206	214	272	402	489	517	2,100	350	151% (+)
Chandigarh	9	9	13	12	9	14	66	11	56% (+)
Chhattisgarh	24	5	30	32	31	44	166	28	83% (+)
Delhi	3,837	4,258	4,722	4,377	3,848	2,666	23,708	3,951	31% (-)
Goa	54	41	31	36	47	39	248	41	28% (-)
Gujarat	133	135	202	213	223	239	1,145	191	80% (+)
Haryana	64	77	107	126	120	155	649	108	142% (+)
Himachal Pradesh	39	52	48	43	33	53	268	47	36% (+)
Karnataka	411	428	433	439	483	479	2,673	446	17% (+)
Kerala	193	160	251	136	153	163	1,056	176	16% (-)
Madhya Pradesh	1,092	776	800	597	995	857	5,117	853	22% (-)
Maharashtra	2,340	2,214	2,470	2,365	2,327	2,435	14,151	2,359	4% (+)
Manipur	0	0	0	0	0	1	1	0.16	-
Meghalaya	2	-	-	-	4	1	7	1	50% (-)
Orissa	419	373	301	417	280	541	2,331	389	29% (+)
Pondicherry	0	0	0	0	0	2	2	0.33	-
Rajasthan	154	200	187	202	216	278	1,237	206	81% (+)
Tamil Nadu	186	331	776	728	464	547	3,032	505	194% (+)
Tripura	2	0	2	12	35	8	59	10	300% (+)
Uttaranchal	59	33	32	26	31	45	226	38	24% (-)
Uttar Pradesh	665	518	668	669	549	775	3,844	641	17% (+)
West Bengal	260	413	374	285	216	214	1,762	294	18% (-)
Total	10,406	10,594	11,999	11,493	10,943	10,589	66,024	11,008	2% (+)

(Source: Data received from the State Police agencies)* Shows increase (+) or decrease (-)

The data in Table 4 is, no doubt, alarming and distressing. Over the period of six years, almost all the states/Union Territories have shown an increasing trend in the number of untraced children. Barring Jammu & Kashmir, Manipur, Mizoram, Nagaland and Pondicherry which have almost nil reporting, the data from the other states/Union Territories presents a total number of 66,024 children, who continue to remain missing during the six-year period, making an annual average of 11,008 children. It is bewildering to note that in India, on an average, 44,476 children go missing every year and that out of these, 11,008 children remain untraced annually. Where these children have disappeared is a question to ponder over seriously. In several states, this percentage of increase is very high, for e.g., 100 in Andaman & Nicobar Islands, 883 in Arunachal Pradesh, 78 in Andhra Pradesh, 151 in Assam, 83 in Chhattisgarh, 80 in Gujarat, 142 in Haryana, 194 in Tamil Nadu and 300 in Tripura.

A study was carried out to ascertain the percentage of untraced women and children in proportion to the missing number. The details are in Table 5 and Table 6.

Table 5: Percentage of female adults who continue to remain untraced in proportion to the number of female adults reported missing

[Figures indicate percentage]

<i>States /UTs</i>	<i>1996</i>	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>
A&N Islands	8	11	10	16	25	14
Andhra Pradesh	21	21	19	22	18	21
Arunachal Pradesh	8	19	29	15	38	40
Assam	39	35	37	38	47	40
Chandigarh	23	51	44	37	48	54
Chhattisgarh	34	20	15	15	20	36
Delhi	74	78	84	81	60	58
Goa	23	22	23	16	21	17
Gujarat	11	15	14	13	14	19
Haryana	37	49	60	37	50	62
Himachal Pradesh	35	34	44	34	34	31
Karnataka	12	11	15	14	16	18
Kerala	24	25	24	27	24	25
Madhya Pradesh	8	14	23	7	24	28
Maharashtra	19	19	21	17	20	21
Meghalaya	50	33	50	50	33	50
Orissa	78	81	85	83	87	78
Pondicherry	0	0	0	0	33	33
Rajasthan	13	6	14	14	15	15
Tamil Nadu	2	12	11	10	3	9
Tripura	2	2	2	14	25	11
Uttaranchal	21	28	16	20	17	16
Uttar Pradesh	37	45	39	32	48	41
West Bengal	76	63	65	72	65	73

(Source: Data received from the State Police agencies)

Against the backdrop of the unbelievable, yet true, data of missing and untraced women and children in the country, discussed in the previous paragraphs, the proportion of untraced persons provides an indicator of the efficiency of the existing system with respect to locating the missing persons. In this context, the data presented in Table 5 on missing women and that in Table 6 on missing children shows that in most of the states, the percentage of untraced persons continues to increase every year, i.e. the efficiency in locating the missing persons has diminished. In many states, there is a gradual and consistent decline of this 'efficiency index', as seen from the increasing trend of the percentage of persons who remain untraced. For instance, in Orissa, of the female adults reported missing, 78 per cent remain untraced. Similarly, in Delhi, 58 per cent of the adult women reported missing were yet to be traced. Perhaps, Table 5 and Table 6 present the imminent need for the law-enforcement machinery to take immediate and appropriate steps in locating the missing persons.

**Table 6: Percentage of children who continue to remain untraced
in proportion to the number of children reported missing**

(Figures indicate percentage)

States/UTs	1996	1997	1998	1999	2000	2001
A&N Islands	2	5	1	5	8	12
Andhra Pradesh	15	51	18	19	19	22
Arunachal Pradesh	17	8	9	23	61	53
Assam	36	37	44	47	47	49
Chandigarh	38	33	48	36	26	44
Chhattisgarh	15	3	22	17	18	27
Delhi	62	65	73	76	62	43
Goa	25	17	14	18	20	19
Gujarat	10	10	12	11	13	1
Haryana	34	46	48	45	37	49
Himachal Pradesh	22	33	31	30	23	34
Karnataka	10	11	12	12	14	14
Kerala	25	18	32	22	24	29
Madhya Pradesh	26	16	17	11	19	17
Maharashtra	16	16	19	17	17	17
Manipur	0	0	0	0	0	33
Meghalaya	14	10	7	8	21	7
Orissa	73	84	79	83	78	78
Pondicherry	0	0	0	0	0	6
Rajasthan	8	10	10	10	11	14
Tamil Nadu	7	7	17	15	8	10
Tripura	5	0	6	27	45	22
Uttaranchal	19	10	10	9	10	16
Uttar Pradesh	42	31	37	34	34	39
West Bengal	63	61	60	63	53	56

(Source: Data received from the State Police agencies)

Women and children missing from the metropolitan cities in India

The analysis of the data regarding missing women and children collected from the six metropolitan cities in India, for the period 1996-2001(except Kolkata, where the data available is for the period from 1997-2001) is presented in Table 7.

Table 7: Women reported missing from the metropolitan cities

Cities	1996	1997	1998	1999	2000	2001	Total for 6 years	Yearly average	2001 over 1996*
Delhi	1,948	2,016	1,920	2,141	2,114	2,116	12,255	2,043	9% (+)
Mumbai	2,716	2,783	2,185	2,808	2,803	2,904	16,199	2,700	7% (+)
Hyderabad	228	242	249	265	289	279	1,552	259	22% (+)
Kolkata	NA	2,145	2,322	2,028	1,284	1,037	8,816	1,763	52% (-)
Bangalore	831	788	845	784	815	879	4,942	824	6% (+)
Chennai	292	320	404	456	413	426	2,311	385	46% (+)
Total	6,015	8,294	7,925	8,482	7,718	7,641	46,075	7,679	27% (+)

(Source: Data received from the State Police agencies)* Shows increase (+) or decrease (-)

Table 7 shows that in all these metropolitan cities, except Kolkata, the number of women reported missing is gradually increasing. However, Kolkata shows consistent decline. Table 8 shows the number of children (male and female) reported missing from these metropolitan cities.

Table 8: Children reported missing from the metropolitan cities

Cities	1996	1997	1998	1999	2000	2001	Total for 6 years	Yearly average	2001 over 1996*
Delhi	6,193	6,525	6,474	5,793	6,223	6,151	37,359	6,227	1% (-)
Mumbai	4,959	4,489	3,235	4,226	4,070	4,112	25,091	4,182	17% (-)
Hyderabad	713	837	805	837	762	878	4,832	805	23% (+)
Kolkata	NA	1,027	1,057	995	2,519	2,397	7,995	1,599	133% (+)
Bangalore	1,884	1,877	1,846	1,753	1,734	1,824	10,918	1,820	3% (-)
Chennai	956	961	1,040	1,117	1,077	1,093	6,244	1,041	14% (+)
Total	14,705	15,716	14,457	14,721	16,385	16,455	92,439	15,407	12% (+)

(Source: Data received from the State Police agencies)* Shows increase (+) or decrease (-)

The number of children reported missing in 2001, when compared to the number in 1996/1997, shows very high increase in Kolkata followed by Hyderabad, Mumbai and Chennai. On an average, 15,407 children are reported missing every year from these six metropolitan cities. It is interesting to note that although the number of female adults reported missing in Kolkata has declined consistently, the number of children reported missing in Kolkata remains the highest in comparison to other metropolitan cities. A study of the reasons for this phenomenon would be a welcome idea.

Tables 9 and 10 present the scenario with respect to the efforts in locating the missing women and children.

Table 9: Total number of female adults who continue to remain missing in metropolitan cities

Cities	1996	1997	1998	1999	2000	2001	Total for 6 years	Yearly average	2001 over 1996*
Delhi	1,443	1,566	1,604	1,727	1,258	1,224	8,822	1,470	15% (-)
Mumbai	498	534	524	511	490	523	3,080	513	5% (+)
Hyderabad	41	36	39	54	51	72	293	49	76% (+)
Kolkata	NA	1,601	1,830	1,551	1,075	770	6,827	1,365	52% (-)
Bangalore	91	87	158	90	124	116	666	111	27% (+)
Chennai	1	5	3	8	7	23	47	8	2200% (+)
Total	2,074	3,829	4,158	3,941	3,005	2,728	19,735	3,289	32% (+)

(Source: Data received from the State Police agencies)* Shows increase (+) or decrease (-)

Table 10: Total number of children who continue to remain missing in metropolitan cities

Cities	1996	1997	1998	1999	2000	2001	Total for 6 years	Yearly average	2001 over 1996*
Delhi	3,837	4,258	4,722	4,377	3,848	2,666	23,708	3,951	31% (-)
Mumbai	484	711	500	528	549	528	3,300	550	9% (+)
Hyderabad	100	129	146	170	136	185	866	144	85% (+)
Kolkata	NA	779	837	777	1,578	1,524	5,495	1,099	96% (+)
Bangalore	257	195	227	239	307	272	1,497	250	6% (+)
Chennai	13	3	30	31	27	26	130	22	100% (+)
Total	4,691	6,075	6,462	6,122	6,445	5,201	34,996	5,833	11% (+)

(Source: Data received from the State Police agencies)* Shows increase (+) or decrease (-)

On an average, the number of women who continue to remain untraced from all the six metropolitan cities put together comes to 3,289 per year. The number of women who remain untraced during the period 1996 to 2001 shows an increasing trend in Chennai, followed by Hyderabad and Bangalore. Delhi, Mumbai and Kolkata show fluctuating trends even though the actual numbers are quite high.

As regards the number of children who continue to remain untraced, the situation is quite grim in the metropolitan cities. There is consistent increase in their numbers in Kolkata and Hyderabad, whereas the trends are fluctuating in other cities. On an average, the number of children who continue to remain untraced in these six metropolitan cities comes to a mind-boggling figure of 5,833 per year.

Table 11: Percentage of female adults who continue to remain untraced in proportion to the number of female adults reported missing from the metropolitan cities

(Data shown as percentage)

Cities	1996	1997	1998	1999	2000	2001
Delhi	74	78	84	81	60	58
Mumbai	18	19	24	18	17	18
Hyderabad	18	15	16	20	18	26
Kolkata	NA	75	79	76	84	74
Bangalore	11	11	19	11	15	13
Chennai	0.3	2	0.7	2	2	5

(Source: Data received from the State Police agencies)

Table 12: Percentage of children who continue to remain untraced in proportion to the number of children reported missing

(Data shown as percentage)

Cities	1996	1997	1998	1999	2000	2001
Delhi	62	65	73	76	62	43
Mumbai	10	16	15	12	13	13
Hyderabad	14	15	18	20	18	21
Kolkata	NA	76	79	78	63	64
Bangalore	14	10	12	14	18	15
Chennai	1	0.3	3	3	3	2

(Source: Data received from the State Police agencies)

The percentages presented in Tables 11 and 12 are indicators of the efforts made by law-enforcement agencies and civil society to trace the missing persons. It is pertinent to note that Kolkata has the lowest number of women reported missing, but the percentage of women who remain untraced is the highest, with an average of 75 to 80 per cent every year. Delhi is the next in number, with 58 to 84 per cent of the missing women remaining untraced.

With respect to children, the situation is quite disturbing in all cities except Chennai. A serious effort has to be made to see why approximately 75 per cent of the children in Kolkata and 65 per cent of the children in Delhi continue to remain untraced.

The present scenario of law-enforcement

Normally, investigation of a crime commences with the registration of an FIR (First Information Report) by the police. FIR pre-supposes a cognisable offence. When it comes to a criminal offence like trafficking, etc., FIR is registered under the relevant sections of the substantive or special law and thereupon, investigation is carried out by the police. However, when it comes to the issue of a 'missing person' being reported to the police station, an entry is made in the General Station Diary (GD). No FIR is registered, except in certain states where a 'zero FIR' is registered. Zero FIR means that no crime number is assigned, because it is not considered a crime. The follow-up for the zero FIR and the GD entry is the same. The SHO (Station House Officer) forwards information to the Superintendent of Police/Deputy Commissioner of Police, who, in turn, forwards

it to the office of the Chief of Police. Sometimes, the police stations and their supervisory officers also send messages to their counterparts. At the field level, the local police officials publicise the particulars of the missing persons in the media by putting out the available identification details and photographs. More often than not, the initial efforts to locate the missing person die down shortly. Sustained efforts to locate the person are extremely rare.

State police agencies have their own independent and different sets of procedures for tracing the missing persons. In Mumbai city, the information is relayed through a 'Police Notice'. This notice contains information about several other items such as 'vehicles stolen', 'vehicles recovered' and 'unclaimed dead bodies'. It is obvious that the information about 'missing persons' gets lost in the bargain and remains almost confined to the level of 'information' only. Even in places where 'Hue and Cry Notices' are sent for locating the missing persons, there is not much difference in the efforts to locate the person.

The message that reaches the Police Headquarters in the state is normally lodged with the Missing Persons Bureau (MPB), which is more often a wing of the CID of the State Police. They, in turn, forward the message to the Missing Persons Wing in the National Crime Records Bureau (NCRB) at New Delhi. The message also gets relayed to the police chiefs of other states through the police wireless. NCRB, at best, forwards this message to the chiefs of police in other states. The 'Search Wing' in the Crime Records Section of NCRB coordinates information and transmits the same to other places. It is expected only to be a 'documentation centre' or at best, a 'transfer desk', because, as of today, NCRB does not investigate or monitor or facilitate recovery of the missing persons as a proactive organisation. Therefore, nothing more is done in the NCRB to follow up the missing persons till they are traced. The police stations do not give any feedback to the NCRB when the missing person is rescued or returned and, therefore, the NCRB, despite being the national repository of 'crime data', is unaware of the traced persons as well as the persons who remain untraced.

The NCRB, under the TALASH Information System, maintains a national level database of 'Persons Arrested, Wanted, Kidnapped, Deserters, Escapees, Un-identified persons, Un-identified dead bodies and Proclaimed offenders'. The TALASH database of NCRB, as on August 2003, had 2,01,710 items including 1,09,626 records of missing persons. As per the programme, the coordinated information under the TALASH Information System is to be provided by matching the physical description / attributes of the following type of persons:

- Arrested with Wanted / Deserted / Escapees
- Missing / Kidnapped with Un-identified Persons / Un-identified dead bodies.

In the NCRB, inputs to the TALASH system are received through wireless messages, fax, magnetic media, periodical statements and e-mails from State / UT Police and Central Police Organisations (CPOs). According to the Director, NCRB, the database is regularly updated and monthly reports are generated. As and when a query is received, the same is processed and the results are disseminated to the concerned agencies. Since the most important aspect of the data, i.e. the information on traced/found children, was not collected by NCRB before, in January 2001, they decided to build a database on 'traced / found children' by matching their information against the 'missing children'. The idea was that this information would be provided to the general public without any charge.

Accordingly, the input proforma for collection of information under the TALASH system has been revised and the necessary parameters about traced/found persons have been incorporated. However, the fact remains that the NCRB did not have the data even as of October 2003, on traced/found children or persons.

NCRB is in the process of procuring a 'Facial Recognition System' based on Biometrics, which incorporates in itself the body measurements of the person. The 'Facial Search' will be integrated with the 'Attribute Search' of the TALASH Information System. Once the Facial Recognition System becomes operational, the NCRB hopes to achieve a large degree of coordination.

There is another disturbing dimension to the search efforts. Even though information about missing persons gets transmitted, as stated above, the time lag in the dissemination of messages to other police stations/districts/states becomes a crucial point. Due to the fact that search for missing persons does not fall into the priority area of law-enforcement, these messages are met with unusual delays in transmission and action. Delay defeats the very purpose. Even after the receipt of the relayed messages in the field formations, due to the normal perception of such messages as being routine, nothing much happens as a follow-up of the received messages.

Response by NGOs and others

The importance of the issue has been appreciated by certain national and international NGOs, which have made efforts to address the problem by setting up websites. The following are some of the websites available on the Internet, as of September 2003.

www.indianmissing.com: This site is hosted by the National Centre for Missing Children (NCMC), located at 502, Chetak Centre, 122, R.N.T. Marg, Indore - 452 001. It is a national, non-political, non-profit organisation that offers free services. This site displays photos and profiles of those missing persons (above 18 years of age) for whom the police is conducting an investigation / search.

www.missingindiankids.com: This site is hosted by NCMC for parents, guardians and law-enforcement agencies on a one-to-one basis, as an alternative and unconventional method, for locating a missing child who is lost or is suspected of having been kidnapped or is a runaway. The website provides services like advanced search for looking for missing children, reports about missing children, public education, do's and don'ts when a child goes missing, a newsletter on missing children and information about how a person visiting the website can help. The website has a window which shows the photograph of a child with his name, sex, age and height. The photograph, along with the information, keeps changing after every minute to show the details of the next child.

www.kidsmissing.com (India's Missing Children): This website is dedicated to helping find missing, kidnapped and lost children in India. It provides pictures of missing children, a discussion forum and an online newsletter.

www.childlineindia.org: Children India Foundation (CIF) is a project that offers help to children who are lost, oppressed or hurt. CIF's head office is located at Mumbai and it has branches in 14 other cities across India, including Chennai, Hyderabad, Kolkata, Patna, Delhi, Lucknow and

Bhopal. Childline's four-digit telephone number, '1098', is a magic figure for the street children. Any child lost in the city, or in need of shelter or medical assistance, repatriation and protection from abuse or simply emotional support can avail of the facilities at CIF.

www.missingchildsearch.net is part of the information service system of YAR (Young at Risk). It assists in tracing and restoring missing children. It provides a platform for organisations looking for missing children to come together. There is a public discussion forum for registered organisations. The website also provides a private discussion forum for registered organisations. There is an online chat facility for registered organisations. News items can be posted to the notice board and home page. Photos of missing children can be displayed in the photo gallery. Organisations can avail of the YAR documentation software, Home Link, and related technical assistance. All other organisations committed to Young at Risk can collaborate or become partners in the YAR service network. A support software helps to link the Missing Child Search website with the databases of Young at Risk. It provides technical and capacity building assistance.

www.childquest.org: Child Quest International is a non-profit organisation dedicated to the protection and recovery of missing, abused and exploited children and at-risk adults (those suffering from dementia and Alzheimer's disease). The organisation is located in the U.S.

www.ncmec.org: Located in the U.S., the National Centre for Missing and Exploited Children (NCMEC) is a private, non-profit organisation that provides free services for families and professionals in the prevention of abducted, endangered and sexually exploited children. It serves as a clearing house of information about missing and exploited children.

www.childfind.org: Child Find of America, Inc. is a non-profit organisation that offers location programmes and mediation services to law-enforcement agencies for recovering lost and missing children.

Conclusion

The study of the data on missing women and children and its possible linkages with trafficking brings out the inherent weaknesses in the existing law-enforcement scenario. The areas of utmost concern, requiring immediate focus, are listed below:

- The issue of missing persons needs to be given serious attention by the law-enforcement agencies. There should be proper documentation and monitoring of the enquiries. Since the information about the missing persons is entered in the Station Diary (SD) and not registered as an FIR, the follow-up is usually nil. It is worth considering if at least a 'Zero FIR' can be registered in all such cases, even if it makes out no cognisable offence, to start with.
- Vigilance and surveillance systems by police personnel and activists need to be augmented. Children seen loitering around parks, bus stands, etc. are to be monitored and accounted for. Since this is a mammoth job, especially in the metropolitan cities, the police cannot handle this in isolation, for want of manpower and resources. There is a genuine requirement for integrating the police system with childcare services run by the concerned NGOs. These agencies should take on the social responsibility of educating the children and their parents

about the steps that should be taken and the care that one should bestow upon children so that they do not go missing.

Efforts to locate the missing persons cannot be handled in a haphazard and adhocist manner. It is obvious that the police agencies, despite best efforts, have not been able to rescue and retrieve several thousands of missing women and children due to various factors. The resources and time at their command are limited, priorities are low and, above all, the issue of missing persons has not received the required sensitive handling, except in a few instances. By and large, there is no involvement of other government agencies. The Ministry of Social Justice, Government of India, is planning to develop a National Monitoring System by linking up the various government agencies. It goes without saying that the efforts to locate the missing persons need to be synergised to build up an effective and functional system where the various partners work in a concerted, coordinated and integrated manner. This requires utilisation of advanced technologies, skills and training for the same. No doubt, this calls for appropriate attitudinal changes also. A National Centre for Missing and Exploited Children (NACMEC) could be set up, with functional linkages between government and non-governmental agencies working across the country. The review of literature shows that the idea of such a centre is already in circulation. Resources are always a handicap in building up such systems. Corporates with social responsibility can be approached to extend a helping hand. The experience in the anti-trafficking movement in India has shown that many corporates are willing to support such public causes and provide funds for setting up and effectively running such a Centre. The case study of 'Makkal Sahaya Vaani' of Bangalore highlights the effective role of corporates in building up such systems. Perhaps, the union of government agencies, non-governmental agencies and corporates (GONGO CORPS) is the call of the hour in addressing the issue of missing women and children in India.



Mind of the Survivor: Psychosocial Impacts and Interventions for the Survivor of Trafficking*

Introduction

Trafficking is a process of demolition of a person, not just a geographical relocation for exploitation. It takes courage to stop, deconstruct and understand the reality faced by the survivor of trafficking, let alone live it. This chapter attempts to be with the survivor for a moment. It is not a complete understanding of the mind of a survivor. That is not possible. It is perhaps a beginning to *be with the survivor's experiences, needs, thoughts and feelings*, rather than use a broad-brush approach of just stating that they are trafficked.

When people describe their lives, they are likely to remember the key milestones in their journeys. They would have memories of achievement and loss. They would have memories of relationships. They would have memories of events. They would have beliefs and feelings. They would also have doubts about themselves. They would undoubtedly have a sense of who they are and knowledge of their beliefs about themselves. On balance, these journeys have a sense of dignity, a sense of control, a sense of belonging and a sense of purpose. We all strive to get to a balance of positive experiences and this sustains us as individuals.

What identity does a survivor nurture? How do survivors describe themselves? What narratives of their lives do they remember? What are the moments they can remember and smile? How do they make sense of repetitive abusive experiences and have a sense of dignity? How do they move from a position of utter helplessness to control? How do they bring back purpose in their lives in the face of such enormous suffering? How do they join with people and be a part of society when all their experiences tell them, "If you trust, you will be abused".

By describing the impact of trafficking on the survivor's mind (needs, thoughts, feelings and actions) and identity (knowledge of themselves), the chapter begins the search for a recovery process. Are there existing anti-trafficking processes that can help a survivor? How do existing interventions impact the survivor's mind? Is there a way forward? This chapter also tries to discover and outline the nature of interventions that can help.

In most anti-trafficking processes, the impact on the mind of the individual is overlooked. The personal tragedy is buried under a plethora of 'feel good' activities ranging from conferences, workshops, visitors, short-term financial assistance, celebration of the success of the rescue, judicial

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activism, etc. The space to be heard and make sense of one's traumatic experience is non-existent. Silence pervades the life of a survivor. Silence exists in the midst of chaotic activity, notwithstanding the fact that this activity is perhaps well-intentioned and is trying to return the person to the mainstream of society. The return of the survivor to a state of being able to acknowledge oneself as a person is not focussed upon. This chapter concludes with a checklist to prevent this from happening.

Methodology

The observations and conclusions in this chapter go beyond the data collected for the present study. The method for arriving at these observations was as follows:

- Background Research
- Interviews with NGO Leaders
- Interviews with Shelter Home workers
- Interviews and Focus Group Discussions with lay counsellors
- Interviews and Focus Group Discussions with survivors
- Analysis of Existing Prevention, Protection and Prosecution Processes
- Interviews and Focus Group Discussions with interviewers for the present research
- Review of comments and details recorded by the interviewers on the questionnaires
- Analysis of case studies documented for the present research
- Ongoing group and individual counselling for survivors of trafficking

Understanding the pre-trafficking context

The pre-trafficking context of the young people in South Asia predisposes them to trafficking. The experiences within the family and the patterns in the community increase the vulnerability of the young person to be trafficked.

Family as a predisposing factor: The survivors of trafficking commonly report Abuse-physical and sexual, Neglect and Psychological Maltreatment in their families of origin. This gets coupled with a complete lack of options due to poverty and increases the risk of trafficking. It is important to remember that the whole community may be faced with this economic optionlessness but it is only a few families who contribute to trafficking. What are the determinants of this? A study of 'non-trafficking' families and their comparison with 'trafficking' families could lead to the development of specific intervention strategies for prevention of trafficking. It is important to understand the resilience of some families and reinforce similar strengths in other families to prevent trafficking.

- Death of a parent, substance abuse by a parent and migration of extended family members to demand areas seem to be the other common vulnerability themes that emerge from the data.
- The decision-making in 'trafficking families' is more likely to be male dominated and discriminates against the girl child.
- At times, the child is given the paternal role of helping the family to survive. Trafficking of one child is justified by the family as a means of survival of other children.
- There is a myth of the 'ignorant family'. It is difficult to comprehend that a family allowed their daughter to be taken away as they did not know what might happen to her.

The survivors oscillate in their view of the family. At times they are angry with the family, and at other times, they tend to minimise the role played by the family in their trafficking. It is understandable as a way of coping. Through this 'over idealisation' (putting it on a pedestal) of the family, the survivor creates a fantasy of normalcy for himself or herself.

Community as a colluding factor: Trafficking is maintained by the silence of the community. Trafficking persists as institutions and individuals look the other way. A young person does not live in a vacuum. He/she uses the resources of the community and has contact with it. When a young person goes missing in a small community, it is unlikely that the fact will not to be noticed by the neighbors or the community workers or service providers. Not one instance of the community questioning the family about the missing child has been reported in the present data. The young person also comes in contact with many other systems like transport, local vendors, police and border security. The fact that there is no substantial prevention at these levels is representative of a silent, if not active collusion.

Stigmatisation and rejection by the family and the community: A significant number of survivors of trafficking are isolated and not accepted by the community on their return from the destination where they are trafficked. The family, the community and even the representatives from the police, judicial process and NGOs may blame the survivors for their traumatic experiences. The survivors' behavior is sexualised by their experiences of commercial sexual exploitation. They have learned to survive by being seductive. The way they dress, talk and carry themselves is interpreted by most people as the survivors being 'characterless' and 'wanting it'. This process of labelling starts the process of rejection of the survivors by the family and the community. It also starts misdirected efforts to somehow 'counsel' them to be 'girls from nice backgrounds who do not do such things'.

The rejection of the survivor by the community, who returns to the pre-trafficking context, is a tragedy. It is the community and its systems, which are guilty of overlooking trafficking. By rejecting the survivor, the community further tries to avoid the acknowledgment of its own role in the trafficking of the survivor. Isolating the survivor is a means of denying their own guilt.

High Risk Periods: There are some high-risk periods for trafficking. There is an increased risk of trafficking in times of disasters like cyclones and earthquakes and also during negative life events like death of mother, failure in examination, pregnancy before marriage, etc. These periods seem to increase the vulnerability of the young person and further decrease the social support and sanctions. Other events like marriages and festivals, which promote exposure of young people to migrants returning from the demand area, may further increase the probability of trafficking. It is possible that the demand for trafficked young people might increase at certain points in time. A further retrospective study of patterns of numbers may throw up hypothesis to explain dimensions of the demand for trafficked people.

Understanding the mental health impact of trafficking on a person

The survivors of trafficking are disabled by the mental health impact of their experiences. A significant proportion of survivors would require years to cope with this disability. There are three potential impacts of trafficking as seen during the ongoing group and individual counselling of survivors done by the author and the Saarthak team:

- The Developmental Impact of Trafficking
- Thoughts and Feelings of a Survivor
- Psychiatric Disorders in Survivors of Trafficking

The developmental impact of trafficking: To understand the impact of trafficking on the psychological development of a young person, it is important to understand the steps of development of an adolescent who is not trafficked.

What happens to an adolescent who is not trafficked? During this stage of life, young people go through the process of development of their identity and learn some key functions to deal with life. Young persons are likely to develop the following abilities through the adolescent period:

- Development of abstract thinking
- Views and beliefs about themselves
- Ability to think about others
- Ability to think critically
- Ability to think creatively

They also learn to do cost-benefit analysis of their actions and acquire a sense of autonomy and control over their decisions. These new capacities lead to development of an identity of the person. The person is able to answer the questions, “Who am I?”, “What are my needs?”, “What are my resources?” This gives the person a sense of meaningfulness. The young person also experiences a sense of personal control and free will. It also helps a person to recognise his/her own potential as a human being through the knowledge of future possibilities and choices.

What does a trafficked adolescent go through? A person is normally trafficked at this developmentally vulnerable age in her life. In contrast to the young people described above, young persons who have been trafficked are faced with fear and anger. They are faced with uncertainty. They feel helpless and the only future they see for themselves is in a fantasy of rescue, which soon dies out. The development of their identity is suddenly abbreviated by the negative experiences of abuse and trauma that go with the experience of trafficking. An adolescent is also exploring sexual needs and responses and making sense of who he/she is as a person. The process of trafficking and the commercial sexual exploitation have a severe impact on the sexuality and selfhood of the person. How does a person who has been brutally raped and traumatised make sense of his or her sexuality? She begins to question her normal sexual needs and her body’s physiological responses to sexual stimuli generate guilt. How the survivors manage their relationships, how they feel about their bodies and how they perceive themselves, are questions, which one cannot even begin to answer.

The rehabilitation process usually does not address the impact of the experience of trafficking on the development of the young person. Knowledge of the developmental impact is, however, fundamental to any process of helping the person rebuild her life. It is important to recognise that it is not possible to undo the experiences that the person has gone through and the impact of these experiences on the way the person thinks about herself. If one has a blurred and negative view of oneself, it is obvious that one will face extreme difficulty in feeling empowered enough to take up options in other spheres of one’s life.

Thoughts and feelings of a survivor: The thoughts and feelings of a survivor are permanently affected by his/her traumatic experiences. Some of the examples of the kind of thoughts and feelings a survivor may have are described in the following paragraphs. All these may not be present in any one survivor or at any one time. Also these are also not the only thoughts and feelings that the survivors experience. They do have other age-appropriate thoughts.

Malevolence: The experience of trafficking and repetitive abuse leads to two key belief systems that determine the survivor's behaviour. These are, "*You cannot trust anyone*" and "*If you trust, you will always be hurt.*" The person may stop believing anyone and has difficulty in forming relationships. At the same time and somewhat paradoxically, the survivors unwittingly find themselves in relationships where they trust and idealise the person impulsively. This is perhaps to test whether the people they trust will hurt them or not. Soon, they recognise that the person is not what they thought him/her to be and feel rejected and hurt. These two beliefs give rise to the commonest problems in working with the survivors of trafficking: *the difficulty in forming a relationship and the phenomenon of over-idealisation of the help-provider.*

Helplessness and Withdrawal: Early on in the trafficking experience the young persons learn that they cannot change their circumstances regardless of anything they may do. They give up trying and see themselves as helpless. They withdraw and isolate themselves and seem to be disconnected from the world. Nothing impacts them; they are neither happy nor sad. They develop a 'blunted' response to all the changes around them. Even when the context changes, i.e., they are 'rescued' and placed in a rehabilitation facility, the helplessness and withdrawal persist.

Dissociation: After the initial shock is over, numbness and indifference set in. They give up actively thinking about the context.

The link between negative feelings, and the events and thoughts which trigger them, is not acknowledged. It is as if recognising the cause of these feelings will be more terrifying than the feelings themselves. This is a method of surviving, despite every situation and everything around them reminding them of the trauma they had experienced.

As the survivors cannot do anything about their experiences, their minds delink the feeling from the happening. This is called *dissociation*.

Such negative feelings do come back as unlinked overwhelming surges of emotions. It is as if the negative feelings they experience are stored away in memory without a label, and then seem to surface automatically without any accompanying explanation. This is very confusing for the survivors, as they cannot understand why they feel the way they do. The survivors cannot recognise the reason for their feelings.

Normalisation and Shaping: 'Normalisation' is another coping mechanism that may be used to survive the everyday impact of the trauma. The person facing the trauma, per force, learns to see it as a 'normal' or 'routine' experience that he/she is facing. It is as if by seeing it as a thing that happens to everyone all the time, the survivor is almost telling herself that she should not be feeling bad about something ordinary. The experience is not seen as traumatic but as something '*that has to happen*'.

The survivor has to comply with the trafficker's agenda. When she complies, she is rewarded with praise, protection and more 'opportunity'. Her compliance with the trafficker's agenda is reinforced. This is a tool that *shapes* the survivor's identity. Alongside, a fear of survival is created. There is also a need for identification with the peer group.

These reasons force the survivors not to see themselves as victims of the traffickers. **The survivors may survive the exploitation by rationalising their experiences as a role that they have adopted through choice.** They may also magnify the immediate and short-term benefits of being on the trafficker's team and minimise the long-term reality of being abused. They focus on what they gain immediately, i.e., money, food, safety from the police, 'kindness', and they may minimise the health risks and the reality of being sexually and economically exploited.

Self-blame and identification with the aggressor: The young person begins to blame herself to make sense of her experiences of trafficking. It is perhaps easier to say, "*I must have provoked them to hurt me*" than to understand, "*Why? Why me?*" The aggressor is seen as 'right' and having the right to hurt and control.

Distraction: Another strategy for the survivors is to get involved in what is happening around them to distract themselves from the memory of traumatic experiences. Films, dressing up, fights, gossip and fantasies all form good distractions that survivors may resort to. Seeking sensation and taking risks becomes a part of the new identity. This includes experimenting with drugs, alcohol and seeking short-term relationships.

Foreshortened view of time: The survivor may feel that her life is without a future. The long-term does not exist for the survivor. The future is this moment. Thus, from the trafficked person's perspective, there may be no risks or consequences, or any possibilities of change.

Psychiatric disorders in survivors of trafficking

A significant proportion of people who are exposed to trafficking develop psychiatric disorders. In any given population of young people, the prevalence of psychiatric disorders is as high as 20 per cent. In a much more vulnerable group of people, who have gone through the multiple trauma of trafficking, there is likely to be a higher prevalence of psychiatric disorders. However, exact numbers for prevalence of psychiatric disorders are not available. In our work with the survivors of trafficking, we have found psychiatric disorders in more than 40 per cent of the population.

The disorders commonly documented in our work with the survivors of trafficking are as follows:

a. Post Traumatic Stress Disorder is characterised by marked generalised anxiety that is triggered by any cue that reminds one of the traumatic stimuli in the past, numbing of sensations and reliving of past traumatic experiences. For example, a survivor of trafficking was first raped in a room that was blue in colour. The mention of the colour blue would trigger flashbacks and she would remember the first rape. Thus, each time she was asked to repeat her story, she would lapse into silence because of these flashbacks and anxiety, and this would be interpreted by most people as her shielding the trafficker.

Post Traumatic Stress Disorder is an extremely disabling disorder. To use an analogy, the impact of the disorder could be worse than losing the functions of limbs and eyes put together.

b. Depressive Disorder may present itself as sadness, lack of ability to enjoy oneself, lack of interest in day-to-day activities and negative thoughts about oneself, negative thoughts about the future and negative thoughts about the way one is perceived by others. There could also be disturbance in sleep and appetite.

c. Dissociative Disorders may present as loss of consciousness or amnesia or multiple personality disorder or as 'possession state'.

d. Psychotic Disorders may present themselves as delusions (false unshakable beliefs), hallucinations (perceiving things without stimuli) or behavioral difficulties. There is a lack of insight into one's condition and experiences. There could also be a gradual deterioration of personality.

e. Eating Disorders may present themselves as an 'altered body image', with starvation or binge eating.

Psychiatric symptoms in survivors usually remain undiagnosed and the person is classified as 'difficult' or 'uncooperative' during the rehabilitation process. The person with a psychiatric disorder is emotionally more vulnerable than other survivors. Such a person does not feel empowered to use the rehabilitation resources, voice her needs or participate actively in the process. The missed diagnosis of a psychiatric disorder further adds to the disability of a survivor of trafficking.

Cost of disability caused by the mental health impact

The following table tries to quantify the cost of disability caused by the mental health impact of trafficking. This is a preliminary tool to advocate for focus on mental health interventions in the recovery process. It is well known that a person who experiences sexual violence and exploitation is likely to be disabled and may not be able to fulfill his/her potential and needs. There is a restriction of activities of daily living that a survivor can perform, secondary to the psychological impact of the violence. The impact of the violence remains on the survivors for a long time after the incident has taken place. This decreases his/her productivity. This fact is used to develop an understanding of a notional cost to the society due to this loss of productivity and cost of care and protection.

<i>Assumptions: This calculation is based on the number of 2750 trafficked women in the years 2001 to 2003 in the kothas of GB Road, as documented by this research.</i>	<i>Disability affected life years</i>	<i>Loss of Productivity of individual due to disability @ Rs. 600 per month (arbitrary figure of per capita income)</i>	<i>Cost of Care and Rehabilitation @ Rs. 600 per person per month</i>	<i>Total</i>
If the average age of the trafficked young person were to be 20 years and average life expectancy of women in India be 60 years	40 years per person 1,10,000 disability affected years for the GB Road population of 2750 in years 2001 to 2003	79,20,00,000 (Seventy nine crores and twenty lakhs)	79,20,00,000 (Seventy nine crores and twenty lakhs)	158,40,00,000 (One hundred and fifty eight crores and forty lakhs)
If there were 5 major centres like GB Road in India	5,50,000	396,00,00,000 (Three hundred and ninety six crores)	396,00,00,000 (Three hundred and ninety six crores)	792,00,00,000 (Seven hundred and ninety two crores)

The costs are notional and used as a tool to highlight the loss to a society of not addressing the mental health impacts of trafficking.

- The costs would rise even further if the actual cost of all the contributory factors for trafficking, that is abuse and neglect in the pre-trafficking scenario, was included as well.
- The costs would further rise if the cost of judicial and investigative process was included.
- The costs would become realistic if costs from smaller towns and cities, and not just five major centres, were included.
- The costs would further increase if one were to include other outcomes of trafficking, and not just commercial sexual exploitation.

Some people may try to argue that these costs are not real ‘costs’ as these costs do not take into account the fact that the survivor earns through sex work. The argument is not tenable, as the reality is that the earnings from the cause of the disability cannot offset the cost of disability. More earnings from commercial exploitation of the survivor actually means increased exposure to sexual violence, thus increasing the impact of disability.

Mental health impact of interventions

There are six points of interface between the help-giving process and the survivor of trafficking:

1. Rescue
2. Repatriation
3. Rehabilitation
4. Reintegration
5. Redressal
6. Re-trafficking Prevention

During the individual and group counselling sessions for survivors, the Saarthak team has documented examples of the following negative mental health impacts across all phases of the interventions:

1. **Blaming the survivor:** For example,
 - Survivors being called ‘*Gandi Nali ka Keera*’ (A worm from a filthy drain)
2. **Denial of basic needs of the survivor:** For example,
 - Survivors not having access to underclothes on being rescued
 - Survivors not being allowed to meet their children
 - Survivors being denied food if they do not get up on time
3. **Violation of dignity:** For example,
 - Survivors being pulled by the hair during rescue operations
 - Being leered at and sexually assaulted by the policemen rescuing them.
4. **Labelling of the survivor:** For example,
 - Being called ‘goongi’ (dumb) or ‘mental’ implying psychiatric disorder.
5. **Attribution of all externalizing behaviour of the survivor to her personality:** For example,
 - Sexualised behavior being seen as evidence of a character fault, and blaming and ‘labelling’ the family of origin.

- Angry outbursts of a survivor being responded to by ‘the care givers’ with the following comments: *“Hai hi aisi, Pata nahin kaise ma baap ki beti ha. Aap ko nahin pata, ye to aisi hi hoti hain. Inko sex ki aadat pad gayi hai, woh yahan milta nahin...”*. (“She is like this only. Who knows what kind of parents she has. You do not know these girls. They are used to having sex. It is a habit and they do not get it here....”)
6. **Re-triggering of the trauma in the judicial process:** For example,
 - Being asked to travel with the accused in the same vehicle while going to court
 - Being charged under the foreigner’s act and being pushed back across the border between India and Bangladesh
 - Majority of the survivors being charged for soliciting
 - Medical examinations which are insensitive and incomplete
 - Cross-examination in the court which is traumatic and revictimising
 - Judges who blame the victim.
 7. **Lack of choices:** For example,
 - Survivor’s head being shaved to avoid lice
 - No choices on training, food, clothes, films they can see or even the posters they can put on the walls
 - Being made to sing the same song or follow the same dance movement or the same yoga lesson day after day, month after month, year after year
 8. **Inordinate and unreasonable delays in the judicial process:** For example,
 - Survivors who spend four months in a brothel after being trafficked and then another twenty seven years waiting for repatriation
 9. **Restriction of repertoire of activities of the survivor in the name of safety:** For example,
 - Being locked and not being allowed to go out of the rehabilitation home to pursue livelihood opportunities
 10. **Primacy of institutional needs over the survivor’s needs:** For example,
 - Being forced to meet visitors and sing songs to praise the NGO who helped them
 - Being forced to get up at 3 am to cook breakfast in the name of ‘participatory activity’
 - Being herded into one locked room, which is locked because of low staffing in the NGO
 11. **Lack of acknowledgment of the survivor’s development during the period of trafficking as natural:** For example,
 - *“Iske nakhre to dekho, lipstick lagati hai, jabaan chlati hai. Itne bade breasts hain, jaroor silicon injection lagvaya hoga.”* (“Can you see her tantrums? She likes to wear lipstick. She talks back. She has such large breasts. Must have got silicon injections.”)
 12. **Lack of confidentiality and lack of consent:** For example,
 - Featuring the survivors in documentaries about the organisations
 - Media coverage with names and photos
 - Publishing of books with case studies on the survivors without consent
 - Being photographed without consent
 - Being part of research without informed consent

- Changing the name of the survivor without consent
 - Mandatory testing for HIV and sharing of survivor's HIV status with the family, peers and home authorities.
- 13. Lack of information about intervention processes:** For example,
- Survivors in the government home not being informed about the status of their court case or not being met by anyone, for months and years, regarding their court case
- 14. Lack of information about rights:** For example,
- When no information is shared with the survivors about their legal or human rights
 - More often than not there is no access to legal aid
 - Child survivors are isolated from other groups of children in need for care and protection

Such instances are common and though some examples have been highlighted, these violations are the norms and not just 'figments of imagination' as some stakeholders may say. These instances make the negative world-view of the survivors permanent. The disability due to exploitation and abuse becomes permanent due to the survivors' beliefs about self-blame, malevolence and lack of ability to trust.

The lack of accountability of intervention processes and lack of good practice benchmarks contribute to the helplessness of the survivors and maintain them in a victim role.

There is also a lack of continuity of care and interventions restart with each new phase of the rehabilitation process. The survivor is rescued from the brothel and lives in a custodial environment for months or years without receiving much information. Then she is sent to a local NGO in the country or region of origin and undergoes a similar process there for a few years. Everyone repeats the process of assessments and some intervention without any knowledge or consideration of the survivor's needs. The same story continues after repatriation. At the end of the journey, the person is best prepared for being a 'professional custodial home inmate' and not a productive member of her community.

The cumulative impact of all these factors is the anger towards the intervention processes and identification with the exploiter. This gives the exploiter a point of re-entry into the survivor's life and facilitates re-trafficking. There are reports of re-trafficking being as high as 40 per cent. It also contributes to some trafficked survivors themselves becoming traffickers.

Mind of the exploiter

The data in this research has tried to understand the various exploiters. The case studies include the traffickers, the brothel owners and managers, the police and the customer. The important learning is that the exploiters are ordinary people. Anyone could be an exploiter. There is no profile or stereotype that fits all such people. It is thus important to have a low threshold of suspicion for exploiters. Another important fact about the exploiters could be that they are sometimes the exploited as well. This does not justify any of their actions, but this knowledge should influence the design of any interventions with them. It is important for the judicial process to include not only punitive measures, but also corrective influences while dealing with the exploiters.

An Aware Response

Solutions need to integrate the mental health interventions with the processes of rescue, repatriation, rehabilitation and redressal, rather than provide only stand-alone counselling services. All helping processes should strive to provide a milieu of autonomy, choice, dignity, purposefulness and belonging for the survivor.

- The most common need of the survivor is not to be abused again.
- The second most important need of the person is to be validated, i.e., to be reassured that it was not her fault that she was hurt.
- Thirdly, the survivor wants a secure future where she can have aspirations beyond being a victim.
- The survivor wants to be able to make sense of her past and put it in perspective.
- Redressal is a strong need, but it comes later.

Sometimes, the activism of the care provider leads to prioritisation of the survivor's needs in a rather confused manner. Significant proportions of present care and protection systems act as *triggers for reliving the past abuse and blaming*, rather than *validating* the survivor.

It is important for all those who are involved in the anti-trafficking sector to have an *Aware Response* to a person who is abused. The components of such a response would be:

- Create safe boundaries
- Validate
- Listen in a non-judgemental manner
- Assess danger of further abuse
- Document the complete impact of trafficking on a survivor's personality, and not just the numbers of people rescued by the NGO
- Provide support, treatment and referral
- Address the survivor's developmental needs

This response requires a process of questioning at all levels of interventions. This *aware response* is a basic human right of an individual.

Creating safe boundaries for an Aware Response

To ensure that you are always able to adhere to the principles of *aware response* mentioned in the previous section, ask yourself some questions.

If the answers to any of the following questions are 'yes', then try to change what you are doing.

<p>a. Can what I do/say in my interaction with the survivor be a trigger for the past experiences of abuse to resurface?</p>	<p>Ask yourself this when</p> <ul style="list-style-type: none"> <input type="checkbox"/> You sit beside a person <input type="checkbox"/> You reach out to her <input type="checkbox"/> You ask her to sit alone with you <input type="checkbox"/> You ask her the details of all the sexual acts that she was subjected to <input type="checkbox"/> You do not believe her <input type="checkbox"/> You seem to blame her <input type="checkbox"/> You seem to overlook what she sees as an abusive experience
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<p><i>b. Is what I am doing resulting in taking complete charge of the survivor's life, leaving her with no options but to follow the process?</i></p>	<p>Ask yourself this, for example,</p> <ul style="list-style-type: none"> <input type="checkbox"/> When, during a raid, you enter with the police and you do not give the survivors any information about what is going to happen to them. <input type="checkbox"/> During rehabilitation, the survivors do not get to say what they would like to do today and are expected to follow a fixed, ritualistic routine. <input type="checkbox"/> When visitors from the funding agencies walk in and they are asked to repeat 'the stories of success'. <input type="checkbox"/> When the young persons are asked not to see any films except those with religious content. <input type="checkbox"/> When they are asked not to put on any make-up or are frowned upon if they do.
<p><i>c. Am I fulfilling any of my own personal needs through them?</i></p>	<p>You could be doing this through certain questions you ask, your actions or even your gestures. If the purpose of your action is in any way to fulfill a tangible need of your own, then the survivor will be the first person to pick up the nuance.</p> <p>This is because they are so accustomed to being used for fulfilling other people's needs. Working as a helping professional satisfies our needs. However, if we want some gain from our relationship with the survivor, it could become an abusive experience for the survivor.</p> <p>For example, be careful of the smile that comes to your face when the survivor says, "Only you can help me" Be very careful to check whether it is your vicarious need to ask the details of the abuse or is it necessary for the person to give the details. What effect do these details have on you?</p>

Potential Mental Health Interventions for survivors of trafficking

The following table outlines potential interventions that will help the anti-trafficking process to protect the rights of the individual.

	<i>Process and Goals</i>	<i>Activities</i>	<i>Service Providers</i>
PREVENTION	<p>Strengthening the family process</p> <p>Life Skills for young people</p>	<p>Family Counselling Services for dysfunctional families</p> <p>Life Skills training for young people in the community</p>	Community workers in education, reproductive health and women's issues
RESCUE	<p>Forming a relationship with the survivor</p> <p>Building trust</p> <p>Beginning a participatory process of rehabilitation</p> <p>Working through trauma</p>	<p>Building a therapeutic relationship, induction to the recovery process</p> <p>Needs Assessment including a mental health assessment. Creating a road map for the future</p> <p>Debriefing</p> <p>Validating</p> <p>Normalising experiences through information</p>	'First Response Worker' (including people involved in rescues, working in jails, lawyers working for repatriation, police and peer counsellors)
REPATRIATION	<p>Sensitivity to risks of further abuse and addressing the apprehensions of the survivor</p> <p>Creating a predictable road map by keeping the person informed</p> <p>Working with the survivor on choices, costs and benefits</p> <p>Continuity of care</p> <p>Commonality of method and language</p>	Continuous relationship with the survivor at an individual level and also at the level of an institution	First Response Worker and a mental health professional
REHABILITATION	<p>Creating a safe therapeutic milieu of autonomy, choice and empathy</p> <p>Working through trauma</p> <p>Enabling existing life skills</p> <p>Enhancing life skills</p> <p>Enhancing vocational skills</p>	<p>Therapeutic Rehabilitation Process</p> <p>Trauma Counselling, Pre-test Counselling For HIV, Post-test counselling for HIV</p> <p>Psychological and Psychiatric assessment and treatment</p> <p>Life Skills Training</p> <p>Life Skills Training</p> <p>Employability Training</p>	<p>Shelter Home workers/ Peer Counsellors</p> <p>Primary level counsellors based with the rehabilitation team</p> <p>Mental health team trained in Trauma Processing</p> <p>Shelter Home Workers/ Peer Counsellors</p> <p>Mainstream employment providers</p>

REINTEGRATION	De-stigmatising returnees and their families Ongoing befriending support	Family Counselling, Community Support Groups, Self-help Groups Peer Support Groups	Community Based worker Peer Counsellors
REDRESSAL AND ADVOCACY	Sensitisation of the law makers and enforcers to the mental health impact as a key irreversible impact to be considered when deciding the contingencies and consequences for the trafficker	Sensitisation and Awareness Training for the police, judiciary and the policy maker Research on the disability cost of trafficking	NGO working in the anti-trafficking sector

Conclusion

This chapter has tried to outline the key mental health impacts on the survivor.

The learnings from understanding the impacts are:

- It is easy for a process or an individual to become a trigger for reliving abuse.
- It is extremely difficult for the survivor to trust.
- It is easy to forget that survivor also has developmental needs beyond the need to cope with the trauma of trafficking.
- It is extremely difficult for the survivor to feel empowered, given the fact that she has been rejected and controlled for most of her life.
- It is easy to see the survivor's behavior as her own fault.
- It is extremely difficult for the survivor to hope for future.
- It is important to recognise that violation of rights happens when caregivers or the judicial process stops acknowledging the thoughts and feelings of the survivor.

Mental Health Interventions are presented here as a *right* of the individual and not a 'luxury'. The survivor has the right to expect mental health friendly processes. The impact of an anti-trafficking process that violates the mental health of the survivor may end up being no different from the trafficking process that violates the person.

The only way to change the reality of a survivor's life is to continuously question the safety of the care and protection processes.



The legal framework

16.1 Introduction

The trafficking of women and children is a matter of global concern as it involves the violation of fundamental human rights. Although numerous separate abuses are committed during the course of trafficking, which themselves contravene both national and international law, it is the combination of displacement from the community and commercialised exploitation that makes trafficking a violation distinct from its component parts. There is a large body of existing international and national instruments in the form of declarations, conventions and resolutions prohibiting trafficking. The Constitutions of India (Article 23), Nepal (Article 20) and Bangladesh (Article 18 and 34) contain provisions prohibiting trafficking and forced labour. Undeniably, there is a legal responsibility on the states to institute measures to combat trafficking and ensure their implementation. The national laws of the South Asian countries have been inspired by developments at the international level. International instruments have tremendous bearing on the States Parties and their national laws. Upon ratification of a convention, a State Party must suitably amend or frame laws so as to implement the treaty. In the event of a void in the domestic law, the courts can look into the provisions of international law as long as they are consistent with the Constitution or the laws of the land. Article 51 of the Indian Constitution requires the state to foster respect for international law and treaty obligations. This chapter begins with a brief discussion of the international legal framework on anti-trafficking, followed by the existing laws in neighbouring countries and finally describes the legal regime in India.

16.2 International framework of laws related to trafficking

An overview of selected international conventions regulating trafficking in human beings is presented below.

- **International Agreement for Suppression of White Slave Traffic, 1904**
The agreement was formulated with the intention of securing to women of full age who have suffered abuse or compulsion, as also under-age girls, effective protection against criminal traffic known as the “White Slave Traffic”.
- **International Convention for Suppression of White Slave Traffic, 1910**
This convention criminalised procurement, enticement or leading away of a woman or girl under the age of 21, even with her consent for immoral purposes irrespective of the fact that the various acts constituting the offence may have been committed in different countries.

- **International Convention for the Suppression of the Traffic of the Women and Children, 1921**
The treaty prohibits the enticing or leading away of a woman or girl for immoral purposes, to be carried out in another country.
- **Slavery Convention, 1926**
States Parties are enjoined to discourage all forms of forced labour. Slavery means control over another person, without full informed consent, for the purpose of exploitation.
- **International Labour Organisation Forced Labour Convention, 1930**
Article 1 of this convention calls for suppression of the use of forced or compulsory labour in all its forms within the shortest possible period.
- **International Convention for Suppression of Traffic in Women of full age**
This convention imposes a duty on the signing countries to prohibit, prevent, prosecute and/or punish those engaged in trafficking in women.
- **Universal Declaration of Human Rights, 1948**
Article 4 of the Declaration prohibits all forms of slavery and the slave trade. Article 13 recognises the right of persons to freedom of movement and residence and Article 15 recognises the right to nationality.
- **Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949**
This convention is a compilation of four previous international conventions (Conventions of 1904, 1910, 1921 and 1933). This convention made procurement, enticement, etc. for purposes of prostitution punishable irrespective of the age of the person involved and his/her consent to the same (Article 1). Brothel keeping was also denounced to be illegal and punishable (Article 2). The convention provided for repatriation (Article 19) and rehabilitation (Article 20) measures. However, the 1949 Convention is limited to trafficking for prostitution and related activities.
- **Supplementary Convention on the Abolition of Slavery, Slave Trade and Institutions and Practices of Slavery, 1956 (Slavery Convention)**
This convention condemned a variety of slavery-like practices, including debt bondage and forced marriage. States Parties undertook to establish suitable minimum ages of marriage and registration of marriages.
- **Abolition of Forced Labour Convention, ILO, 1957**
Under this convention, States Parties undertook to suppress any form of forced or compulsory labour as a means of political coercion, economic development, labour discipline, or racial, social, national or religious discrimination.
- **International Covenant on Civil and Political Rights, 1966**
Forced labour and slavery are prohibited by Article 8 of the ICCPR. Article 24 outlines the rights of children.

- **International Convention on Economic, Social and Cultural Rights (ICESCR) 1966**
Article 10 of this convention stipulates that States are responsible for protecting children from exploitation and must lay down the minimum age for their employment.
- **Minimum Age Convention, 1973**
The aim of this convention was to prohibit and regulate child labour and restrict engagement of children in hazardous work.
- **Convention on the Elimination of all forms of Discrimination against Women, 1979 (CEDAW)**
Article 6 of CEDAW requires States Parties to take all appropriate measures, including legislation, to suppress all forms of traffic in women.
- **United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1984**
The convention provides against the expulsion or return of a person to another state if there are substantial grounds for deeming her to be in danger of torture. Victim compensation measures are also stipulated in the convention.
- **Tourism Bill of Rights and the Tourist Code 1985**
Adopted by the WTO, the Code enjoins that the State should preclude any possibility of the use of tourism to exploit others for purposes of prostitution.
- **Convention on the Rights of the Child, 1989**
Article 11 requires States Parties to take measures to combat the illicit transfer and non-return of children abroad. Under Article 34 and 35, States Parties must take appropriate national, bilateral and multilateral steps to protect the child from all forms of sexual exploitation and sexual abuse as also to prevent the abduction, sale of or traffic in children.
- **Convention on Protection of Rights of Migrant Workers, 1990**
This Convention seeks to put an end to the illegal or clandestine recruitment and trafficking of migrant workers and lays down binding international standards for their treatment, welfare and human rights.
- **The ILO Convention 182 on the Worst Forms of Child Labour (1998)**
Article 3 of this Convention defines the worst forms of child labour comprising all manifestations of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and servitude and forced or compulsory labour, etc.
- **Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women, 1999**
The Protocol enables individuals or groups who have exhausted national remedies to directly approach the Committee under the Protocol.
- **UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000**
The UN Trafficking Protocol seeks to create a global language to define trafficking in persons, especially women and children, assist victims of trafficking, and prevent trafficking in persons. It supplements the **United Nations Convention Against Transnational Organised**

Crime, 2000. Article 3(a) of the Protocol defines ‘trafficking in persons’ as “the recruitment, transportation, transfer, harbouring or receipt of persons, 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 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”. This victim-friendly protocol provides for preventive measures (Art. 9), victim compensation and privacy protection (Art. 6), repatriation (Art. 8) and strengthened border control measures (Art. 11 & 12).

However, the Protocol does not provide protection from prosecution for the acts victims are forced to perform. Therefore, victims could be prosecuted for a crime they were coerced into committing – such as prostitution, working without a permit, or having false identification documents – and be summarily deported for these violations. Also, most of the positive measures, especially victim assistance, are discretionary. Thus, victims who remain in a country in order to serve as witnesses for the prosecution could be detained for months without critical services or employment. This could create unwillingness in victims to offer testimony, which would be detrimental to the case and undermine the law enforcement objectives of this Protocol. Also, these victims are still at risk of physical harm from the traffickers. There is no mention of ‘reintegration’ or providing services upon repatriation to ensure that a victim is able to re-enter mainstream society. The Protocol refers only to cooperation between States Parties to ensure safe repatriation of victims to their countries of origin. The victims are, in effect, likely to be delivered back into the same conditions from which they were trafficked and are at risk of re-victimisation.

- **Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography**

This process seeks to raise standards for the protection of children from all forms of sexual exploitation and abuse.

- **Recommended Principles and Guidelines on Human Rights and Human Trafficking:** These standards were developed by the UN High Commission for Human Rights so as to strengthen the human rights principles and perspective of the Trafficking Protocol. The document sets down 17 Recommended Principles and 11 Recommended Guidelines, which are meant to facilitate effective implementation of the key provisions.

16.3 Regional instruments

At the regional level, there have been several initiatives by the governments of South Asia and Asia-Pacific regions. The Bangkok Accord and Plan of Action to Combat Trafficking in Women, 1998; Asian Regional Initiative Against Trafficking in Persons, especially Women and Children, (ARIAT) 2000; The ASEM (Asia Europe Meeting) Action Plan to Combat Trafficking in Persons, especially Women and Children, 2000; The Bali Conference Co-chair’s Statement on People Smuggling, Trafficking in Persons and Related Transnational Crime, 2002; are illustrations of their concerted efforts.

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

The aim of this convention is to promote cooperation amongst member states to effectively deal with various aspects of prevention, interdiction and suppression of trafficking in women and children; repatriation and rehabilitation of victims of trafficking and preventing the use of women and children in international prostitution networks, particularly where the SAARC member countries (Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka) are the countries of origin, transit and destination. The convention is legally binding on its signatory parties and is the first regional anti-trafficking treaty to emerge from the Asian continent. As of March 2004, the convention has been ratified by all member countries except Nepal and Sri Lanka.

The SAARC Convention defines ‘child’, ‘prostitution’, ‘trafficking’, ‘traffickers’ and ‘persons subjected to trafficking’ under Article 1. It provides for ‘aggravating circumstances’, which are factual circumstances that enhance the gravity of the offence (Art. 4). It also provides for the protection of victims (Art. 5), mutual legal assistance (Art. 6), training and sensitisation of enforcement officials (Art. 8), rehabilitation of victims (Art. 9). Offences under the Convention are extraditable (Art. 7). Article 8(3) requires the States Parties to establish a Regional Task Force comprising officials from the Member States, to facilitate implementation of the provisions of this Convention and to undertake periodic reviews. The main criticism levied against the SAARC Convention is its narrow definition of trafficking, which is limited to prostitution, also that it makes no distinction between women and children. Trafficking has been defined to include the moving, selling or buying of a person, but does not include recruitment, labour, transfer or receipt that does not essentially constitute buying or selling.

- **Convention on Regional Arrangement for the Promotion of Child Welfare, 2002**

This Convention seeks to create regional arrangements among SAARC countries in order to promote understanding and awareness of the rights, duties and responsibilities of children and to develop the full potential of the South Asian child.

16.4 Other international initiatives

- **World Conference on Human Rights, 14 – 25 June 1993, Vienna, Austria**

This conference took new steps to promote and protect the rights of women and children by supporting the creation of new mechanisms and advocating the universal ratification of the Convention on the Rights of the Child by the year 1995.

- **World Congress against the Commercial Sexual Exploitation of Children, 1996**

The aims of the World Congress were to award high priority and adequate resources for action against the commercial sexual exploitation of children; promote stronger cooperation among all sectors and strengthen the role of families in protecting children; ensure the revision and enforcement of laws; and advocate the development and implementation of gender sensitive prevention and reintegration programmes.

- **Amsterdam Conclusion and Oslo Conference, 1997**
The Conference affirmed that in order to eliminate the exploitation of children, poverty eradication and rehabilitation programmes must be developed, along with a sound mechanism to monitor their progress.
- **Second World Congress against Commercial Sexual Exploitation of Children, Yokohama, 2001**
The Conference called upon the international community to promote action towards the eradication of commercial sexual exploitation of children and address the risk factors of poverty, inequality, discrimination, violence, armed conflict, HIV/AIDS, dysfunctional families and criminality.
- **The Honolulu Declaration, 2002**
This Declaration recognised the need to address the structural causes of trafficking and the forms of exploitation and poverty at its roots. The mobilising of a broad coalition was envisaged, to bring together concerned agencies, organisations and individuals to combat trafficking at local, national, regional and international levels.
- **Brussels Declaration on Preventing and Combating Trafficking in Human Beings, 2002**
The Brussels Declaration aims at bringing about European and international cooperation, in developing concrete measures, standards, best practices and mechanisms for prevention, victim protection and assistance, and police and judicial cooperation to prevent and combat the trafficking of human beings.

16.5 Legal Framework against Trafficking in South Asian Countries

16.5.1 Bangladesh

The Bangladesh Constitution guarantees equal rights and equal protection to all — regardless of gender. The fundamental principle of state policy requires the state to prevent prostitution. Article 34 (1) prohibits all forms of forced labour. **The Penal Code of 1860** deals with the laws for sheltering girls forced into prostitution and punishment for offenders procuring minor girls, both from within and outside the country. Sections 364 A, 366 A and 373 provide protection to women who are victims of sexual offences of illicit intercourse, by punishing the kidnapper or abductor. **The Code of Criminal Procedure, 1898** outlines the procedural law in criminal matters. The police is vested with the powers to arrest without warrant on grounds of suspicion (Section 54). **The Child Marriage Restraint Act, 1929** prohibits the marriage of girls under the age of 18 and boys under the age of 21 and punishes parents/guardians who violate this prohibition. **The Suppression of Immoral Traffic Act of 1933** protects all children up to the age of 18 from sexual exploitation. **The Vagrancy Act, 1943** provides the definition of a vagrant and his/her arrest and detention and rehabilitation. Under the **Emigration Ordinance of 1982**, registered recruiting agents for overseas employment can lose their licenses and forfeit their security deposit if they are found to have violated the ordinance or to have been guilty of other misconduct (including coercion or fraud in inducing someone to migrate).

The Cruelty to Women (Deterrent Punishment) Ordinance, 1983 increased the punishment to life imprisonment and death penalty, for kidnapping or abducting women, trafficking of women

and children, attempt to cause death, acid throwing, rape, etc. Abduction of women and children was designated 'terrorism' under the Anti-terrorism Ordinance of 1992.

The Suppression of Immoral Traffic Act of 1993 provides punishment for forcing girls into prostitution and detaining girls below the age of 18 years against their will, in any house, room or place in which prostitution is carried out. **The Children (Pledging of Labour) Act, 1993** prohibits the making of agreements to pledge the labour of children under the age of 15 years and the employment of such children whose labour has been pledged. **The Women and Children Repression (Special Provision) Act, 1995** prescribes death or life-long imprisonment for unlawful importation, exportation or sale of children (S.12). The same punishment is stipulated in the **Cruelty to Women and Children (Special Provision) Act, 1995**. **The Women and Children Repression Prevention Act, 2000** provides for stringent penalties against trafficking, kidnapping, collecting ransom, rape, sexual oppression of women and children and against damage or deformation of any part of a child's body with intent to engage him or her in begging. These provisions also apply to both internal and cross-border trafficking. Special tribunals may place the woman/child victim with an NGO or individual custodian during trial. It also provides for victim compensation.

The Public Security Act, 2000 protects women and children from extortion. **The National Policy for Children, 1994** aims to integrate the principles of the **Convention on the Rights of the Child** with national development activities, and the **National Policy for Women** includes a five-year plan for improvement of the situation of women. The **National Plan for Children** explicitly addresses child trafficking.

In Bangladesh, the **Women and Children Repression Prevention Act, 2000** recognises the different motives for trafficking and provides several victim and witness protection measures and compensation. It also authorises the Special Tribunals to rehabilitate victims with the help of NGOs and empowers magistrates to hear depositions wherever required. However, on the downside, Section 54 CrPC of Bangladesh confers broad powers on the police to arrest on mere grounds of suspicion. Health services are often denied to a woman on the sole basis that she is a prostitute. Under the Constitution, an individual is entitled to choose her occupation. Persons above the age of 18 years, on execution of an affidavit signifying volition, can prostitute themselves. Such a provision endangers the vulnerable segment of women and girls whose human rights can be trampled upon by vested interests. The rape laws discriminate against sex workers because they are classified as 'habituated' to sexual intercourse, thereby making conviction near impossible.

16.5.2 Bhutan

There is very little information available on the laws of Bhutan relating to trafficking. In 2001, the committee on the Rights of the Child considered Bhutan's initial report and made certain concluding observations. The Committee noted the absence of legislation on the minimum age for admission to employment. There is insufficient data and awareness regarding the sexual exploitation of children. The committee has proposed that a national study on the nature and extent of sexual exploitation and child labour should be undertaken. It has also suggested that new laws should be promulgated and existing laws suitably amended to address these grave issues.

16.5.3 Maldives

The law bars children less than 14 years of age from “places of waged work and from work that is not suitable for that child’s age, health or physical ability or that might obstruct the education or adversely affect the mentality or behaviour of the child”. The law also prohibits government employment of children under the age of 16. Forced or bonded labour by children is not specifically prohibited. However, there are no official reports that such practices occur. The law does not prohibit trafficking in persons. There are no reports of persons being trafficked to, from or within the country. Following nationwide consultations, the government has drawn up a **National Plan of Action** on the basis of the **Beijing Platform for Action** and the **Commonwealth Plan of Action on Gender and Development**.

16.5.4 Nepal

The Constitution of Nepal enshrines the principles of equality and justice to every citizen without any discrimination on the basis of race, caste, sex, creed, etc. and safeguards the human rights of all citizens. Under Article 20, it forbids the trafficking, and sale of women and children and other forms of slavery. The **Muluki Ain, 1963** (Code of Law), contains provisions against inter-state and domestic trafficking. Section 1 decrees prison sentences of 20 years for international trafficking and 10 years imprisonment for attempted sale, plus fines equivalent to the amount of transaction. **The Open Border Agreement of 1950** allows Indian and Nepali nationals to travel freely between countries, without display of passports or visas.

The Human Trafficking (Control) Act of 1986 (HTCA) establishes territorial jurisdiction for offences committed outside Nepal. Anybody with information that human trafficking is about to take place or is in progress can file a complaint at any police post with whatever evidence is available [S.5(1)]. **The Labour Act of 1992**, under Section 5 (1), prohibits the employment of a child under the age of 14 in any enterprise. **The Children’s Act of 1992** contains provisions to prevent the use of any child in an immoral profession as also other forms of sexual exploitation; use of a child for begging; sale of girl children as religious offerings to temple deities; or for child labour. The **Child Labour (Prohibition and Regulation) Act of 2000** expands the list of hazardous industries in which children less than 16 years of age are banned from working. **The Foreign Employment Act of 1985** requires that employment agencies that recruit workers for foreign jobs be licensed (S.3). Section 4 specifies the countries that may recruit Nepalese workers and empowers the government to cancel the licenses of employment agencies for violations. **The Human Trafficking Control Bill, 2000** has a wider definition of trafficking than the one under **HTCA, 1986**, and includes buying a human being for any reason, enslaving a human being for bonded labour, indulging in prostitution, kidnapping children and all other forms of exploitation not covered in the 1963 **Muluki Ain**. The operation of brothels and leasing of property to known traffickers is prohibited. Victim protection and compensation measures are included in the pending bill.

The National Action Plan against trafficking in children and their sexual exploitation contemplates intervention in six areas – rescue and reintegration; income and employment generation; awareness creation; advocacy; networking and social mobilisation; health and education; legislation and enforcement; and policy research and institutional development.

In Nepal, the **Muluki Ain, 1986** stipulates punishments for the purchaser and the seller of women and children, holding both equally liable. The Act has extra-territorial jurisdiction, with equal penalties for offences committed within or outside Nepal. The law facilitates complaints of human trafficking by anybody to any police force, with whatever evidence available. When a woman is taken outside Nepal by anybody other than a close relative for sale or compulsion into prostitution, the burden of proof to disapprove the charge rests on the accused. This is a victim-friendly provision. In the new bill, proposed in the year 2000, more victim-friendly procedures like in-camera trials, non-requirement of a restatement by the victim in court, if it has already been recorded, etc., have been included. It also provides for specific rehabilitative efforts, rehabilitation centres, etc. **The Children's Act, 1992** of Nepal, under Section 20 (1), empowers NGOs to initiate cases in favour of children in the district courts. However, The **HTCA** has a strong undercurrent of morality and is, therefore, not oriented to a human rights perspective. There are no specific measures to protect the rights of the victims. The National Plan of Action is also criticised as not projecting a human rights perspective because there is no specific requirement for ensuring the protection of women's rights and child rights during rescue and rehabilitation. The existing rape laws discriminate against women, in that, if the rapist can prove the victim to have been a prostitute, he can get away with a very minimal punishment. The provision in the **Trafficking in Human Beings (Control) Bill, 2000** holding voluntary engagement in sex work as synonymous with trafficking, has also been widely held to be in violation of human rights. Moreover, such a view is likely to trivialise the serious violations that are committed during trafficking. Further, the anti-trafficking laws in Nepal do not provide for integration or rehabilitation with rescue.

16.5.5 Pakistan

One of the country's major problems is the smuggling of Pakistani children to Gulf countries for camel racing. Law enforcement agencies and the immigration department feel that increasingly high profits and lessening fear of harsh punishment have bolstered syndicates of human traffickers across Asia, the Middle East and Europe.

The Zina Hudood Ordinance (1979) criminalises *Zina* (extra-marital sex, including adultery or fornication), *Zina-bil-jabr* (rape outside of a valid marriage), and selling, hiring, buying or disposal of any person for the purpose of prostitution (Section 13, 14). The punishment for these acts is life imprisonment. The **Foreigners Act of 1949** and **Foreigners Order of 1951** does not permit foreigners to enter Pakistan except from designated areas and in a specified manner. New laws relating to illegal immigrants (1996) lay down a jail term of up to 10 years for unauthorised entry into the country. **The Employment of Children Act** lowered the minimum age for employment from 15 to 14 in mining, factories, shops and other commercial and industrial establishments. The **Child Labour Act, 1991** allows children to be employed in 'hazardous' occupations if they are carried out with the help of family members or in a government-recognised formal school.

The **Prevention and control of Human Trafficking Ordinance, 2002** has been promulgated to deal with all types of human trafficking. It is a comprehensive legislation — the first of its kind in the SAARC region. However, the legislation suffers from certain limitations. There is no specific attention to child trafficking as distinct from others. The role of NGOs has neither been identified nor assigned. Legislation is focused on trans-border trafficking and not on domestic trafficking.

The **Prevention and Control of Human Trafficking Ordinance, 2002** of Pakistan defines human trafficking to include trafficking for any purpose, viz. prostitution, forced labour and services, etc. This ordinance takes into consideration even mental injury of a person as an act of exploitation and provides for harsher sentences for serious violations. It also takes into consideration the organised nature of the crime and casts a vicarious liability on each member of the group by providing stringent punishment. The ordinance also includes provisions for compensation to the victims.

Under Pakistani law, the level of proof for '*Zina*' (extra-marital sex) and '*Zina-bil-jabr*' (rape outside of a valid marriage), which is liable to '*hadd*', requires either a confession or at least four Muslim male witnesses. If this high evidentiary requirement cannot be satisfied, then the crime of *Zina* or *Zina-jal-jabr* is liable to *tazir*, which does not require four Muslim male witnesses. If unable to prove rape, the court takes the rape victim's statement as a confession of adultery, which results in the punishment of the rape victim. Under the **Child Labour Act, 1991**, children may be employed in hazardous places if the work is carried out with the help of female family members or any schools recognised by the government. This leaves ample scope for violations of the human rights of such children.

16.5.6 Sri Lanka

In-country trafficking is one of Sri Lanka's major problems. Sri Lanka prohibits the employment of children under the age of 12, although there are reports that child labour is still widespread. In Sri Lanka, child exploitation is reported to be closely linked to pornography. Section 360 of the Penal Code deals with the offence of trafficking, defined as the act of buying or selling or bartering of any person for money or for any other consideration. Those assisting, arranging the travel, recruiting, falsifying birth records, and impersonating or engaging in the procurement of children for adoption are also liable for prosecution. In 1998, the code was amended again to provide for offences against children, such as causing or procuring children to beg, or hiring children for sexual intercourse. In addition, a provision was inserted for their protection from pornography. The **Amendment of the Adoption of Children Ordinance, 1992** decreed that the custody and care of a child for adoption must be entrusted to a person in charge of a registered government orphanage (for a period of five years). This means that no child from a private home can be legally adopted.

The **Evidence (Special Provisions) Act, 1999** amends the Evidence Ordinance to make it sensitive to the vulnerabilities of a child witness, for instance, by permitting admission of a video recording of a preliminary interview between an adult and the child witness with respect to an offence relating to child abuse as evidence.

The **National Child Protection Authority Act, 1998** focuses on prevention of child abuse and protection and treatment of children who are victims of such abuse. A National Child Protection Authority was established under this Act to monitor implementation and advise the government on the related issues.

In Sri Lanka, in order to protect children from pornography, Section 286 A of the penal code makes it mandatory for developers of photographs and films to report any indecent or obscene film or photographs to the police station. The **Evidence (Special Provisions) Act, 1999** enables a court to receive a child's evidence without causing oath. It also provides admission of videotaped

evidence of an earlier interview between the victim and others. The **National Child Protection Authority** is a landmark initiative in preventing child abuse and protecting the rights of children.

16.5.7 Thailand

Owing to the increase in the number of foreign nationals in Thai brothels, the **Anti-Trafficking Act** was passed in 1928. Section 7 of the Act states that women and girls who have been trafficked into Thailand will be exempted from imprisonment and/or fines. The **Suppression of Prostitution Act of 1960** intended to eliminate prostitution (defined as “an act promiscuously rendering sexual services for remuneration”) by making it an illegal activity. The Act stipulated that convicted prostitutes should be reformed through medical treatment. **The Entertainment Places Act of 1966** was designed to pave the way for brothels to be legalised in the guise of massage parlours, bars, nightclubs, teahouses, etc. The Act defines various kinds of entertainment places and allows such places to operate only under a license to be obtained from the local police station and sets 18 years as the minimum age for women to work in such establishments.

Under the **Penal Code of 1956**, prostitution is not illegal, but procurement for the same is. This act stipulates harsh punishment for abuses against girls forced into prostitution. The nature and severity of the punishment is in direct relation to the age of the victim. The **Thai Immigration Act of BE 2522 (1979)** prohibits entry into the kingdom of Thailand, of foreigners who are deemed, on reasonable grounds, to be motivated to enter the kingdom for the purposes of engaging in prostitution or in the trafficking of women and children and ordains the withdrawal of permits where the individual is suspected of indulging in such acts. The **Prevention and Suppression of Prostitution Act of 1996** continues to maintain prostitution as illegal but considerably reduces the penalties for the prostitute. In addition, if the prostitution is forced, then the prostitute is not deemed to have committed an offence. Sex with children under 18 years of age is a crime and the customer may face a very heavy fine. All those involved, like procurers, traffickers, pimps etc., are punishable by imprisonment and a fine.

The Measures in Prevention and Suppression of Trafficking in Women and Children Act, B.E. 2540 (1997) extends coverage to both boys and girls under 18 years of age. It defines as a crime, the conspiracy to commit an offence involving the trafficking of women and children. **The Penal Code Amendment Act (no. 14), B.E. 2540 (1997)** covers those who procure, lure or traffic, both boys and girls, adult males and females for the sexual gratification of another person. The nationality and location of the offender is irrelevant in such a case. **The Criminal Procedure Amendment Act (No. 20), B.E. 2542 (1999)** was aimed at making the Act child-friendly. In the revised Act, videotape recordings shall be used to take the statement of the child victim or witness in order to protect the child from repeated victimisation. Other initiatives include efforts towards total elimination of the entry into commercial sex of children, both boys and girls, under the age of 18.

Thailand has set up “The National Secretariat on Trafficking in Women and Children in the Mekong Sub-Region” to coordinate work with countries in the Mekong sub-region. It has joined the Association of Southeast Asian Nations (ASEAN) to develop and implement an ASEAN plan of action to prevent and combat trafficking in women. In order to support cooperation between the government and NGOs, an MoU has been drafted between the Royal Thai Government and NGOs,

on the framework for cooperation and implementation of activities for the eradication of trafficking in women and children. This is supplemented by two other MoUs, one between the various government departments of Thailand and another between the various NGOs working on related issues. However, there is a need for a national monitoring agency or a Task Force to ensure the implementation of these MoUs.

16.6 National framework of laws related to trafficking in India

16.6.1 The legal framework

The **Constitution of India**, under Art. 23 (1), prohibits trafficking in human beings and forced labour. This right is enforceable against the State and private citizens.

The Indian Penal Code, 1860. Relevant provisions under the Indian Penal Code are Sections 293, 294, 317, 339, 340, 341, 342, 354, 359, 361, 362, 363, 365, and 366, 370, 371, 372, 373, 375, 376, 496, 498, 506, 509, 511. Of significance are Sections 366A, which makes procurement of a minor girl (below the age of 18 years) from one part of India to another punishable and Section 366 B, which makes importation of a girl below the age of twenty-one years punishable. Section 374 provides punishment for compelling any person to labour against the will of that person.

Suppression of Immoral Traffic in Women and Girls Act, 1956 (SITA) was enacted under Article 35 of the Indian Constitution with the object of inhibiting or abolishing the immoral traffic in women and girls. It was also in pursuance of the **Trafficking Convention**, which India signed on 9 May 1950. The Act aimed to rescue exploited women and girls, to prevent deterioration of public morals and to stamp out the evil of prostitution, which was rampant in various parts of the country. In 1978, SITA was amended by the **Amendment Act 46 of 1978**, which took effect from 2 October 1979. This was owing to the realisation that the social evil needed to be curbed and that existing provisions failed to do so. In 1986, **SITA** was drastically amended and renamed the **Immoral Traffic (Prevention) Act, 1956**.

The Immoral Traffic (Prevention) Act, 1956 is a special legislation that deals exclusively with trafficking. The Act defines the terms ‘brothel’, ‘child’, ‘corrective institutions’, ‘prostitution’, ‘protective home’, ‘public place’, ‘special police officer’ and ‘trafficking officer’. The purpose of the enactment was to inhibit or to abolish commercialised vice, namely the traffic in women and girls for the purpose of prostitution, as an organised means of living. Offences under the Act are:

- i punishment for keeping a brothel or allowing premises to be used as a brothel (S.3)
- ii punishment for living on the earnings of prostitution (S. 4)
- iii procuring, inducing or taking persons for the sake of prostitution (S. 5)
- iv detaining a person in premises where prostitution is carried on (S. 6)
- v prostitution in or the vicinity of public places (S. 7)
- vi seducing or soliciting for the purpose of prostitution (S. 8)
- vii seduction of a person in custody (S. 9).

The law confers wide powers on the concerned authorities in matters of rescue and rehabilitation of victims and survivors and provides for stringent action against exploiters including the eviction of brothels, surveillance, externment, as well as aggravated punishment when the offences are committed on children.

The **Probation of Offenders Act, 1958** is aimed at offenders. Its important features are: a) the Act empowers the court to release certain offenders after admonition and place certain other offenders on probation for good conduct, and b) the Act puts a restriction on the court, forbidding the imprisonment of any offender below the age of 21 years, who has not committed an offence punishable with imprisonment for life, unless the circumstances of the case or nature of the offence requires that the offender be punished.

The **Indecent Representation of Women (Prohibition) Act, 1986** defines “indecent representation of women” as the depiction in any manner of the figure of a woman, her form of body or any part thereof in such a way as to have the effect of being indecent, or derogatory to, or denigrating of women; or is likely to deprave, corrupt or injure public morality. The Act puts a restriction on the publishing or sending by post, of books, pamphlets, etc., containing indecent representations of women, and prohibits all persons from getting involved directly or indirectly in the publication or exhibition of any advertisement containing indecent representations of women in any form.

The Child Marriage Restraint Act, 1929 defines the terms ‘child marriage’, ‘child’, ‘contracting parties’, ‘minors’, etc. It sets down the legal age of marriage as 18 years for girls and 21 years for boys. The Act empowers the court to issue injunctions prohibiting child marriage.

The Criminal Law Amendment Ordinance, 1944 provides for attachment of property in case of commission of a scheduled offence.

The Young Persons (Harmful Publications) Act, 1956 defines the term ‘harmful publication’ as “any book, magazine, pamphlets, leaflet, newspapers or other like publication which consists of stories told with the aid of pictures or wholly in pictures, being stories portraying wholly or mainly, a) the commission of offence, b) acts of violence or cruelty, and c) incidence of a repulsive or horrible nature”.

The Bonded Labour System (Abolition) Act, 1976 defines the terms ‘advance’, ‘agreement’, ‘ascendant or descendant’, ‘bonded debt’, ‘bonded labour’, ‘bonded labour system’ and provides for initiating appropriate action.

The Child labour (Prohibition and Regulation) Act, 1986 prohibits employment of children in the specific occupations set forth in Part A of the schedule of the Act. The Act lays down the conditions of work of the children. As per the Act, no child shall work for more than three hours before he or she has had an interval of rest for at least one hour.

The Indian Evidence Act, 1872 in which Sections 114 A and 151 are relevant in this context.

Criminal Procedure Code, 1973 with Section 51(2), 53(2), 98, 160, 327(2) and 357 having relevance in this context.

The Transplantation of Human Organ Act, 1994. The two-fold objectives of this Act are:

- i to provide for the regulation of removal, storage and transplantation of human organs for therapeutic purposes
- ii to prevent commercial dealings in human organs. The Act also provides for regulation and registration of hospitals engaged in removal, storage and transplantation of human organs.

The Information Technology Act, 2000 extends throughout India and also has extra-territorial jurisdiction. Section 67 penalises the publication or transmission of any material, in electronic form, which is lascivious; or appeals to prurient interests; or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied therein.

The **Juvenile Justice (Care and Protection of Children) Act, 2000** was passed in consonance with the Convention on the Rights of the Child, to consolidate and amend the law relating to juveniles in conflict with law and children in need of care and protection. The definition specifically includes the child who is found vulnerable and is, therefore, likely to be inducted into trafficking. The focus of the Act is to provide for proper care, protection and treatment by catering to the child's development needs and by adopting a child-friendly approach in the adjudication and disposition of matters in the best interests of children and for their ultimate rehabilitation through various institutions established under the Act. 'Child' means a person, either male or female, who has not completed his or her eighteenth year of age. Section 29 of the act empowers state governments to constitute child welfare committees for such areas as they may deem fit. It also outlines the powers of the committee and the procedures to be followed. Section 31 gives them the ultimate authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the children as well as to provide for their basic needs and protection of human rights. Under Section 34, a state government may establish and maintain children's homes for the care and protection of children. Under Section 39, the primary objective of the children's home or shelter is the restoration and protection of childhood. This law is essentially in the form of a Code and incorporates in itself not only punitive and rehabilitative provisions, but also spells out the detailed procedures to be followed.

16.6.2 State Measures to Prohibit the Devadasi System

State governments have taken some steps towards curbing the system, but they do not seem to be adequate so far. Mysore was the first state in pre-independent India to take steps against this practice. In 1924, the Indian Penal Code was amended. Sections 372 and 373 declared as illegal, the practice of dedicating girls for the ultimate purpose of engaging them in prostitution. The **Karnataka Devadasi (Prohibition of Dedication) Act, 1982** declares unlawful, the very act of dedication, whether the dedication is done with or without the consent of the dedicated woman. Under the **Andhra Pradesh Devadasi (Prohibiting Dedication) Act, 1989**, whosoever performs, promotes, abets or takes part in a dedication ceremony is liable to punishment with imprisonment for three years and fine.

16.6.3 Goa's Children's Act, 2003

The Government of Goa has brought out the **Goa Children's Act, 2003** notified in the official Gazette of 14 July 2003. This addresses several child rights issues in an integrated manner. Under the new legislation, the owner and manager of a hotel or other establishment will be held solely responsible for the safety of the child on the premises as well as all the adjoining beaches and parks. The owner and manager are also held accountable if any child is allowed to enter a room without registration. It provides for strong action against making children available for commercial exploitation including posing obscenely, selling or abetting sale of children even under the garb of adoption or dedication of a girl child as a Devadasi. Some of the salient features of the Act are:

- i trafficking has been given a legal definition, for the first time in Indian jurisprudence
- ii the definition of sexual assault has been expanded to incorporate every type of sexual exploitation
- iii responsibility of ensuring safety of children in hotel premises has been assigned to the owner and manager of the establishment
- iv photo studios are required to periodically report to the police that they have not shot any obscene photographs of children
- v stringent control measures have been introduced to regulate access of children to pornographic materials.

Besides these, the act also provides many proactive measures

In India, the **ITPA** and the **Juvenile Justice Act** have been revamped in consonance with the international instruments of the time. The Juvenile Justice Act recognises a child, who is found vulnerable and is likely to be inducted into trafficking, as a child in need of care and protection and includes elaborate provisions for rescue and rehabilitation. It gives NGOs powers and position in the child welfare committees and the Juvenile Justice Board. The ITPA provides for the setting up of special courts by state governments, as well as by the Government of India. Rape laws have undergone judicial scrutiny and interpretation several times in the Supreme Court, with the result that the law today is gender-friendly and child-friendly. The uncorroborated testimony of a rape victim is enough to convict the accused, if it exudes confidence. The law prohibits the publishing of the identity of the rape victim and provides for compensation to victims after conviction. The Apex Court, in a decision in 2004, has brought out child-friendly procedures in the trial process involving girl children who have been sexually assaulted. However, ‘trafficking’ has not been defined under the Indian laws except in the **Goa Children’s Act**, which is specific to the state of Goa. The ITPA has not made mandatory provisions regarding the role of NGOs and the integration of rehabilitation with rescue. The age verification of the victim, which is an important issue in deciding the culpability of the accused, often meets with difficulty, because the law has not made specific and time bound provisions in this regard. Although the ITPA is a special law, it has no express provision for the confiscation of assets amassed by the traffickers, nor provisions for victim protection. These points need to be considered by the concerned authorities so that the laws and provisions are made victim-friendly, gender sensitive, child sensitive and are in complete resonance with human rights. These and other suggestions, which emerge from the research, have been presented in the chapter on recommendations.

16.7 Conclusion

A review of the laws and provisions of various countries provides an impression of the growing awareness and recognition of the issues relating to trafficking across the world. Most of these countries have made efforts to amend their existing laws or to introduce new legislation in consonance with international instruments. A comparative study brings to light the salient features of each country, which others can benefit from, especially from the perspective of ensuring the human rights of the victims and survivors of trafficking.

Status of Law Enforcement

(On Offences of Trafficking for Commercial Sexual Exploitation)

17.1 Introduction

This chapter discusses the scenario of law-enforcement and law implementation with respect to crimes concerning trafficking in women and children. Since the recorded offences relating to trafficking for non-sex-based exploitation are few and far between, the discussion is focussed more on sex-based exploitation as envisaged under ITPA (The Immoral Traffic Prevention Act, 1956) and related Acts. However, other types of exploitation, especially with respect to the IPC offences reported by the states, have also been discussed simultaneously. This chapter takes into consideration the data received from the various states and Union Territories as well as the data published by the National Crime Records Bureau (NCRB) in their annual compendium titled *Crime in India*. As of October 2003, the last full publication of NCRB is the crime data for 2001. Since this document does not speak separately about the data relating to the newly formed three states, the discussion herein also follows the same pattern. The chapter includes discussion on various sections of certain laws. For details on these legal provisions, the chapter on 'legal regime' may be referred to.

17.2 Crimes Registered under ITPA during the Period 1997-2001

The following table presents data of crimes registered by the police agencies in the states during the five-year period of 1997 to 2001.

Table 17.1: Number of crimes registered under ITPA in India

States	1997	1998	1999	2000	2001	Total	Average
Andhra Pradesh	613	507	737	482	1332	3671	734
Arunachal Pradesh	0	0	1	0	0	1	0
Assam	20	34	5	17	6	82	16
Bihar	21	37	38	9	29	134	27
Delhi	117	75	78	94	95	459	92
Goa	134	30	28	28	28	248	50
Gujarat	5	8	40	47	61	161	32
Haryana	7	4	14	13	21	59	12
Himachal Pradesh	1	1	0	1	1	4	1
Jammu & Kashmir	2	1	4	2	7	16	3
Karnataka	1645	1403	1225	1308	1356	6937	1387
Kerala	41	27	62	92	132	354	71
Madhya Pradesh	16	16	33	23	15	103	21
Maharashtra	1653	444	390	160	223	2870	574
Manipur	0	0	0	0	4	4	1
Meghalaya	1	0	0	0	0	1	0

States	1997	1998	1999	2000	2001	Total	Average
Mizoram	1	0	0	2	2	5	1
Nagaland	0	0	0	1	1	2	0
Orissa	11	11	22	17	24	85	17
Pondicherry	42	29	50	48	39	208	42
Punjab	3	5	14	26	32	80	16
Rajasthan	41	47	85	110	68	351	70
Tamil Nadu	3863	5937	6462	6950	5232	28444	5689
Uttar Pradesh	57	31	24	30	26	168	34
West Bengal	28	43	39	49	31	190	38
Grand Total	8322	8690	9351	9509	8765	44637	8927

(Source: *Crime in India* by National Crime Records Bureau, 1997-2001)

The All India reporting of crimes under ITPA shows continuous increase year after year, except in 2001 when there was a slight reduction from the previous year. The figures for the five years show that in India, on an average, 8927 crimes are reported every year under ITPA.

Going statewise, Tamil Nadu has the highest reporting of 28,444 crimes in a span of five years, followed by Karnataka, Andhra Pradesh and Maharashtra. During the five-year period, there was nil reporting from Sikkim and Tripura and almost nil reporting from Meghalaya, Arunachal Pradesh and Nagaland.

Not only the total reporting of five years, but the number of crimes reported every year also shows continuous increase in many states like Haryana, Kerala, Manipur, Mizoram and Punjab. Surprisingly, there is continuous decrease in the five-year period in Maharashtra. Whereas 1653 cases were reported in 1997, there was a reduction by 90 per cent in 2000, with a reporting of only 160 cases. However, in 2001, there was a marginal increase to 223. Goa also showed decrease in the number of reported cases, with 134 in 1997 to a static number of 28 during the three-year period from 1999 to 2001. Other states have, by and large, shown fluctuations in the number of cases reported.

Regional patterns provide a lot of food for thought. While the number of cases reported comes to 5689 per year on an average in Tamil Nadu, the corresponding number for the adjoining state of Andhra Pradesh is only 734 and 1387 for Karnataka. Similarly surprising is the annual average reporting of 38 cases from West Bengal. The field survey shows that among the women and children who are trafficked for sexual exploitation, a large number is from West Bengal, Andhra Pradesh, Karnataka and Tamil Nadu. Therefore, the untold discrepancy between the number of crimes reported in Tamil Nadu with the corresponding number from West Bengal, Karnataka and Andhra Pradesh, is a point to ponder over. When this is studied in the context of the population of trafficked victims in the known red-light areas of Delhi, Mumbai and Goa (as revealed in the field research), where the largest number of women are from West Bengal, followed by Andhra Pradesh and Karnataka, the problem of non-reporting and non-registration of crimes comes to the fore. Data collected by interviewing 852 police officers, as part of the action research, shows that these police officers have confirmed that only 40 per cent of crimes get reported and 60 per cent remain unreported and unattended to.

In July 2003, the NCRB brought out a brief on the crime data for 2002. As per this report, the total number of crimes reported in India under ITPA in 2002 is 5691, which is 35 per cent less than the number reported in 2001. There is phenomenal decrease in the registration of crimes in

various states, notable being Andhra Pradesh with a reduction of 77 per cent, Bihar with 82 per cent, Jammu & Kashmir with 50 per cent, Madhya Pradesh with 53 per cent, Orissa with 91 per cent, Rajasthan with 31 per cent and Uttar Pradesh with a reduction of 65 per cent. However, certain states show a high number of reported cases in 2002. For example, the percentage of variation of reporting in 2002 vis-à-vis 2001 is up by 32 per cent in West Bengal and by 100 per cent in Assam. Among the states with the highest reporting in 2002, Tamil Nadu and Karnataka continue to maintain their lead, followed by Andhra Pradesh, Maharashtra and Kerala.

17.3 Pattern of Registration of Crimes under the Various Sections of ITPA

The major sections dealing with various offences under ITPA are Sections 3 to 9. Section 3 prescribes punishment for keeping a brothel or allowing premises to be used as brothels.. Section 4 provides punishment for living on the earnings of prostitution. Section 5 of ITPA invites punishment to the traffickers, abettors, etc. for procuring, inducing and taking women and girls for prostitution. Section 6 deals with the offence of detention of a person in a brothel and similar places. Section 7 addresses the issue of prostitution in public areas. Section 8 invites penalty for seducing or soliciting for the purpose of prostitution. Section 9 deals with seduction of a person in custody. The study of the data received from the states presents two distinct focii in law-enforcement. The first one looks at the female as a soliciting prostitute wherein charges are levelled against her mainly under Section 8 ITPA and sometimes, other add-on sections. The second view treats the female as a victim and focusses on registering cases against the exploiters, traffickers, brothel keepers and pimps, mainly under Section 5 ITPA, and, at times, along with Sections 3, 4 and 6 of ITPA. Keeping these two distinct outlooks in mind, an effort was made to understand the orientation of the police officers while dealing with crimes under ITPA. Efforts were also made to study the arrests made under these two categories to highlight whether the focus was on the survivor or on the exploiter.

The data received from the states show that in Goa, during the six-year period of 1997-2002, a total of 188 cases were registered under Section 8 ITPA, whereas only eight cases were registered under Section 5 ITPA. During 2000, all cases registered were u/s 8 ITPA only. In Tamil Nadu, 4745 cases were registered under Section 8 in 1997, whereas only 874 cases were registered under Section 5. Similarly, in 1999, 5586 cases were registered under Section 8, whereas only 697 cases were registered under Section 5, bringing the percentage of cases registered under Section 8 to 89, making it clear that in Tamil Nadu, as in most of the states, nearly 90 per cent of the cases under ITPA are registered against women and girls on charges of soliciting. However, there are certain exceptions to this rule. In some states like Bihar, Haryana, Kerala, Orissa, Rajasthan, etc., the number of crimes registered under Section 5 was more than the number of crimes under Section 8. Since data from many other states are not available, the total all-India figures could not be segregated under these two categories. However, the all-India trends bring us to the undeniable conclusion that invoking Section 8 ITPA is a common practice with police agencies across the country, with only very few exceptions.

In this context, the data received from Tamil Nadu (see Table 17.2) presents a clear picture of the utilisation of the various sections of law by the police. This, by and large, is indicative of the all-India situation.

Table 17.2: Details of cases reported under ITPA in Tamil Nadu in 2002
(Status on September 2003)

Section of ITPA	Reported	Under Investigation	Pending Trial	Convicted
Section – 3	74	3	44	27
Section – 4	247	8	91	148
Section – 5	6	-	6	-
Section – 6	5	-	1	4
Section – 7	34	5	6	23
Section – 8	2778	61	167	2550
Total	3144	77	315	2752

(Source: Data received from the Government of Tamil Nadu.)

In Tamil Nadu, while 2778 cases were registered u/s 8 ITPA on charges of soliciting, only six cases were registered on charges of trafficking. 2550 cases registered u/s 8 have ended in conviction, whereas none of the cases registered u/s 5 have led to conviction. In all the 2550 cases, the persons who got convicted are women, whereas the persons who escaped conviction are their traffickers. This gives a typical picture of the existing scenario of law-enforcement under ITPA in the country.

The interactions with police officers and judicial officers across the country, carried out as part of the Action Research, show that most of the women and girls who are 'picked up' under Section 8 ITPA are the ones who had been trafficked into commercial sexual exploitation. In many places, the percentage of trafficked victims to the total number of 'sex workers' comes to more than 90. Therefore, it is the trafficked victim who usually gets detained under Section 8 ITPA. This means that more often than not, the law has been used to criminalise the woman/girl who has been arrested, despite the fact that she is usually a victim of trafficking. The crime of trafficking has remained suppressed under the alleged crime of soliciting. This is, in fact, a violation of the human rights of such women and children.

17.4 Arrests under ITPA: The Gender Perspective

An important event in law-enforcement is the arrest of the suspected persons. The number of arrests made, number of persons chargesheeted and the number convicted are relevant in this context. An effort has been made to get the data disaggregated sex-wise and age-wise. This section deals with the sex-disaggregated data of the persons arrested under ITPA and related offences under IPC, for the five-year period of 1997-2001. The data available from the National Crime Records Bureau for the period was compiled and analysed. The results are presented in the following table:

Table 17.3: All-India pattern of arrests under ITPA (sex-disaggregated)

Year	Males arrested	Females arrested	Total arrested	% of females to total arrested
1997	1302	10069	11371	89
1998	1260	11605	12865	90
1999	1570	13195	14765	89
2000	1779	12073	13852	87
2001	2541	10208	12749	80
Total	8452	57150	65602	87

(Source: Compiled from the data in *Crime in India* by NCRB, for 1997-2001)

The data shows that during the period 1997-2001, a total number of 65,602 persons have been arrested, out of which only 8452 are males and 57,150 are females. Thus, 87 per cent of the arrested persons are females. This has been substantiated by the police officers who were interviewed. In fact, according to their feedback, more than 90 per cent of the persons arrested under ITPA are females. The percentage of arrested females to the total number of arrested persons was highest at 90 per cent in 1998 and the lowest was at 80 per cent in 2001. Though there is a decreasing trend since 1999, the abnormally high percentage of arrest of females in ITPA cases is nevertheless a matter of serious concern.

The state-wise, sex-disaggregated data of arrests under ITPA was examined. The details may be seen in Table 17.4. The highest percentage of women arrested remains at 98 in Goa, 97 in Tamil Nadu, 91 in Maharashtra, 88 in Karnataka, 85 in U.P. and 81 in West Bengal. On the other hand, the lowest percentage of women arrested is in Jammu and Kashmir with 6 per cent, followed by Assam with 21, Madhya Pradesh with 37, Himachal Pradesh with 39, Haryana with 41, Bihar with 44, and Pondicherry with 45. It is also important to note that there is a gradual decrease in the number of arrested women over the five-year period in Andhra Pradesh.

The data collected through interviews with police officers across the country also supports the above-mentioned situation of gender discrimination in the pattern of arrest prevalent in most of the states. Despite the fact that the law has provisions to arrest 'clienteles who are party to soliciting', it is hardly ever used, with the result that it is mostly the females who are arrested under ITPA. Many of the police officers and even judicial officers stated that they have never invoked the provisions of ITPA against 'customers'. Many of them were not even aware of the provisions of law under which 'customers' can be dealt with. The data collected from the police officials substantiates this point. A large percentage of senior officials also did not know that the law can be utilised for punishing the so-called 'customers' (For details, see the chapter on Police Response). In this context, the case studies of several victims developed as part of the Action Research show that most of the young girls are made to entertain a large number of 'customers' every day. These 'customers' are party to the commercial sexual exploitation and, therefore, are abettors and accomplices in the crime. When it comes to minor girls, under the provisions of Section 375 IPC, these 'customers' are, no doubt, liable for the offence of rape. Despite the rescue of several minors from different parts of the country, the number of 'customers' arrested is few and far between. In fact, the arrest of 'customers' is an exception, as per the prevalent practice of law-enforcement. However, the judicial activism by the High Court of Mumbai in 1996 and by the High Court of Delhi in 2000-2002 has brought about a radical improvement in the scenario of law-enforcement. For details, case study Nos. CS-MH-17 and CS-DL-26 may be seen.

17.5 The Age Factor in Arrests under ITPA

The data received from the states shows that out of the arrested persons, a large number is that of children under 18 years of age. Despite the fact that most of the states have not been able to furnish age-disaggregated details, the available data shows the following trends:

All the 12 females arrested in Jammu & Kashmir in 2001 were under 18 years of age. In Kerala, during the six-year period of 1997-2002, a total number of 17 minor girls was arrested by the police. Moreover, in Kerala, five minor boys were arrested in 2001 and four minor boys were

Table 17.4: All-India pattern of arrests made in ITPA cases during 1997-2001

States	1997			1998			1999			2000			2001			Total arrested 1997 to 2001		
	M	F	T	%	M	F	T	%	M	F	T	%	M	F	T	M	F	T
Andhra Pradesh	174	850	1024	83	255	700	955	73	397	769	1166	66	346	813	1159	1258	602	1860
Arunachal Pradesh	0	0	0		0	0	0		1	1	2	50	0	0	0	0	0	0
Assam	30	17	47	36	37	4	41	10	13	4	17	24	15	0	15	5	1	6
Bihar	38	13	51	25	90	40	130	31	32	10	42	24	19	6	25	24	114	168
Delhi	54	255	309	83	33	158	191	83	32	161	193	83	54	198	252	79	92	136
Goa	1	143	144	99	0	75	75	100	2	119	121	98	0	127	127	100	91	101
Gujarat	8	21	29	72	20	21	41	51	128	522	650	80	68	172	240	72	176	390
Haryana	18	14	32	44	23	13	36	36	51	23	74	31	27	19	46	41	48	93
Himachal Pradesh	2	0	2	0	1	0	1	0	0	0	0	0	5	5	10	50	3	5
Jammu & Kashmir	1	0	1	0	6	0	6	0	9	0	9	0	1	0	1	0	14	16
Karnataka	396	2115	2511	84	273	2132	2405	89	285	2272	2557	89	384	2382	2766	221	2104	2325
Kerala	68	112	180	62	45	79	124	64	69	246	315	78	119	264	383	120	290	410
Madhya Pradesh	14	14	28	50	45	19	64	30	68	58	126	46	111	7	118	6	64	105
Maharashtra	106	2463	2569	96	238	1971	2209	89	169	1980	2149	92	118	575	693	127	849	976
Manipur	0	0	0		0	0	0		0	0	0		0	0	0	5	6	11
Meghalaya	0	1	1	100	0	0	0		0	0	0	50	0	0	12	0	0	0
Mizoram	0	0	0		0	0	0		1	1	2		0	0	0	0	0	11
Nagaland	0	0	0		0	0	0		0	0	0		0	0	0	1	0	1
Orissa	15	31	46	67	15	31	46	67	48	60	108	56	36	20	56	55	40	95
Pondicherry	31	114	145	79	17	83	100	83	26	90	116	78	30	84	114	27	62	89
Punjab	2	6	8	75	8	4	12	33	44	22	66	33	50	63	113	70	50	120
Rajasthan	51	49	100	49	34	42	76	55	78	143	221	65	89	187	276	92	126	218
Sikkim	0	0	0		0	0	0		0	0	0		0	0	0	0	0	0
Tamil Nadu	245	3650	3895	94	88	5965	6053	99	72	6495	6567	99	255	6814	7069	97	5234	5331
Tripura	0	0	0		0	0	0		0	0	0		0	0	0	0	0	0
Uttar Pradesh	19	97	116	84	5	149	154	97	26	104	130	80	4	156	160	47	78	125
West Bengal	29	104	133	78	27	119	146	82	19	115	134	86	48	169	217	26	131	157
Grand Total	1302	10069	11371	89	1260	11605	12865	90	1570	13195	14765	89	1779	12073	13852	2541	10208	12749
																8452	57150	65602
																80	80	87

(Source: Crime in India by National Crime Records Bureau). Note: % indicates percentage of females arrested to the total number of arrested persons

arrested in 2002. In Manipur, in the year 2001, all the seven females arrested were minors. In Rajasthan, during the six-year period from 1997 to 2002, a total number of 69 minor girls and 14 minor boys were arrested. In Tamil Nadu, during the six-year period of 1997-2002, the total number of minor girls arrested was 3448. During this period, the number of minor boys arrested was 714. Thus, the total number of minors, male and female, arrested during the six-year period in Tamil Nadu under ITPA was 4162. Since the total number of arrests made in Tamil Nadu during the six-year period under ITPA was 34,282, the share of minors arrested works out to 12 per cent.

During the interviews carried out at the brothels in various parts of the country, it clearly emerged that the different stakeholders were aware of the fact that a minor girl or boy found in a brothel will invite serious charges under ITPA against the brothel keeper and others. Therefore, the various stakeholders try to ensure that the girls are reported to be of the age of 18 years and above, even if they are minors. They also try their level best to keep the minors hidden during rescue operations, so that they cannot be located and rescued. Several case studies substantiate this pattern throughout the country.

There are a lot of flaws in the process of age assessment. There are several instances where the girls were assessed to be majors, but later on, after protests by various agencies, fresh age-verification was carried out and the girls were declared to be minors (Refer case study No. MH-19). Thus, these are grounds to conclude that among those arrested, the number of minors is much more than what is mentioned in the records. There is also lack of sensitivity in the enforcement process. The persons detained after 'rescue' (which is often termed 'raid') are handled in a very casual, routine manner. The age of the person is often 'dictated' by the brothel keeper. Being a captive of the brothel keeper and other exploiters and facing direct threat from them, the arrested girl, even though minor, reports her age to be above 18 years. Instances have come up during research where the police officials have mechanically recorded the age, as told by the girl, despite the fact that she was under threat and the fact that a very look at her was enough for anyone to realise that she was not honestly speaking for herself. Generally, the police officials do not go beyond what has been stated by the brothel keeper. This results in minor girls being 'bailed out' by the courts. The brothel keeper and other exploiters lose no time in getting them released on bail and to retraffic them back to the same or different brothel. Had they been held as children (under 18 years of age), they would have come under the purview of the JJ Act, where the response mechanism is quite different. As per the JJ Act, 2000, trafficked children are defined as 'children in need of care and protection' and are to be looked after by a 'Child Welfare Committee' and are not to be produced before a court of law. It is obvious that the irregularities in age assessment result in serious violation of human rights of the rescued persons and cause untold suffering to minor boys/girls.

17.6 Chargesheeting Rate in ITPA Cases

The number of cases chargesheeted in India during the five-year period is an important indicator of the role of police in law-enforcement, as it reflects the standard of investigation carried out after registration of crimes. During investigation, if the accused is found to be innocent, no chargesheet will be laid. Filing of chargesheet means that the police has come across adequate evidence to come to the conclusion that the chargesheeted person is guilty of the offence. Therefore, this is a yardstick to measure whether the police treat the arrested women and children as accused or as

victims/witnesses. An understanding and appreciation of this issue is cardinal to proper law-enforcement and it reflects the integrity of investigation and, above all, the sensitivity of not only the investigating officer, but also of the supervisory levels in the police.

Table 17.5: Percentage of chargesheeted cases out of the total reported ones

States	1997	1998	1999	2000	2001
Andhra Pradesh	100	100	100	100	100
Arunachal Pradesh	-	-	100	-	-
Assam	57.14	66.67	38.5	47.6	41.7
Bihar	100	96.88	82.4	65	100
Delhi	100	100	100	98.9	100
Goa	100	100	100	100	100
Gujarat	100	100	100	100	100
Haryana	100	100	100	100	100
Himachal Pradesh	100	100	-	-	100
Jammu & Kashmir	100	100	100	100	66.7
Karnataka	100	100	100	100	99.9
Kerala	100	100	94.6	100	100
Madhya Pradesh	84.21	100	100	100	100
Maharashtra	100	100	100	100	100
Manipur	-	-	0	-	100
Mizoram	100	-	-	66.7	100
Nagaland	-	-	0	100	100
Orissa	100	100	100	100	100
Pondicherry	100	100	100	100	100
Punjab	50	100	80	91.7	81.8
Rajasthan	100	100	100	100	100
Tamil Nadu	100	100	100	100	100
Uttar Pradesh	83.87	90.63	100	100	100
West Bengal	100	100	100	96.9	100

(Source: *Crime in India* by National Crime Records Bureau, 2001)

Table 17.5 presents the chargesheeting rate (number of cases where chargesheets have been filed, out of a total of 100 reported cases) in the country during the period 1997-2001. In most of the states, 100 per cent chargesheet has been filed during the five-year period under review. The field survey also shows a similar trend. A notable exception is Assam where the chargesheet rate is approximately 50 per cent or less. In Meghalaya, Sikkim and Tripura, the figures are nil for all these years.

17.7 Conviction Rate in ITPA Cases

Conviction in a crime is the culmination of investigation, prosecution and judicial appreciation of the same. If the judicial Magistrate trying the case does not find adequate evidence or has reasonable suspicion, the case will be acquitted or discharged. Sometimes, the Magistrate also refers the case back to the police for further investigation. It is a matter of judicial discretion. Therefore, the conviction rate (number of cases convicted to 100 cases disposed of from trial) is an indicator of the application of the judicial mind in the appreciation of the evidence presented in court in respect of the charges framed against the accused.

Table 17.6: Conviction rate (in percentages) in ITPA Cases in India (1997-2001)

States	1997	1998	1999	2000	2001	Avg. of 5 years
Andhra Pradesh	72.74	71.23	67.1	44.3	82	67.5
Assam	0	0	12.5	30	40	16.5
Bihar	73.08	50	31.3	7.7	16.7	35.8
Delhi	40.48	30.14	38	37.7	93.6	48
Goa	84.75	43.21	77.1	85.7	97	77.6
Gujarat	20	-	0	0	77.8	19.6
Haryana	0	0	20	14.3	11.1	9.1
Himachal Pradesh	-	0	-	33.3	-	6.7
Jammu & Kashmir	-	-	-	50	0	10
Karnataka	90.76	92.43	92.7	87.2	90.2	90.7
Kerala	43.48	21.05	31	43.2	28.2	33.4
Madhya Pradesh	59.09	75	0	70	53.1	51.4
Maharashtra	86.54	89.66	77	7.8	62.5	64.7
Manipur	-	-	-	-	100	20
Mizoram	100	-	-	-	100	40
Nagaland	-	-	-	-	100	20
Orissa	0	0	11.1	20	23.1	10.8
Pondicherry	91.49	91.67	100	97.9	100	96.2
Punjab	20	-	-	20	50	18
Rajasthan	52.11	56.14	41	63	66.7	55.8
Sikkim	-	-	-	-	-	-
Tamil Nadu	98.7	98.83	99.2	99.4	99.6	99.1
Uttar Pradesh	57.65	66.67	60	73.8	88.6	69.3
West Bengal	76.47	88.89	85	80	0	66.1

(Source: *Crime in India* of the concerned years, published by National Crime Records Bureau).

Gap indicates non-availability of data.

As shown in Table 17.6, the conviction rate in ITPA cases depicts wide variation among the various states also over the years in the same state. For example, the average conviction rate for five years in Tamil Nadu is 99.1, Karnataka 90.7 and Pondicherry 96.2, whereas the average conviction rate in Kerala is 33.4, in Delhi 48 and in Orissa only 10.8. There is a high fluctuation level in conviction rates in some states over a period of time. For example, in Delhi, the conviction rate from 1997 to 2000 was almost 38, whereas in 2001 it jumped to 93.6. Similarly, the conviction rate in Uttar Pradesh has been gradually increasing from 57.6 in 1997 to 88.6 in 2001. On an average, the all-India conviction rate in 2001 remained at 51.1 per cent. Taking this as an appropriate indicator, it can be easily deduced that more than 50 per cent of the chargesheeted cases under ITPA are getting convicted every year in India. However, this has to be understood from a larger perspective. It is a fact that cases remain in limbo, pending trial for several years. In a binary classification of convicted cases versus non-convicted cases, such pendency will get counted towards 'non convict' cases. Therefore, the figures of convicted crimes for a particular year and the percentage of these cases vis-à-vis the chargesheeted cases for the corresponding years, does not, *ipso facto*, reveal the entire picture. The reality of the situation is what has been perceived by the respondent police officers, working in the field in the 12 states in India, who have stated that 90 per cent of the chargesheeted persons are convicted in due course (though the 'course' may be unduly delayed). It is pertinent to note here that the conviction rate in 2001 was above 90 per cent in many states like Delhi, Karnataka, Tamil Nadu and it was cent per cent in Manipur, Mizoram and Nagaland. Another point of reference here is with respect to the number of cases disposed of

from trial. Apparently, no case was disposed of in West Bengal and Jammu and Kashmir in 2001 and, therefore, the conviction rate is also nil.

17.8 Pattern of Convictions under the Various Sections of ITPA

From the data collected during the research, an effort was made to understand the conviction pattern of cases under ITPA. During the six-year period of 1997-2002, Goa had 100 per cent conviction under Section 8 and nil conviction under Section 5. This means that all the females who were arrested under Section 8 have been convicted by the courts of law. The pattern in Kerala is not much different though there is a noticeable improvement. During 1997-98, there was cent percent conviction under Section 8. During 1999, out of the convicted cases, 83 per cent were under Section 8. During 2000, all the six cases convicted were under Section 8. However, in 2000-2002, things have shown some change in Kerala. Out of four cases convicted in 2001, two cases were under Section 5 and two under 8. In the year 2002, out of six cases convicted, three were under Section 8 and three were under Section 5. In Tamil Nadu, the conviction rate is quite high under Section 8. The percentage of cases convicted under Section 8 to the total number of convicted cases during the six-year period in Tamil Nadu is as follows: 85 per cent in 1997, 58 per cent in 1998, 89 per cent in 1999, 86 per cent in 2000, 89 per cent in 2001 and 90 per cent in 2002.

During data collection, consultative meetings were organised with several police officers of various ranks in the concerned states. These police officers have also stated that, as per the existing practice, more than 80 per cent of the cases registered under Section 8 are against females and 90 per cent of these cases are invariably convicted.

However, there are a few states which are exceptions to the all-India trend mentioned above. In Rajasthan, as per the data received from the state police headquarters, during the six-year period from 1997-2002, a total of 12 cases were convicted under Section 8, whereas the number of cases convicted under Section 5 and related sections was 37. The conviction pattern in Rajasthan corresponds to the pattern of registration. It is important to note that here, as in Tamil Nadu, a large number of females under 18 years are getting convicted. According to the figures made available by the state police, in Rajasthan, during the six-year period from 1997-2002, the number of girl children (under 18 years) who have been convicted comes to 59, whereas the number of adult females convicted during the period is 151. The corresponding number of males is much lower. When this is compared with the type of convicted cases, as discussed in the previous section, the inevitable conclusion is that in Rajasthan, the number of cases convicted under Section 5 is more and a higher percentage of females are getting convicted in such cases. Therefore, Rajasthan is an exception where more women are being convicted as traffickers, brothel keepers and pimps.

An effort was made to understand the pattern of disposal of ITPA cases by the courts. The number of cases registered and the number of cases pending trial present a disturbing trend in most of the states. In Kerala, the total number of cases reported in 2002 is 48, whereas 32 cases are pending trial. The corresponding numbers for Haryana are 329 and 263. Similarly, in Rajasthan, the total number of reported cases in 2002 is 60, whereas 54 cases are pending trial. In Tamil Nadu, the corresponding numbers are 3480 and 341. Therefore, it can be stated that the pendency varies from state to state and some states have a very high rate of pendency.

17.9 Crimes Registered under the Indian Penal Code: (IPC)

The number of crimes reported under IPC includes both the ones related to sexual exploitation as well as non-sexual exploitation. As regards the latter, the sections of law often used are 367, 370, 371 and 374 IPC. The figures with respect to crimes reported under these heads are usually not compiled separately by the National Crime Records Bureau, but are clubbed under the broad heading 'Other IPC crimes' (The details of the various sections of law have been discussed in a separate chapter on this subject).

Trafficking of women and children for sexual exploitation is covered under several sections under the Indian Penal Code, viz. 366A (procurement of minor girls under 18), 366B (importation of girls under 21 years from a foreign country), 367 (kidnapping for slavery, unnatural lust, etc.), 372 (selling minors under 18 years for prostitution), 373 (buying minors under 18 years for prostitution), 376 (rape), 377 (unnatural offences), etc. *Crime in India* gives a detailed account of the offence of rape and related sexual assaults and, therefore, the discussions here are focussed on other sections of law which have a direct bearing on the process of trafficking. The all-India data for the period 1997 to 2001 is compiled and presented in Table 17.7.

Table 17.7: All-India data of crimes reported under various IPC offences, which have a direct bearing on the process of trafficking of women and girl children

Year	Sections of the Indian Penal Code			
	366A	366B	372	373
1997	87	N.A.	9	13
1998	171	N.A.	11	13
1999	172	1	13	5
2000	147	64	15	53
2001	138	114	8	6
Total	715	179	56	90

(Source: *Crime in India* by National Crime Records Bureau, 1997-2001)

The data regarding 'importation of girls' shows phenomenal increase since 2000. There is an increase of 78 per cent during the year 2001, when compared with the reporting during the previous year. Out of the cases reported during 2001, 83 are from Bihar, 14 from Tamil Nadu, seven from Andhra Pradesh and three each from Mizoram and West Bengal, two from Jharkhand and one each from Maharashtra and Rajasthan. As regards offences under procurement of minor girls, out of the 138 cases reported in 2001, Uttar Pradesh reported the highest with 29, followed by Maharashtra with 21, Gujarat with 18, Bihar with 16 and Andhra Pradesh with 12. The data collected from the field with respect to survivors and victims of CSE shows that a vast majority of these girls have been procured from Andhra Pradesh, Karnataka, Tamil Nadu, Maharashtra, etc. As a corollary, these states should have had the maximum number of crimes reported under the head 'procurement', but the number of cases reported does not reveal this fact. The mismatch needs to be taken note of by the law-enforcement agencies.

Instances have been noticed where the law-enforcement officials combine sections of special law (ITPA) with that of substantive law (IPC) while registering cases of trafficking. In such cases, depending upon the jurisdiction of the court, the trial may take a longer time. However, invoking sections of substantive law along with ITPA provides scope for conviction of the traffickers under the substantive law too, which may facilitate the courts in providing the convicted person with

enhanced punishment. Non-utilisation of the IPC sections, despite their being attracted, is a cause for distortions in law-enforcement. For example, when the rescued victim is a girl child less than 16 years of age and the investigation shows that she has been sexually assaulted in a brothel after being trafficked, the law-enforcement agencies would be doing an appropriate job if the accused is chargesheeted not only under ITPA, but also under the Indian Penal Code, for the offence of rape and other crimes committed on the victim. The data collected from the police officers across the country shows that law-enforcement agencies usually do not invoke such sections of IPC, thereby denying justice to the victim and, at the same time, allowing the culprits to escape the law. Case study No. CS-BH-1 is an example to substantiate this point. Ignorance of the legal provisions and lack of sensitivity to the issues concerned have emerged as the major reasons for this situation. For detailed discussions see the chapter on police response.

17.10 Arrests under Cr PC and Local or Special laws

It has been observed that in many states, action is being taken against females on charges of indecent exposure, public nuisance, etc. under several laws other than ITPA. For example, in Delhi, several cases are booked against 'sex workers' under Section 92/93 of the Delhi Police Act. In Assam, as per the report of the state police, action is being initiated on charges of soliciting under 109 CrPC. Police had initiated 53 such cases in 2001 and 49 cases in 2002. In the year 2003, 95 cases have been registered upto March. Instances of misuse of Section 145 (b) of the Indian Railways Act against the trafficked victims have been observed during the interactive sessions with officials of the Government Railway Police in some states. The provision is a weapon for the law-enforcement officials to deal with suspected miscreants and trespassers. However, insensitive application of the provisions of this section has been instrumental in the violation of the rights of several trafficked women and children who were arrested, challaned and eventually convicted.

In Mumbai, cases are registered u/s 110 Mumbai Police Act against the persons suspected of various offences like public nuisance, etc. However, a large number of cases registered under this section is against persons on charges of 'soliciting'. During the year 2002, Santacruz Police Station had registered 1201 cases u/s 110 Mumbai Police Act and arrested 1219 persons, all of whom have been convicted. Though the break-up of the arrested and convicted persons for the entire year could not be obtained, the data received from the DCP, Mumbai, shows that in January 2002, when 124 cases were registered u/s 110 Mumbai Police Act, leading to the arrest of 124 persons, this included 96 women who were arrested as 'prostitutes' for 'soliciting'. This shows that 77.4 per cent of the arrested persons were females who had been charged with 'soliciting'. Discussions with the officials in the police stations reveal that even the provisions of ITPA are attracted against these arrestees. Therefore, such arrests, which are in large numbers, if added to the number of arrests made under ITPA, would present the picture of further distortion in the enforcement of law, with the maximum percentage of arrestees and detainees being females. The unusually high percentage of arrests of women is a manifestation of gender bias in law-enforcement.

In many places, steps have been initiated by the police against the exploiters under Sections 107 and 110 CrPC. The rationale is to prevent them from committing any offence. However, the tendency to invoke this section of law against women who are alleged to be 'soliciting' cannot be ruled out. There are instances of police initiating action against brothel keepers under the provision

of municipal laws for constructing cubicles (for facilitating commercial sexual exploitation) by violating the existing norms of building construction, violating fire safety regulations, etc.

17.11 Difficulties in Law-Enforcement

The analysis above presents several challenges and difficulties in the enforcement of ITPA. They can be briefly listed out as below:

(a) **Anomalies in Age Verification after Rescue of Minor Girls:** Age of the rescued victims is an important factor in law-enforcement and justice delivery. A person **under 18** years is a child under the Juvenile Justice Act 2000, and cannot be sent to a jail, but has to be looked after in a Home and treated as per the provisions of the JJ Act. Sexual intercourse with a girl child **under 16 years**, even with her consent, is an offence of rape u/s 375 IPC. U/s 366 (A), procurement of a minor girl **under 18 years** of age is an offence. U/s 366 (B), importation of girls **under 21 years** of age from the state of Jammu & Kashmir to any other state or from any foreign country to anywhere in India is an offence. U/s 372 and 373 IPC, selling/buying of minor girls **under 18 years** of age for purposes of prostitution, etc. is an offence. Under the Child Labour Restraint Act, children **under 14 years** of age cannot be employed in a hazardous industry. All these sections of law show that age is an important issue in determining whether the offence has been committed and/or whether it involves enhanced punishment against the offender. There is one more dimension to the issue. A woman arrested by the police after rescue from a brothel is normally bailed out from the court if she is held to be an adult, i.e. of the age of 18 years or above. At the same time, if she is less than 18 years, under the JJ Act, she is sent to a Home where she will be looked after. U/s 17 of ITPA, after rescue, 'home verification' of the rescued person is to be done before she is rehabilitated. Children under 18 years are usually detained in a Home till such verification is effected. Therefore, as per the reality in the field, if the person is held to be 18 years and above, she will be released and if she is held to be less than 18 years, she will be detained. It is in this context that the brothel owners, traffickers and others involved in the nexus of trafficking are the ones who usually bail out the rescued victim by making concerted efforts to ensure that her age is recorded as 'above 18 years of age'. Field survey reveals that 84 per cent of the bailers are brothel owners, pimps and traffickers. By increasing the age of the victim, these exploiters gain in many ways:

- As a girl under 18 years is considered to be a child under the law, subjecting her to commercial sexual exploitation would invite a minimum of seven years imprisonment.
- If the case involves trafficking and/or CSE of a girl child, the offenders would find it difficult to get bail.
- The victim child will be sent by the Child Welfare Committee to a rescue home till she is rehabilitated after home verification is done. Therefore, the child will probably move away from the clutches of the exploiter. If the child is shown to be above 18 years, she is likely to be taken to a regular court and bailed out. The exploiters can get her released on bail and continue to exploit her. Moreover, the money spent by the exploiter to 'bail out' the victim is added on to the 'debt' that the victim is supposed to 'owe' to the exploiter. This kind of debt bondage is another weapon of exploitation used by the exploiter to control the victim and make her surrender completely to their demands.

- If the victim is held to be a child, there is no scope for lawyers to appear on her behalf and 'bail' her out as has been seen in the case study from Maharashtra (CS-MH-19 under the title "The Age-Old Dispute"). The J.J. Act does not envisage the role of legal representation, as the children are not treated as accused. Therefore, the scope for legal intervention comes up only when the girl is held to be an adult and is shown as an accused. Obviously, when the girl is declared an adult, many people can capitalise on the situation.

Thus, the age factor has a large role to play in the delivery of justice to the rescued victims. Naturally, the role of the police officials dealing with the victims and the doctors who carry out medical examination assumes significance. There are many medical technologies available for assessing the age of a person. However, as per Modi's Medical Jurisprudence, ossification test has been held to be a reliable method of age assessment. Case study No. CS-MH-19 substantiates this point. There was a concerted effort by the various exploiters to ensure that the girls were shown as adults. However, thanks to the timely intervention by an NGO, and the subsequent judicial notice by the presiding officer of the court concerned, further harm to these victims at the hands of their abusers was prevented.

The field research shows that there is a need to ensure accountability of the doctors who carry out age verification and also of the police officers who record the age immediately after rescue. There is also an urgent need to sensitise the doctors, police officers as well as other stakeholders in the justice delivery mechanism about the various issues and dimensions of the problem. The following points deserve serious attention:

- Age verification of the rescued person has to be carried out within a fixed time frame. It is advisable that the law should prescribe a minimum time, maybe of three days. It should be mandatory for law-enforcement officials and doctors to comply with this.
- If the NGOs, police officers, guardians, victims or some other person has any disagreement with the age verification report, they should be able to move the concerned authority (Judicial Magistrate/Child Welfare Committee, etc.) for ordering a medical board to carry out a fresh age verification test. The authority should honour such a request and constitute a medical board, for which they should have a list of competent doctors. The Civil Surgeon of the district should be made responsible for furnishing and updating this list on a regular basis.
- Any protest by the victim, NGO or other stakeholders regarding the age report is possible only when they are aware of the contents of the report. Therefore, this report has to be made public. It should be mandatory for the doctor and police officials to ensure that the age verification report is made available for perusal by any concerned person, and to maintain some documentation in support of this intimation.
- Since the age verification of girls involves their medical examination, it should be done by a team involving at least one lady doctor. In the absence of a lady doctor, the presence of a lady from an NGO should be made a mandatory requirement.
- The police officers should be sensitised to ensure that no one from the brothel or any other person belonging to the nexus of exploiters is allowed anywhere near the rescued girl, especially during the age verification.
- The age verification reports usually place the victims in an 'age bracket'. There are plenty of police records where the age of the girls is recorded as "appears to be of 18-19 years

of age”. Even medical examinations place the age in a bracket. The Supreme Court has held that when the expert’s opinion is given in an age bracket, the lower age in the bracket should be the one which should be taken into consideration, so that the benefit of doubt favours the victim. This refers to *Jaya Mala versus the Home Secretary, Government of Jammu & Kashmir, AIR 1982 SC 1297*. Therefore, if the age verification report says that the girl is in the age bracket of 17-19 years, for the purposes of law-enforcement, the age has to be considered as 17 years (and not 19, or even 18). This decision of the Supreme Court needs to be effectively implemented. Training programmes for judicial officers, prosecutors and police should include such child-sensitive rulings, procedures, etc. Judges should also be sensitised to allow re-verification of age, whenever suspicions arise and/or where there are genuine protests.

(b) **Gender Discrimination in Arrests:** The distorted practice of arresting the rescued victims needs to be stopped. Trafficked victims should be treated as ‘victim survivors’ and witnesses.

(c) **Law-enforcement has to orient itself against traffickers and other exploiters:** Undue attention to S/8 ITPA has led to criminalisation and revictimisation of the trafficked victims. There is a need to distinguish between the exploited and the exploiters. Victims have to be given proper care and protection. It needs to be ensured that their rights are not violated any further. Even if a woman is alleged to be ‘soliciting’, investigation should go to the root cause and see whether she had the ‘informed intention’ to do so. *Mens rea* needs to be brought out. If a person is made to solicit by lure, deceit, threat, coercion, force or compulsion, this fact needs to be brought out in investigation. This would help in protecting the rights of such victims and also lead the investigators to the real culprits.

(d) **Trafficking is an organised crime:** It is a continuing offence. More often than not, investigation is confined to brothels. The scene of crime is perceived to be within the four walls of the brothel or the place of soliciting. But the fact is that trafficking extends to the source area, the transit points, the transit route, etc. and incorporates the roles of a host of exploiters like recruiters, buyers, sellers, transporters, financiers, pimps and traffickers of all hues and shades. All of them need to be investigated, chargesheeted and convicted. This calls for in-depth investigation, proper marshalling and presentation of evidence and expeditious disposal. Law-enforcement agencies should see whether the provisions of substantive laws (like IPC, etc.) and special laws (JJ Act, laws dealing with organised crime, etc.) can also be utilised effectively along with ITPA.

(e) **Confiscation of Assets:** The assets created by the traffickers and other stakeholders by exploiting the trafficked victims should be confiscated and forfeited. The best mechanism to break the traffickers’ network is to cut at the root of the exploitation by confiscating everything that has been acquired at the expense of their victims. Establishing ownership of the assets requires professional investigation, which calls for specialised training.

(f) **Surveillance, Eviction, Externment, etc.:** The ITPA provides for stringent steps against the exploiters of the trafficked persons. The provision of surveillance (Section 11), eviction (Section 18), externment (Section 20), etc., are powerful tools in the law which remain almost unused and unutilised across the country. Law-enforcement officials and others in the criminal justice system need to be trained, sensitised and oriented towards proper utilisation of such provisions in ITPA.

(g) **Prosecution:** Effective prosecution is an essential ingredient to ensure conviction of the traffickers and other exploiters. Many times, despite the best efforts of the investigators, the accused are let off due to problems in the prosecution system. The prosecutors need to be regularly trained and sensitised to the various issues. They should also be provided with appropriate resources and infrastructure. Usually, they do not have even the required law books and latest rulings by the Supreme Court and by the High Courts, which are essential for effective prosecution. Considering the fact that trafficking is a highly specialised crime, involving various dimensions, it may be useful to utilise the services of NGOs in apprehension and prosecution of traffickers. The example of SLARTC, Kolkata, in providing 'alternative lawyering' (refer case study No. CS-WB-2) is an example of a good practice model.

(h) **GO-NGO Partnership:** Trafficking is a serious violation of the human rights of the trafficked person. It is one of the extreme forms of exploitation of human beings. Therefore, the trafficked survivor needs to be extended care and attention, in a sensitive and victim-friendly manner. Since the police machinery is not equipped to deal with all aspects of human relations of a trafficked victim, it is essential that appropriate persons from civil society are involved in the process. Section 13(3)(b) of ITPA has a provision for the states to constitute an Advisory Body. However, in many of the states, this has not been done. Though the law is suggestive in this regard and not mandatory, it would be in the fitness of things if a notification is issued by all state governments, involving appropriate NGOs and social activists who are committed to the cause of trafficked victims. Their partnership with police officials can be of immense help in extending protection and assistance to the trafficked survivor. Police requires independent female witnesses for rescue and interview of the trafficked victims. NGO-GO partnership can be of great help in this context.

(i) **Rescue Homes:** The lack of enough rescue homes is a major impediment in the rescue operations. This needs to be addressed by providing adequate number of rescue homes in the government sector or by facilitating NGOs to establish the same.

(j) **Rehabilitation of the Victim:** One of the important aspects of post-rescue is the rehabilitation of the survivor. The process commences immediately after rescue. As mentioned earlier, it is advisable and essential to associate trained/experienced social activists with this process. The traumatised victim requires immediate counselling not only for relieving the trauma but also for helping her to plan for the future. An in-depth interview of the victim can yield vital information about the exploiters, and can even lead to their effective prosecution. Trained counsellors are required for this. The police officers who are required to handle such victims need to be specially trained on counselling techniques as well as on gender sensitive and child sensitive procedures. Rehabilitation of the victim is a combination of several steps and, therefore, cannot be a shortsighted affair. Ideal rehabilitation should involve steps towards psychological empowerment, social empowerment, economic empowerment and reintegration with the appropriate community, prevention of re-trafficking, etc. Several stakeholders constitute the rehabilitative mechanism. It would be appropriate if the welfare agencies of the government carry out the task. Therefore, there is a need to integrate the functioning of such officials and NGOs with police agencies, so that the rehabilitative steps can be initiated immediately after rescue. Schemes like Swadhar, with in-built components of rescue and rehabilitation, need to be propagated and effectively utilised.

(k) **Specialised Training:** The lack of training of many police officials and their consequent ignorance of the provisions of law and practice is an important issue that has been brought out in the field research. Less than 10 per cent of the 852 police officials interviewed have received any training on such issues. Lack of training naturally leads to lack of skills, knowledge, sensitivity and accountability. This is an area requiring immediate attention. Moreover, the field research has brought to light several other infrastructural and attitudinal issues, discussed in detail in the chapter on 'Police Response', and require immediate redressal.

(l) **ITPA Rules:** The rules framed under SITA, 1956 have not been revised in most of the states even after the radical revising of SITA in 1986 to ITPA. Revised rules need to be framed immediately as they would provide the required steps in the proper implementation of ITPA.



Response by Police Officials

18.1 Introduction

This chapter specifically looks into the response of the police in India. No doubt, the police has a mandatory role in not only law-enforcement but also in facilitating the redressal of grievances of the victims. As the perceived guardians of the law, it is the police whom the victims of crime approach for justice. Moreover, by the very role they play in enforcing law, police officials come into contact with traffickers and other violators of the law. Another mandate of the police is to prevent crimes by developing intelligence not only about the prospective abusers, but also the vulnerable victims and, thereupon, taking appropriate steps in such a way that the abuse and exploitation does not take place. Considering the fact that the police has such a prominent role to play, it was decided to interview police officials in all the states where the research was carried out. A total of 852 police officials were interviewed across the country. They were broadly classified into two categories: Supervisory Officers and Investigating Officers.

18.2 The profile of the police officials who were interviewed

Almost 50 per cent of the respondents stated that they had some previous experience with respect to investigation of trafficking cases. Of these, only 27 per cent had come in contact with NGOs. Among those with previous experience of dealing with ITPA cases, 59.1 per cent had not taken any steps for the rehabilitation of the victim. Only 40.9 per cent stated that they had taken some initiative in this direction.

18.3 Training

Of the 852 respondents, only 56 (6.6 per cent) had received training on matters related to women and children, which includes certain issues related to trafficking. The majority of those who had received training on matters relating to women and children were from the supervisory level.

18.4 Role in preventing trafficking

The respondents were asked as to what had been their role in preventing trafficking in women and children. While 47.9 per cent stated that they had not played any role so far, 13.4 per cent mentioned preventive patrolling and 9.2 per cent spoke about rescue operations undertaken by them. While 9.4 per cent of the respondents had taken some initiatives in rehabilitating the rescued victims in partnership with NGOs, 20.1 per cent mentioned the efforts made by them in creating public awareness for preventing trafficking.

18.5 Priority in law-enforcement

The respondents were asked to indicate the priority given by them to the issues relating to trafficking in women and children. The response is presented in Table 18.1. While only 19.9 per cent of the officials stated that they had given high or medium priority, a staggering 80.1 per cent admitted that these issues received no priority or low priority. Thus, trafficking in women and children is not considered to be a serious issue by the vast majority of police officials. The 682 respondents who spoke about low or nil priority, were asked the reasons for the same. As Table 18.1 shows, the largest number of respondents said that they were busy with other activities and, therefore, had no time for trafficking issues, whereas 14.8 per cent stated that trafficking was not perceived to be serious, unlike other grave crimes. It was also mentioned by some that in respect of trafficking, priority remains low or nil because of the diktats of the higher-ups. All these three responses adding upto 43.8 per cent of the total, show that for the police, crimes under ITPA are not considered to be of any great consequence. In this context, the information given in the chapter on Survivors may be seen, which shows that in brothels, even children are subjected to multiple rapes, violating the provisions made under Section 375 IPC (See also case study No. CS-DL-12). The Supreme Court of India (Gurmit Singh vs. Punjab) has held that rape is one of the gravest violations of human rights as it ‘destroys the soul’. If a crime of rape is reported to the police, it is considered a ‘grave crime’ and acted upon accordingly. It is, therefore, ironical that a child who has been rescued from a brothel after having been subjected to multiple rapes every day, does not invite priority from law-enforcement agencies because, as stated by many of the respondents, crimes under ITPA are not classified as grave crimes. It is obvious that the extent and intensity of exploitation in the brothels has not been recognised or appreciated by the police.

Table 18.1: The priority given by the police officials to issues relating to trafficking and the reasons for giving low or nil priority

<i>Priority</i>	<i>No.</i>	<i>%</i>	<i>Reasons for priority being low/nil</i>	<i>No.</i>	<i>%</i>
High	66	7.7	Being busy with other work	122	17.9
Medium	104	12.2	Trafficking is not serious like other grave crimes	101	14.8
Low	216	25.3	As instructed by higher officials	76	11.1
No priority at all	466	54.8	Crimes not reported to the police	90	13.2
Total	852	100	For want of public cooperation	85	12.5
			Shortage of staff, especially women police	73	10.7
			Lack of resources with police	43	6.3
			No specific response	92	13.5
			Total	682	100

As for the other reasons given by the respondents for this low priority, 13.2 per cent spoke about non-reporting of trafficking crimes and 12.5 per cent about lack of public cooperation. Non-reporting and burking of crimes are certainly serious issues impinging on police-public relations. Perhaps partnership with NGOs and civil society can make a marked difference. Case study No. CS-NE-6 explains how the involvement of the media brought about radical change in the reporting of such crimes and consequent law-enforcement. While no crimes were reported for a continuous period of ten years prior to July 2002, there was a spate of crimes of trafficking reported after July 2002, thanks to the public awareness created by the media.

It is important to note that 10.7 per cent of the respondents spoke about shortage of staff, especially of women police. This is certainly a serious issue, which warrants attention. Women constitute less than two per cent of the police force of the country. The interviews with the

survivors have shown that they also feel comfortable when the rescue and interview are carried out by either women officials or a team involving women. There is a definite need for providing adequate number of women police officials in all police stations and units and for augmenting the strength of women in the Indian Police.

18.6 Perception of the police officers about the enormity of trafficking in India

Besides eliciting information from 117 Supervising Officers (SO) and 735 Investigating Officials (IO), an attempt was made, during analysis of the data, to understand the similarities and differences in perception between the two categories. The combined perception and the group-wise perception are reflected in Table 18.2. It shows that the largest number of respondents have stated that trafficking is high with respect to brothel-based commercial sexual exploitation, 'call girl' racket, pornography, child labour and children for begging. The maximum number of respondents has opined that the incidence of trafficking is medium with respect to non-brothel commercial sexual exploitation and domestic labour. They also said that the issue of missing persons falls in the medium category (see separate chapter on this topic). Most of the respondents said that the enormity of trafficking was low with respect to domestic sexual abuse, massage parlours, beauty parlours, bartending, bonded labour, child sexual abuse, paedophilia, adoption, mail order brides, other marriage rackets and organ trade. Significantly, most of the respondents stated that they had not come across trafficking for camel jockeying. Only five per cent of IOs and six per cent of SOs stated that camel jockeying was a serious issue. Between the two groups, there is not much difference in perception, as is evident from Table 18.2.

Table 18.2: Relative perceptions of SOs vs. IOs on the enormity of trafficking with respect to the following issues

<i>Issues relating to trafficking</i>	<i>All categories</i>	<i>S.O.</i>	<i>I.O</i>
Brothel-based CSE	H	H	H
Non-brothel-based CSE	M	M	M
Domestic sexual abuse	L	L	L
'Call girl' racket	H	H	H
Massage/beauty parlours	L	L	L
Bartenders	L	L	L
Pornography	H	L	H
Domestic labour	M	L	M
Bonded labour	L	L	L
Child sexual abuse	L	L	L
Paedophilia	L	L	L
Child labour	H	H	H
Children for begging	H	H	H
Camel jockeying	N	N	N
Adoption	L	L	L
Mail order brides	L	L	L
Other marriage rackets	L	L	L
Organ trade	L	L	L
Missing persons	M	H	M
Kidnapping/Abduction	L	L	L

H=High, M=Medium, L=Low, N=Nil

The respondents were asked about the change in the trafficking scenario during the last five years. There is almost near unanimity among SOs and IOs that trafficking has increased both for commercial sexual exploitation as well as for exploitation for other purposes. The increase was stated to be quite high in respect of the new trends in these fields, viz. 'call girl' racket, massage

parlours and bartending. Similarly, increase in trafficking was rated high by respondents in trafficking of children for begging, adoption and organ trade.

The reasons that the respondents attributed to the increase in trafficking were many and included illiteracy, domestic problems, mental depression, social unrest, degradation of social values, organised crime rackets, increase in the number of tourists, police inaction, negligence of parents, aping western culture, higher demand for women in brothels, mushrooming of massage parlours and beer bars, social backwardness and other vulnerability factors related to poverty.

18.7 Perception about the trafficking in the concerned state/jurisdiction

When the respondents were asked about their perception with respect to trafficking in women and children in their respective areas, the picture that emerges is almost similar to the one stated by them regarding the all-India pattern. The largest number of respondents from all 12 states said that trafficking of women and girl children takes place mainly for brothel-based commercial sexual exploitation, followed by non-brothel-based commercial sexual exploitation carried out under the façade of 'call girl' racket, massage parlours, friendship clubs, etc. Similarly, trafficking in male children takes place for a variety of purposes such as paedophilia, adoption, camel jockeying, begging, labour and servitude, and organ trade.

18.8 The discrepancy in reporting and estimation

The respondent police officials were asked to present the data of 2002 (January to December) regarding the number of crimes reported under the various types of exploitation that the trafficked women and children are subjected to and, thereafter, draw up their estimation of the number of crimes that must have been committed in their jurisdictions during the same period. They were advised to exercise adequate care and caution in projecting the estimated numbers, making it as reliable and objective as possible. The data presented by the officials shows that there is a large gap between the reported figures and the estimated figures. Considering the fact that the estimation has been based on the experience and knowledge of the happenings in their jurisdictions, it can be treated as reasonably correct. Thereupon, the number of crimes reported was compared with the number of crimes estimated by these police officials. For purposes of comparison, the numbers stated by both SOs and IOs under the two categories have been totalled and presented in Table 18.3.

Table 18.3: The number of crimes of trafficking reported under various heads in 2002 vs the estimated number of crimes that would have occurred during the period

<i>The purpose of trafficking</i>	<i>Crimes reported in 2002</i>	<i>The estimated number of crimes during the period</i>
Brothel-based CSE	1,734	3,845
Non-brothel-based CSE	1,310	2,836
Domestic sexual abuse	151	1,592
'Call girl' racket	202	1,581
CSE in massage / beauty parlours	68	786
CSE in bartending	53	263
CSE in pornography	114	606
Domestic labour	19	712
Bonded labour	40	505
Child sexual abuse	83	600
Paedophilia	04	251
Begging	75	676
Adoption	4	168
Organ trade	55	176
Total of above	5,914	14,597

The data shows that there is wide discrepancy between the actual figures of crimes reported to the police and the crimes that are taking place, as estimated by the police officers themselves. This presents a very disturbing picture in that only a limited percentage of the crimes estimated to have occurred have been reported both in case of sex-based exploitation as well as non-sex-based exploitation. About 60 per cent of the crimes were not reported to the police and, therefore, no action was taken. The reasons for non-reporting given by the police are presented in Table 18.4. Only a small section of the police officials felt that they indulge in burking due to political intervention or due to pressure on them to keep the crime figures low. The rest of the police officials were of the view that the victims do not approach them because of fear of the police, ignorance of their rights, inaccessibility of the police or due to the stigma attached to the brothels. Additionally, the reasons given by 14.8 per cent of the respondents as to why the victims do not approach the police include the following:

- Fear that approaching the police would involve lot of expenditure, time and resources on their part.
- Perception among certain police officials that the victim is a 'confirmed prostitute' and, therefore, her case does not warrant any merit or attention.
- Police procedures of examination of witnesses, the fact that statements and interviews are repeated several times to verify the statement and others' statements in the court of law, cross-examination in the court - all these deter the victims from approaching them. Also, there is no specific provision under ITPA for *in camera* trial, whereas it is available in rape cases. Additionally, if reporting becomes a cause for revictimisation, the victim would prefer to suffer in silence.

Table 18.4: The reasons for the discrepancy between reported crimes and estimated crimes

<i>Causes of discrepancy</i>	<i>No.</i>	<i>per cent</i>
Women are afraid to report cases to police	180	21.1
Due to stigma	112	13.1
Ignorance of rights	94	11
Inability of victims to access police	120	14.1
Political intervention	38	4.5
Pressure to keep crime figures under control	05	0.6
Combination of several reasons	126	14.8
No response	177	20.8
Total	852	100

The police officials were asked to give suggestions to ensure that all trafficking crimes are reported to the police. The majority of the respondents were of the view that this requires an integrated approach in which, on the one hand, the police personnel have to be sensitised, strengthened and made accountable and on the other, the victims and vulnerable sections of society have to be empowered by making them aware of their rights.

18.9 Pattern of arrests

The police officers who were interviewed were asked to recall the number of raids/rescue operations carried out by them during the year 2002 (January to December) and indicate the gender of the arrested persons. Based on the feedback, the pattern of arrests was examined separately for sex-based trafficking and non-sex-based trafficking. With respect to the first category, during the year 2002, a total of 1818 raids/rescue operations were carried out in which a total of 2477 victims were

rescued. The number of persons arrested in these 1818 cases came to a total of 3208. Among them, 2983 persons (92.9 per cent) were women and the rest, i.e. 7.1 per cent, were males. The published data of NCRB, which has been discussed in the chapter on law-enforcement, confirms a similar pattern of arrests over the last five years, i.e. 1997-2001.

As regards non-sex-based trafficking, the total number of rescue/raids carried out was 29 and the number of victims rescued was 84. The number of persons arrested in these operations was 21 males and 13 females.

When the respondents were further probed to elaborate the reasons why more women are being arrested, 51.3 per cent of the SOs and 38.9 per cent of the IOs stated that women easily confess their involvement and, therefore, are arrested. In most of the cases, nobody comes forward to defend these women and they are ignorant of their rights. While 21.4 per cent of the SOs and 30.8 per cent of the IOs stated that only women are arrested because the law does not have provisions to arrest men, 27.3 per cent of the SOs and 30.3 per cent of the IOs said that more women are arrested because it is they who are involved in the 'sex trade' and are readily available on the spot. The explanation given by the respondents presents not only lack of sensitivity but also ignorance of the provisions of law and human rights, both among SOs and IOs, as most of the arrested women are charged with soliciting. On the other hand, when police officials of Bihar were asked why more men were being arrested, the explanation given by them was that this was because it is women who are found in 'compromising positions'. Apparently, in Bihar, the police generally arrest 'customers'. Though this is definitely better than the situation in other states, efforts should be made to arrest traffickers and all other exploiters, and there should be no arrest of any victim.

18.10 Pattern of chargesheeting and conviction

In the light of the response regarding registration of cases and arrest, the police officers were asked about the percentage of arrested persons being sent to jail, and the percentage of persons chargesheeted and convicted. According to them, 95 per cent of the arrested persons are chargesheeted. The gender pattern in chargesheeting is invariably a sequel to the gender pattern of arrests, mentioned above. Therefore, approximately 93 per cent of the persons chargesheeted in sex-related trafficking cases are females except in a few states like Jammu and Kashmir, Assam, Madhya Pradesh, Arunachal Pradesh and Haryana.

Since 93 per cent of the arrests in such cases are females, the percentage of females among the convicted persons also remains almost the same in most of the states. Thus, in the majority of the states that constitute the all-India pattern, almost 90 per cent of the persons convicted under ITPA are women.

The data collected from the respondents shows that hardly any effort is made to carry out proper investigation and understand the role played by the arrested persons, before they are chargesheeted. More often than not, in these cases, arrest comes first and investigation follows. According to most of the police officers, investigation is only formal, being confined mainly to the brothel. It does not extend to the source of trafficking, the transit routes, etc., and thus remains perfunctory.

18.11 Arrests and conviction of traffickers

Despite the fact that traffickers are the kingpins in the organised crime of trafficking, the data presented by the respondents shows that conviction of traffickers has been an exception and not the rule. The reasons for the same were called for. The responses are presented in Table 18.5.

Table 18.5: Reasons for low number of arrests and convictions of traffickers

<i>Reasons</i>	<i>S.O.</i>	<i>I.O.</i>	<i>Total</i>
Lack of information / witnesses	72 (61.5%)	305 (41.5%)	377 (44.3%)
Corruption in police	13 (11.1%)	110 (15%)	123 (14.4%)
Political backing of traffickers	11 (9.4%)	181 (24.6%)	192 (22.5%)
Lapses in law	17 (14.5%)	113 (15.4%)	130 (15.3%)
Lacunae in the judicial system	4 (3.5%)	26 (3.5%)	30 (3.5%)
Total	117	735	852

Though there is some difference between the perception of the SOs and that of IOs on the specific reasons for lack of action against traffickers, on the whole, the majority have pointed out to the difficulties in the system. They say that they are unable to get information and intelligence against traffickers and also cite lack of witnesses. This may point towards the existing divide between the public and the police in many places. Lack of witnesses, no matter what the reasons, is a major handicap in law-enforcement. The law, as Justice Krishna Iyer observes, “requires the concerned police officer to call upon two or more respectable inhabitants, at least one of whom shall be a woman, to attend and witness the search of suspected premises. This is a damp squib. No respectable woman is willing to accompany the police for these nocturnal searches”. Unless there is public cooperation and witnesses are forthcoming, law-enforcement will not be possible. However, case study No. CS-DL-26 has shown how the partnership of NGOs with the police can make a marked difference in the situation and ensure conviction of traffickers. It is no small achievement that more than 30 traffickers have been convicted in Delhi during the two-year period of 2001-2003, as against negligible or nil conviction during the previous years. This has been achieved by public cooperation, though under the aegis of the High Court of Delhi, which monitored the entire activities and ensured justice.

The fact that police officials themselves have talked about corruption in the police as well as the political nexus of the traffickers is indicative of the challenges and failures in justice delivery. Approximately 15 per cent of the respondents find that the inherent weaknesses in the law are the retarding factor. A small minority has found fault with the judiciary. During discussions, it transpired that long adjournments, witnesses being called to court many times, etc. are some of the problems.

18.12 Arrests and conviction of the clientele

In the world of commercial sexual exploitation of women and children, the clients, who are usually addressed in the brothels as ‘customers’, play a large role not only in the exploitation and rights violation of the victims, but also in perpetuating the organised crime of trafficking. It is in this context that the law-enforcement officials were interviewed. The data given by them shows that arrest and conviction of clients is an exception and usually unheard of, except in a few states where action has been initiated against ‘customers’. Considering the overall pattern of non-arrest and conviction of the clientele in India, the police officials were asked to explain the reasons. Whereas

45.3 per cent of SOs and 36.5 per cent of IOs stated that there is lack of information about clients and, therefore, are never arrested, 33.3 per cent of the SOs and 17.3 per cent of the IOs said that there is no legal provision to arrest clients. The rest of the respondents attributed this to a host of reasons, which include corruption in police, interference by politicians and higher-ups, involvement of certain police officials as clients, improper investigation and lack of sensitivity.

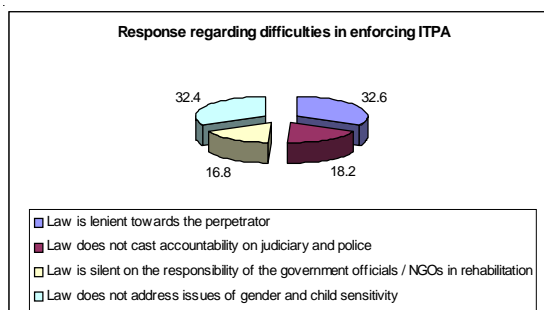
The conviction pattern was discussed with the respondents. It emerged that in more than 80 per cent of the cases, the women are fined upto Rs.500 and let off. Imprisonment on conviction is almost unheard of. The reasons for this were further probed. Most of the police officers agreed that the rescued woman should not be arrested or chargesheeted or convicted, as she is a victim of circumstances. In this context, the reasons for arrest of women given by the police officers are as follows:

- The arrested women often confess their guilt so that they do not have to undergo the tortuous rigmarole of attending the court on several days; facing questions, counter- questions, and the consequent harassment. Moreover, they can escape the ridicule, and contemptuous looks and treatment by the various persons whom they have to come across in court and while in transit.
- The arrested women are often totally under the control of the brothel keepers and other stakeholders, who coerce them to admit the guilt, so that the brothel keepers can take them back to the brothels and subject them to continued exploitation. Court appearance means loss of 'business' for the brothel keepers. Therefore, they look for shortcuts and making the woman confess is one of their strategies.
- There is one more dimension to why the brothel keepers make the women confess. The brothel keepers or their cohorts often pay the fine amount imposed by the court, because the arrested women are usually not in a position to pay it. Once the brothel keeper makes the payment, the arrested woman will be beholden to him and continue to remain servile. This scenario of debt bondage has been further elaborated and substantiated in case study No. CS-MH-20
- The arrested persons are usually unaware of their rights and are often not properly defended.
- Often, the trials of such cases are conducted in a very haphazard manner, with a view to getting the matter somehow disposed of. Consequently, not much attention is given to the defense of the arrested person. For the most part, her voice remains muffled and, therefore, unheard and unnoticed. Though it is a fact that she 'confesses' her guilt in the court, it is possible that sensitive handling and devoting adequate time would have facilitated the woman concerned to speak out freely and come out with her real story. Perhaps, this would have brought out her innocence and exposed the guilt of the others. Even if a woman is found to be soliciting and consequently, charged and tried for the same offence, the fact that she was made to solicit under duress, threat, lure, coercion or compulsion by the trafficker, brothel owner or other exploiters should make the charge untenable.
- The respondent police officers also pointed out to the lacunae in investigation. More often than not, women who are picked up during rescue operations are shown arrested then and there. Thereafter, FIRs are registered and investigation commenced. It is a situation of **arrest even before registration of crime**. In such a situation, the concerned investigating officer usually assumes that his task is only to document and marshal evidence implicating the

arrested person and, therefore, the woman is chargesheeted. Often, her statement is recorded in a haphazard manner, without giving adequate time or patience to record her own views. These defects in the initial investigation ensure that the woman gets chargesheeted and put on trial.

18.13 On trafficking laws

The respondents were asked about the difficulties, if any, in enforcing the existing laws in combating trafficking in women and children. Though their attention was drawn to the provisions in the substantive law and various special laws, their response was mostly oriented to ITPA. Their response is shown in the chart. Whereas 32.6 per cent of the respondents stated that the law is lenient towards the perpetrator, 18.2 per cent stated that the ITPA does not cast any accountability on the police, doctors, prosecutors or judiciary and 16.8 per cent of the respondents said that the law has no provision linking rehabilitation with rescue and law-enforcement. Therefore, the rescued victims are deemed to be out of the purview of the police agencies and thereafter, they remain uncared for. At the same time, 32.4 per cent of the respondents listed out several defects in the existing law such as lack of gender sensitivity, lack of child sensitivity, lack of mandatory requirement of women witnesses for conducting rescue and interview, lack of institutionalised mechanisms for repatriation of rescued persons and lack of institutional arrangements for ensuring deposition of the witnesses before they are repatriated. Some of the police officials also spoke about the issue of dual criminality and double jeopardy acting against the interest of the victims. For example, under Nepal law, sex with a child who is 17 years of age, with or without consent, is a crime. As per Indian law, this is not a crime if the intercourse was with her consent. Only when the child is under 16 years of age, it becomes rape, even if she had consented.



18.14 On enforcing trafficking laws

Having got the response on the defects in the law, the police officers were asked about the problems in the enforcement of the existing law and the suggestions thereon. The majority of the police officials were of the view that the existing law-enforcement has several deficiencies and defects, which need to be addressed. The major deficiencies listed out by them are: (a) lack of adequate manpower to enforce the law, (b) lack of notified police officers who can investigate these crimes, (c) lack of women police officials, (d) lack of legal awareness and modern principles in law-enforcement, mainly among the officials at the grassroots level (e) lack of training on issues of women's rights and child rights and the implementation of the same, (f) infrastructural shortcomings in police stations, (g) lack of proper guidance, assistance and involvement from senior formations in the police, (h) non-cooperation of the public in carrying out prevention, rescue, rehabilitation, arrest of criminals, etc., (i) lack of public awareness on the issues concerned, (j) absence of institutionalised networking with the police officers of different states and even across borders for facilitating repatriation of the rescued victim and also for getting them back to the court for evidence, as and when called for by the court, (k) lack of effective systems in place between the various state police agencies and the police agencies across the border for sharing of

information on traffickers, getting verification done, arresting the traffickers, and taking further action against the traffickers, (l) lack of special courts and special prosecutors creates abnormal delays in the trial process, (m) delay in receiving medical reports hampers timely action, (n) problems in age verification also complicate justice delivery. The issue of age verification assumes importance because, as per the law, a person under 18 years is a child. Medical examinations, especially the ossification test, have to be carried out to verify the age of the person. This sometimes poses serious problems, as pointed out in case study No. CS-MH-19. The first report of the medical check-up showed the person to be an adult and when it was challenged by the NGOs, it led to another medical examination, the results of which held the person to be a girl child.

18.15 Suggestions on law and law-enforcement

As a sequel to the various problems in law and law-enforcement, the police officials were asked to give suggestions to improve the situation. The following suggestions were received:

- Among the respondents, 30.2 per cent advocated that a comprehensive new legislation, addressing the various lacunae, should be brought out.
- Independence, autonomy and neutrality of the police, by bringing in in-built mechanisms of non-interference, was suggested by 8.5 per cent of the respondents.
- Confidence-building measures (CBM) by the police to involve the community and carrying out community policing was advocated by 7.6 per cent.
- Providing police officials with the required minimum infrastructure and facilities to make the police stations better-equipped was the suggestion of 10 per cent of the respondents.
- Almost the same number of police officials (10.4 per cent) was of the opinion that appropriate mechanisms should be put in place to make all agencies accountable. This includes judiciary, doctors, prosecutors and police officials also.
- Building institutionalised partnership of the police, other government departments and NGOs for purposes of rescue and rehabilitation was advocated by 9.6 per cent of the respondents.
- Among the respondents, 6.5 per cent advocated empowerment of women, especially in the vulnerable areas, to make them aware of their rights and also to strengthen them economically and socially.
- Special police units and special courts to be set up in all districts, along with special prosecutors, was advised by 4.5 per cent of the respondents.
- According to 12.7 per cent of the interviewed police officials, it is desirable to have regular and systematic training for the police, prosecutors and doctors on gender/child sensitivity and in respect of the legal provisions. There is a dire need for regular in- service training and regular refresher courses for all personnel.
- Most of the respondents were of the view that there should be adequate number of women police officials in all police stations, so that a team of female and male police officials can jointly undertake all activities under the trafficking law. They also advocated that the police department should be authorised to identify and notify appropriate NGOs as part of the law-enforcement machinery, so that they can work in partnership. This is possible only if the state governments issue revised rules under ITPA.
- Discussions with police officers have brought to light several other pitfalls and handicaps in the existing arrangements. Rescue operations are usually carried out in a hurry and that

too, in a haphazard manner. There is no time for planning. More often than not, the hurry is due to the fact that the accompanying NGOs, who may be the informants or even decoys, do not want any delay. In the hurried ambience, the victims are 'rounded-up' and brought to the police station or before the magistrate. Often, there is no time to wait for collecting their belongings, which are normally in the custody of the brothel keeper. There are instances where even infant children of the rescued victims get left behind in the brothels. Case study No. CS-DL-9 presents the serious human rights violations that have taken place during such large-scale raids/rescue operations.

- The investigating officers have to do a lot of documentation, but there is no infrastructural assistance. Even the respondents from Delhi stated that the police stations do not have the facility of computers and adequate contingency funds for meeting the inevitable expenditure. Naturally, the situation presented by most of the respondents, especially those from the rural police stations, is deplorable. There is an urgent need to augment the infrastructural facilities for police officials at the functional levels.
- Delay in the trial process has been held to be a serious drawback by the police officials. The victims and witnesses are brought to the courts from several places, incurring a lot of expenditure. If their evidence is not recorded and the case is adjourned, it demoralises the witnesses and disheartens the police officials. On the other hand, the courts are overworked and, therefore, delay is very common. The respondents advised that a fast-track procedure for trial, with more courts, should be put in place.
- In case of trafficked persons of foreign origin who require visa to stay in India, unless the offence of trafficking is proved by investigation, it cannot be presumed by a police official that she has been a victim of trafficking. Therefore, she would become an illegal immigrant as the laws (Foreigner's Act and Passport Act) do not have any special status for such persons. The procedure is that illegal immigrants from the countries adjoining India are 'pushed back' into their native countries. There may be scope for further violation of human rights of such persons (refer case study No. CS-DL-33), especially if they are women and children. However, the existing laws do not have any special provision for protecting these children by providing them with temporary nationality, etc.
- Advanced techniques like video conferencing have not caught up with the courts in most places. Such facilities can save the victim from further exposure and harassment. These child-friendly and woman-friendly measures should be implemented.
- Prosecution officers are mostly understaffed, overworked and have to carry out their duties without even minimum infrastructure. They also do not get much training on new skills and knowledge or any attitudinal orientation, especially on child rights, women's rights, etc. This should be rectified.
- Judicial officers need to be consistent in sentencing the accused. The policy has to be transparent. Sometimes, the imprisonment and fine are quite high and can act as a deterrent, whereas many times they are not.

18.16 The emerging new trends in law-enforcement

Though the all-India situation presents a dismal picture with respect to conviction of traffickers, there is a clear indication of a radical transformation in law-enforcement and justice delivery. During the year 2002-2003, in Delhi alone, 28 traffickers were convicted. This includes several

kingpins who were indulging in inter-state trafficking as well as trans-border trafficking. During the same period, Mumbai has also seen conviction of three kingpins of trafficking, who had been indulging in their criminal activities for a very long time. These convictions have been made possible because of certain new developments (details are provided in case study Nos. CS-DL-26 and CS-MH-17), which are listed below:

- Judicial interventions, (especially by the High Courts of Delhi and Mumbai) have been instrumental in bringing about a paradigm shift in justice delivery. Constant monitoring by the High Court of the activities of prosecution, rescue, repatriation, rehabilitation, reintegration, non-return of rescued persons, etc. has facilitated prompt, sensitive and appropriate action by all concerned.
- Special Courts set up in Delhi have facilitated fast-track mechanisms in the trial of cases and, therefore, trials have been concluded in lesser time.
- Since trials were held on a day-to-day basis, with these courts almost functioning as exclusive courts, the witnesses and victims were forthcoming and were available and motivated to depose in the courts of law.
- Since the victims were kept in after care homes, there was a fair amount of victim protection. This facilitated their appearance in the courts and enabled them to tender evidence without fear or favour.
- Since the victims were not repatriated to their native towns in different states or outside the country before the cases were disposed of, the job of the police was made easy in producing the witnesses in the court.
- The realisation has dawned that victims are good witnesses against exploiters and, therefore, their services can be effectively utilised in proving the crime against the traffickers and other exploiters.
- The commitment, concern and sensitivity of the special prosecutor, who was specially appointed, made a marked difference. Thanks to the efforts of the prosecutor, the trial proceedings continued without much interruption and delay.
- Intervention of NGOs and counsellors was facilitated by the court. This, in turn, helped the victims to gain confidence in themselves and thereupon, face the challenges not only in contributing to the criminal justice system, but also in empowering themselves.
- The combined strength of sensitive and conscientious persons from the judiciary, prosecution, police, medical fraternity, experts, human rights agencies and NGOs contributed to the success and speed in justice delivery.
- The Action Research by the NHRC, as well as the training programmes, the consultation meetings and the Action Programmes in furtherance of the Action Research, have built up a national momentum on counter-trafficking.

18.17 The demand patterns

Demand is an important factor promoting, facilitating and perpetuating trafficking in women and children. In this context, the respondents were asked about the various features of demand.

As regards the period when the demand goes up, the majority of the respondents stated that demand fluctuates with seasons. Certain seasons require more trafficking for commercial sexual exploitation. This is true of both sex-based trafficking and non-sex-based trafficking. Regarding the

former, the demand is high during festivals, vacations, holidays, etc. Similarly, the demand is higher during winter than in the summer. Case study No. CS-BH-15 shows how the surplus funds accumulated by the neo-rich class of farmers, after harvest, lead to a rise in trafficking during the following three months. However, 22.8 per cent of the respondents stated that there is not much fluctuation in their areas. These respondents are mostly from Maharashtra, West Bengal and Tamil Nadu.

When the reasons for increase in demand were examined, 25.5 per cent of the respondents spoke about the influx of money, especially with the neo-rich clientele. This could be during the post-harvest scenario as mentioned earlier or during salary time, or when the clients make high profits, gain, income, etc. in some vocation. While 19.4 per cent of the respondents stated that the influx of tourists leads to increase in demand, 20.5 per cent of the respondents said that the demand goes up when police officials are withdrawn from their routine tasks and are assigned duties elsewhere in connection with law and order, especially during festival times. Some of the respondents spoke about the rise in demand due to misguided adolescents, especially school/college students, who are influenced by the sexually-oriented exposure in the media and lack of effective family control.

Regarding non-sex-based trafficking, the respondents were of the view that certain types of exploitation are seasonal. Trafficking of children for labour goes up with the demand of the times. This is substantiated in case study No. CS-DL-3, which deals with trafficking of children (boys and girls) from Nepal to India.

The respondents were asked about the places in their jurisdictions, in which there is more demand for trafficked women and children. This was an effort to understand the geographical distribution and consequent demand patterns, as against the time factor discussed in the previous paragraphs. The respondents stated that demand is area-specific and location-specific. There are certain places in which there is high demand for trafficked women and children. These include railway stations, bus stands, market places, beaches, cinema halls, gardens, parks, hospitals, hotels, guest houses, parking places, industrial townships, brothels, red-light areas, college campuses, highways and even secluded places. The reasons for high demand in certain places were ascertained. The reasons stated by the police officials are as below.

- According to 18.1 per cent of the respondents, it is the easy accessibility of the public to the concerned place that decides the demand. This is the reason why most of the red-light areas are situated near railway stations or bus stands.
- As regards 21 per cent of the police officials, it is the need for anonymity on the part of the clients that decides the demand. Clients prefer to go to brothels or places where they can remain anonymous. Accordingly, demand increases in those places which they choose to visit.
- Among the respondents, 13.8 per cent spoke about the linkages between hotels, brothels and traffickers. According to them, it is the trafficker who calls the shots. If the trafficker is ready to supply the kind of girls who are in demand to the hotels or brothels, that area or place will go up in demand.
- A small number, i.e. 10.8 per cent of the police officials, maintained that it is poor law-enforcement that decides the area of demand. They feel that when law-enforcement is

properly done, the demand will come down and there will be less exploitation. Wherever law-enforcement is not appropriate, according to them, demand will go up.

- The rest of the respondents gave a variety of answers, including a combination of two or more of the aforementioned reasons. This included a substantial number of respondents who stated that children and adolescents, especially from high schools and colleges, visit brothels due to peer pressure, inquisitiveness, curiosity and the urge for adventurism. These police officials were of the view that these clients should be dealt with as a separate class as they require proper orientation, counselling and socialisation within the family, or in schools and colleges.

The respondents were asked about the type of women and children who are more in demand. Their views were almost identical to the views expressed by the interviewed victims and traffickers. Thus, 50.7 per cent of the police officials were of the opinion that the highest demand is for young and good-looking girls. Even among them, the highest preference is for virgin girls. According to some of the interviewed police officials, many of the clients are also particular about body shape and demand girls/women with good figures. Next in priority was the tolerance level of the victim with respect to exploitation and perversions. The third criterion mentioned by the police officials was the preference for girls from specific regions. The police officials who had earlier been associated with certain police stations in the known red-light areas of Delhi talked about the predilection of the clients for Nepali girls, as they are petite and delicately-built, fair in complexion and, above all, are amenable to all kinds of perversions.

The respondents were asked for the reasons why the clientele preference is based on the aforesaid parameters. The majority of the police officials stated that the preference for virgins and young girls, especially newly-trafficked ones, is due to the fear of AIDS. The clients either want to be cured of their diseases by sleeping with young virgins or are interested in ensuring that they do not contract AIDS. Accordingly, trafficking and AIDS appear to have a cause-effect linkage. The susceptibility of the victims to all kinds of exploitation is a major factor that determines the clientele preference.

Thus, the various dimensions which affect demand include (a) poor level of law-enforcement, (b) the preferences of the clients, (c) the level of tolerance to exploitation on the part of the trafficked person and (d) the impunity with which the traffickers and other exploiters can carry on with their activities.

18.18 Strategies of law-enforcement

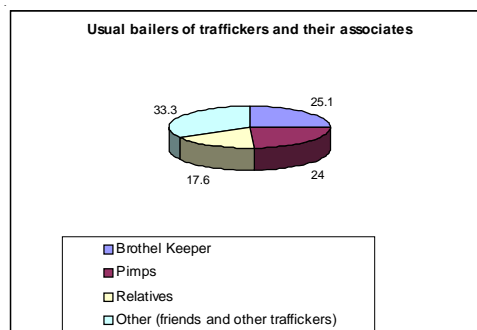
The police officers were asked about the strategies that they usually adopt in bringing the abusers to justice. To the specific question about the arrest of traffickers, 31 per cent of the police officers stated that they are dependent on intelligence systems. They blamed absence of adequate intelligence for the lack of action against the traffickers. However, they believe that law-enforcement should be directed against the traffickers and their gangs. Perhaps this group of police officers, who appear to be sensitive to the issues of trafficked victims, could be appropriately oriented with some training and utilised as resource persons for guiding others.

According to 25.8 per cent of the respondents, the strategy adopted by them is to 'carry out raids by using decoy 'customers''. For them, the women and girls who are in brothels are 'solicitors'

and, therefore, they believe in conducting raids, arresting them and producing them before the Magistrate. They are aware that many of the arrested women are brought back to the same place, thanks to the intervention of the brothel owners and others. These police officials think that such women and children are part of the 'anti-social set-up' and, therefore, need to be arrested. They have probably not realised that sending these women and children to jail, as Justice V.R. Krishna Iyer says, "is to inflame the criminal in them and to torture them institutionally". The human rights perspective needs to be inculcated in police officials harbouring such attitudes. The rest of the respondents were unclear about their strategy. Some of them did believe that the women and girls should not be held guilty. They envisage a larger role for the welfare department in rehabilitating the 'fallen women'. These respondents stated that they carry out raids and rescue operations only when they are assured of cooperation from the Welfare Department, especially with respect to facility of rescue homes and rehabilitation.

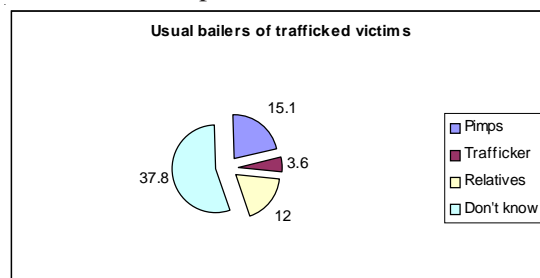
18.19 On bail matters

The respondents were asked whether the traffickers and other exploiters are easily bailed out. According to 68.2 per cent of the police officials, the existing situation is predominantly one of bail, and not jail. They were asked to speak about the reasons for this situation. Among them, 69.5 per cent were of the view that the law is lenient and, therefore, the exploiters can easily manage bail. While 18.8 per cent felt that the money power of these criminals helps them in getting bail, 11.7 per cent stated that bail becomes possible because of the intervention of persons in power, with whom the exploiters have a nexus. These police officials were further asked about who the usual bailers of traffickers are. The response is given in the chart. Whereas 25.1 per cent stated that brothel owners usually bail out the traffickers, 24 per cent said that the usual bailers are pimps, 17.6 per cent said that the relatives or friends of the culprits do the needful, and according to 33.3 per cent of these respondents, the co-traffickers or other members of the nexus bail them out.



18.20 Bail and release of rescued persons

The police officials were asked whether the trafficked victims who are arrested on charges of soliciting are easily bailed out or not. Only 26.6 per cent of the respondents felt that the victims have difficulty in getting bail and the others maintained that they are easily bailed out. The latter category was asked as to why the victims are bailed out easily. Among them, the majority stated that several stakeholders like brothel owners, etc. lose no time in moving the court for bail and, thereupon, bail is granted by the court. They were also asked who the usual bailers are. The response is shown in the chart. According to 31.5 per cent of these respondents, brothel owners are the usual bailers and 15.1 per cent said that the victims are bailed out by pimps. While 3.6 per cent stated that the bailers are the traffickers themselves, 12 per cent said the relatives of the trafficked victims take care of the bail. The rest were not able to give



proper answers. The fact that more than 50 per cent of the bailers are the exploiters themselves (including brothel owners, pimps, traffickers, etc.), indicates the serious distortion in the existing justice delivery system.

18.21 Post-jail situation of victims

Since arrest of the trafficked victims on charges of soliciting has been confirmed to be a common practice in the existing practice of law-enforcement, the police officials were asked about their information with regard to what happens to the victims when they come out of jail. While 70.5 per cent of the respondents stated that the victims have no option but to revert back to their earlier 'profession', only 2.8 per cent of them felt that the woman/girl who is bailed out takes up another vocation. The rest of the police officials did not respond to this question. The response shows that the police officials themselves are aware that most of the persons arrested on the charge of soliciting are taken back to the brothels for further exploitation. This has been aptly described by Justice Krishna Iyer, who stated, "Bail is only a visa for the girl to be taken into her former private prison".

18.22 Failures in law-enforcement

The police officials were asked about the traffickers who had not been arrested. Only 122 of the total number of 852 respondents chose to answer this question, with 102 admitting that traffickers active in their jurisdictions had not been arrested and the rest denying that such criminals had not been arrested. Even they were not clear or forthcoming about the exact number of traffickers at large in their jurisdictions. Obviously, they do not want to address the issue, as it would show their incompetence or connivance. However, the focus group discussions with the police officials revealed that they are aware of the traffickers on the prowl, but have not tracked them down or pursued them due to various reasons. Among the reasons given by them, the majority spoke about lack of intelligence and others about their being busy with other matters such as law and order or investigations with respect to other crimes.

The respondents were asked to speak about the failures, if any, of the trafficking cases in the court of law. While 48 per cent of the respondents stated that the cases against traffickers met with failure in the court, 36.9 per cent were of the view that they were successful in prosecuting traffickers. The rest of the respondents did not have any answers. The reasons for the failure were examined. The responses were as follows:

- According to 62.8 per cent of the respondents who admitted that traffickers do not get convicted, this failure is due to the lack of witnesses and their evidence in the court of law. They said that public cooperation is seriously wanting in such cases. Even if witnesses are examined and cited, the delayed processes of trial remain an impediment in getting them to the court for giving evidence. Some of the police officials expressed helplessness in getting the witnesses to come to the courts again and again, because of repeated adjournments of hearings. The witnesses are usually made to wait for hours together and sometimes, even for several days. These officials were of the view that the existing legal systems value the version of the accused and, therefore, the defense gets predominance over prosecution. In such a situation, the witnesses are reluctant to come to the court of law and speak against the traffickers. Many times, the witnesses come from other places to depose before the court.

As no facilities are provided to them, they become disinterested and do not want to come again.

- According to 10.5 per cent of these police officials, corruption in the existing system of justice delivery is creating problems. These officials were of the view that transparency and accountability in matters of criminal justice delivery are the need of the hour.
- Among these respondents, 24 per cent were of the view that the inherent weaknesses and defects in the law help the traffickers to escape punishment. Though the witnesses clearly depose before the police, when it comes to tendering evidence in court, they usually turn hostile. This could be due to many reasons, including fear of the trafficker. Since the law does not trust the police and the statement before police officials is inadmissible in a court, the earlier version before the police does not have much relevance. This is, at best, used to contradict the witness. However, this will not be considered as evidence against the accused. The in-built distrust of the police, even when they have done the job honestly and sincerely, is regarded by these respondents as a major impediment in getting traffickers convicted.
- The rest of the respondents, though a small minority, opined that the traffickers are not getting convicted due to the influence they are able to exert. These respondents spoke about the traffickers' linkages with persons in power and authority.

18.23 Awareness of staff about trafficking

Efforts were made to ascertain the level of awareness among the police officials on various issues relating to trafficking in women and children. The respondents were asked to state what percentage of their colleagues, including sub-ordinates and super-ordinates, were aware of these issues. The responses by the supervising officers and investigating officers are given in the following table.

Table 18.6: Response of the police officials about the awareness of their colleagues on trafficking issues

% of awareness	Supervising officials		Investigating officials		Total	
	No.	Per cent	No.	Per cent	No.	Percent
Nobody is aware	36	30.7	293	39.9	329	38.7
Upto 25%	20	17.1	109	14.8	129	15.1
26 – 50%	18	15.4	86	11.7	104	12.2
51 – 75%	29	24.8	168	22.8	197	23.1
76 – 100%	07	6.0	49	6.7	56	6.6
Don't know	07	6.0	30	4.1	37	4.3
Total	117	100	735	100	852	100

According to 30.7 per cent of the Supervisory Officers, none of their staff is aware of the issues related to trafficking. Only six per cent stated that 76 to 100 per cent of their colleagues were aware of these issues. The response by the Investigating Officers also follows the same trend. The lack of awareness or poor awareness among the majority should be seen along with the response by the police officials about the priority given by them to the issues of trafficking, as shown in Table 18.1. Obviously, there is a direct linkage between lack of priority and lack of awareness. This kind of ignorance is certainly a stumbling block in law-enforcement and also in proper delivery of justice to the victims of trafficking. This is further confirmed by the fact that the vast majority of the police officials, irrespective of rank, have not received any training related to trafficking in women and children (see box no. BP-1). Despite trafficking being one of the worst

violations of human rights, prevalent in all these states, the fact remains that only 6.6 per cent of the police officials have received any training with respect to these issues (refer discussions in earlier paras). Professional training to the law-enforcement officials, especially at the field levels, along with regular reorientation programmes relating to human rights, women's rights, child rights and trafficking of women and children, seems to be essential in this context.

18.24 Conclusion

The analysis of the data collected from the police officials presents both positive and negative trends. On the one hand, there are trends of overall improvement in the law-enforcement scenario in many places, especially due to judicial intervention by the High Courts of Delhi and Mumbai, and generation of more sensitivity and accountability by the new-found partnership of police with NGOs, leading to community policing in preventing and combating trafficking. On the other hand, the data presents several loopholes and pitfalls in law-enforcement. Though it is difficult to summarise them, a few of these issues can be listed out as below: (a) Lack of priority in dealing with the problem of trafficking, (b) Unwarranted arrest of victims, (c) Gender discrimination in law-enforcement, with an overwhelmingly high percentage of women being arrested and even convicted and a very low number of males being arrested despite the fact that they constitute a large chunk of exploiters, (d) Ignorance of laws on the part of various agencies; (e) Lack of training, orientation, skills and knowledge, (f) Failure to initiate action against traffickers; (g) Overall dissatisfaction with the working of the criminal justice system; (h) The yawning gap between reported crimes and unreported ones and (i) Lack of partnership of police with civil society and other government departments in addressing the issues of trafficking.

Box 18.1

After the one-day consultation meeting with the police officials working at the level of police station, organised by SEVA along with officials of NHRC and District Police, the feedback from one of the participants is as below:

"I am Havildar Ram Bhajan. I joined as a constable 33 years before. A few years back I got promotion as Havildar. All these years I have been working in various police stations, mostly in the rural areas. In my police career I have seen and participated in several raids on brothels and arrest of prostitutes. After arrest we often send them to Magistrate and then they go to jail. We never asked them questions as to why they are in prostitution..... Today, after the entire days training on trafficking, I realized that these women and children are often victims of trafficking and not at all criminals. We have been unjust and cruel in arresting and sending them to jail..... I wish I had this training earlier. To my memory, I never had any training other than PT, Parade and Musketry. This is the first time that I am in an ambience where I am made to think, introspect and react about social issues. I wish I and my colleagues get such regular opportunities to learn, understand, introspect and improve ourselves."



Judicial Response

To issues of trafficking in women and children

19.1 Introduction

Under Article 23 of the Constitution of India, ‘traffic in human beings, beggary, and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.’ Constitutional provision and international commitments have led to several legislations on the subject. The special law relating to commercial sexual exploitation — the Immoral Traffic (Prevention) Act (ITPA), 1956 — covers many offences which can be tried by a Judicial Magistrate and others by a Sessions Judge. The High Courts of the states and the Supreme Court of India have powers of appeal, review and even original jurisdiction. Under Articles 32 and 226 of the Constitution, the Supreme Court and High Courts respectively can entertain writ petitions and Public Interest Litigations (PILs). The legal interpretations and judgments by the Supreme Court and the High Courts have the strength of law, as precedents, until amended or replaced by a legislation. The laws on trafficking, as is the case with other legislations, have gone through judicial scrutiny and several decisions and directions have emanated from various fora. Judicial activism and *suo moto* proceedings in the courts have brought in new dimensions and responses in the policies, programmes and their implementation in preventing and combating trafficking.

A study of the judicial response will facilitate not only in understanding their perception but also in assessing the strength and weakness in the response by the police, prosecution and community. This can go a long way in bringing about appropriate changes in the principles and practices of counter-trafficking and in ensuring human rights of all concerned. It is in this context that an effort has been made to have an objective analysis of the response by the judiciary to the issues of trafficking in women and children.

19.2 Methodology

This chapter presents a study of the judgments by the Supreme Court of India, several High Courts and Trial Courts. Besides the landmark judgments by the Supreme Court in the *Vishal Jeet* and *Gaurav Jain* cases, the recent decisions by the High Court of Mumbai and Delhi on trafficking have been studied. The NHRC had facilitated focus group discussions with serving Sessions Judges and Judicial officers of Delhi who preside over the courts which try offences under ITPA. The NHRC, at the beginning of the research project had requested various state governments to provide copies of some judgments on ITPA. Since it was not forthcoming, the members of the NST made personal efforts during their field visits and thereupon collected a few judgments from

various parts of India. All these have been studied though these judgments of trial courts may not be exactly representative of any state or region, but are illustrative for purposes of academic analysis and understanding.

19.3 Decisions/Judgments by the Supreme Court and High Courts

In *Vishal Jeet vs. Union of India and others* (1990, 3 SCC 318) there was a PIL against forced prostitution of girls, devadasis and *jogins*, and for their rehabilitation. The Supreme Court held that in spite of stringent and rehabilitative provisions under the various acts, results were not as desired and, therefore, called for evaluation of the measures by the central and state governments to ensure their implementation. The court called for severe and speedy legal action against exploiters such as pimps, brokers and brothel owners. Several directives were issued by the court, which, *inter alia*, included setting up of a separate Zonal Advisory Committee, providing rehabilitative homes, effectively dealing with the devadasi system, *jogin* tradition etc. The apex court held that

It is highly deplorable and heartrending to note that many poverty stricken children and girls in the prime of youth are taken to ‘flesh market’ and are forcibly pushed into the ‘flesh trade’ which is being carried on in utter violation of all canons of morality, decency and dignity of humankind. There cannot be two opinions — indeed there is none — that this obnoxious and abominable crime committed with all kinds of unthinkable vulgarity should be eradicated at all levels by drastic steps.

The apex court had demanded an objective multidimensional study and investigation into the matter relating to the causes and effects of this evil. The Central and State governments had initiated several programmes and policies in compliance with the directive of the Supreme Court. Details have been discussed in the chapter on Government Response.

In *Gaurav Jain vs. Union of India*, (1997 8 SCC 114) the Supreme Court passed an order dated 9 July 1997, directing, *inter alia*, the constitution of a committee to make an in-depth study of the problem of prostitution, child prostitutes and children of prostitutes, and to evolve suitable schemes for their rescue and rehabilitation. Taking note of the fact that “children of prostitutes should not be permitted to live in the inferno and the undesirable surroundings of prostitute homes”, the apex court issued directions to ensure the protection of human rights of such persons. The court also desired that the

Ground realities should be tapped with meaningful action imperatives, apart from the administrative action which aims at arresting immoral traffic of women under the ITP Act through inter-state or Interpol arrangements and the nodal agency like the CBI is charged to investigate and prevent such crimes.

The rulings mentioned above have to be seen in the context of the pleadings and the arguments advanced by both sides. Moreover, one needs to distinguish *ratio* from *obiter*, as the former is a binding law and the latter is only a persuasive value relevant to the facts of the concerned case. Keeping these in mind, it can be said that these two cases have laid down the ground rule for several executive decisions and commencement of many programmes thereafter. These judgments have flagged off the importance of the individuals’ human rights and brought to focus the mandatory role and responsibility of the state in ensuring that such violations do not take place.

A writ petition, Crl. W. No. 532/92, was filed in the Delhi High Court by the Honest Organisation, Delhi, through its honorary chairman Shri Shyam Sunder Lal Gupta (petitioner) vs. Secretary, Ministry of Home Affairs; Secretary, Ministry of Welfare; Lt. Governor, Delhi; Chief Secretary, Delhi Administration; Director, Prosecution, Delhi; Director, Social Welfare, Delhi; Commissioner of Police, Delhi and the SHO, Kamla Market Police Station (respondents). The petitioner had sought the intervention of the High Court for directing the concerned officials to ensure appropriate enforcement of the provisions of ITPA. During the pendency of the proceedings, the High Court on its own motion vs. Union of India and others (vide Crl. M. No. 862/01) initiated several proactive steps. The court summoned various officials and NGOs working in the field, heard them and thereafter gave them specific directions with respect to rescue and rehabilitation and reintegration of the victims. Senior officials of different states like Rajasthan, Uttar Pradesh, etc., from where the girls had been trafficked, were also summoned by the court to ensure that the rehabilitation package was implemented properly and that the concerned officials were made accountable for their activities to ensure that the victims were not re-trafficked and were at the same time economically and socially empowered. Judicial activism in Delhi has made remarkable changes in the entire scenario, which has been widely appreciated. (For details see case study No. CS-DL-26). It is important to note here that due to the intervention by the High Court of Delhi, especially during the period 2001–2003, the law enforcement scenario in Delhi has seen a radical change in ensuring justice delivery. One of the highlights is that during this period, 28 traffickers/exploiters have been convicted as against the preceding years when the conviction of traffickers and exploiters was rare and almost nil. As a part of judicial activism, in accordance with the provisions of ITPA, the court has ordered closure of several *kothas* where a large number of girl children were found to have been sexually exploited. The bottom line is that judicial activism has brought about institutionalisation of integration of policy and programmes and triggered adequate sensitivity among the officials, leading to prompt and effective response by them. It brought about the much required networking of the various government departments as well as a working partnership between the government agencies and NGOs. Another important fact is that the High Court intervention facilitated in promoting the interests of women and children, within a human rights paradigm. The limited scope and vision that was commonly prevalent in the existing ‘crime-perspective’ and ‘welfare-perspective’ were substituted with a larger mandate of ‘human rights perspective.’

Another order by the High Court of Delhi has made notable improvement in the field of criminal jurisprudence and victim protection in India. On 27 February 2004, the High Court delivered this order, in *Crl. M.1467/04 in Crl. W. 532/1992*, in a petition filed by an NGO — Prajwala of Hyderabad — through its advocate Ms. Aparna Bhat. Thanks to the intervention of the Delhi High Court, girls rescued from the brothels in Delhi were repatriated and rehabilitated in their hometowns in several parts of India including Andhra Pradesh. The rehabilitation work was carried out by the Government of Andhra Pradesh with the involvement and participation of the NGO, Prajwala. Many of these girls who had been rehabilitated to districts like Nellore, were summoned by the trial court in Delhi for providing evidence against the exploiters. Since these girls were repatriated after spending considerable time in the rescue home in Delhi, ideally speaking, their statements should have been recorded by the trial court during that period. However, due to the delays in the trial, this was not done and, therefore, these girls were called to Delhi. The

government agencies in Andhra Pradesh tried their best to get in touch with these girls. Since their efforts failed, Prajwala was asked to step in again. The NGO realised that these girls were reluctant and unwilling to go to Delhi mainly because they did not want to relive the trauma and agony which they had undergone. It was decided to move the trial court for facilitating the recording of evidence of these girls to their hometowns. However, the court did not approve of this for want of required infrastructure. The matter was, therefore, taken up with the High Court of Delhi which directed the government counsel to look for alternatives. Since National Informatics Centre did not have the required facilities, the counsels for the government and the NGO took initiative, interacted with the government of Andhra Pradesh and found that video conferencing facility was available in Andhra Bhawan, New Delhi. The A.P. government agreed to provide this facility, which they have in Delhi and the concerned district headquarters in Andhra Pradesh. The High Court confirmed the availability of these facilities at A.P. Bhawan by judicial officers and then gave orders for recording the evidence of the victims through video conferencing. The court also directed that the state of Andhra Pradesh make appropriate arrangements for the same and that the trial court ensure adequate safeguards enumerated in the decision of the Supreme Court in *State of Maharashtra vs. Dr. Praful B. Desai*, 2003 4 SCC 601. This was a historical decision of the Delhi High Court because, for the first time in India, inter-state video conferencing was being utilised in criminal trials. Once implemented, this judgment can go a long way in protecting the rights of trafficked victims and, therefore, is a judgment truly honouring the human rights of the victims. The initiative by the NGO, government officials and the counsels — both the standing counsel for the state and the counsel for the NGO — is commendable.

19.4 Judicial intervention by the High Court of Mumbai

This has been instrumental in bringing about radical transformation in the anti-trafficking scenario in Maharashtra and Goa. In *Public at Large vs. State of Maharashtra and Others*, [1997 (4) Bom CP 171], judicial intervention brought about rescue, repatriation and rehabilitation of 487 minor girls (for details case study No. CS-MH-17 may be seen). The High Court order led to the prompt care of and attention to the rescued persons, setting up of an Advisory Committee and networking of various departments of the government, and the repatriation of persons trafficked from various states in India as well as neighbouring countries. In *Public at Large vs. State of Maharashtra and Others* [writ petition No. 112 of 1996], the High Court of Mumbai gave several directions to the government agencies to ensure the interests of the rescued girls. The court directed that all rescued girls should be subjected to medical examination for assessing their age and to check whether they were suffering from any disease. The methodology of counselling and aftercare was also dealt with in detail. In *Prerana vs. State of Maharashtra and Others* [writ petition No. 788 of 2002], the Mumbai High Court looked into the issue of violation of rights of trafficked children by various authorities who are supposed to implement the law. The court took serious objection to the judicial authority treating the trafficked minor girls as ‘confirmed prostitutes’ (for details, see case study No. CS-MH-1). The High Court issued several directions for the proper implementation of the JJ Act and ITPA, keeping in view the human rights of the trafficked persons. The court order addressed several issues concerning child rights, viz. the role of advocates and NGOs in the JJ Act, child-friendly procedures in dealing with rescued persons, etc., and has brought out clear guidelines for compliance by all concerned.

In writ petition No. 365 of 1997 by an NGO *Savera and Others vs. State of Goa and Others*, the High Court of Bombay (Goa Bench) delivered a judgment on 21 July 2003. The object of the petition was primarily to seek the direction of the High Court to the concerned agencies in the “readjustment and rehabilitation” of the persons in the “Red-light area of Baina”. The High Court took into consideration the various views in the replies filed by the petitioners, respondents, etc., as well as the report of the Kamat Committee (Mr. Justice G.D. Kamat, retired Judge). The High Court directions included the following:

- (1) State government to ensure necessary action as per Kamat Committee Report.
- (2) Ensure effective implementation of the judgment of the apex court in *Gaurav Jain v. Union of India*.
- (3) Ordered that the District Collector take steps under ITPA and other relevant laws to “close down the cubicles (250 cubicles being used for sex trade in Baina beach). If the said 250 cubicles constructions are illegal, and are on government land or land belonging to local authorities, then to take steps to evict the illegal occupants and then demolish them by following due process of law”.
- (4) State government to take adequate steps to prevent the CSWs (commercial sex workers) being brought into the state of Goa on contract basis, as noted by the Justice Kamat Committee.
- (5) Since the CSWs are being brought from outside Goa, the Government of Goa is not bound to rehabilitate them except to the extent mentioned by specific directions in the judgments of the apex court. The rescued CSWs be deported to the state where they came from. The Goa State Commission for Women, along with the National Commission for Women to take steps, so that the said women are rehabilitated in the state from where they hail with assistance of the respective state governments.
- (6) The National Commission for Women to report in nine months the action taken on the implementation of the Kamat Committee Report.

As of November 2003, the concerned agencies were in the process of initiating necessary steps in the light of the High Court order. NGOs like Arz, which have been working in this area for long, have drawn attention to the fact that eviction without appropriate mechanisms of rehabilitation would be tantamount to further violations of the rights of the hapless victims.

19.5 Judgments by Trial Courts

In the context of unprecedented developments in response to anti-trafficking, thanks to judicial activism by the apex court and the High Courts, which underscored the cardinal principle of human rights in justice delivery, an effort was made to study some judgments delivered by various trial courts across India. As mentioned earlier, these judgments are only illustrative and are not exactly representative. However, to understand the judicial perspective with respect to justice delivery and also to know the response of the police, prosecutors, correctional officers, etc., these judgments do provide a lot of insight.

- The Sessions Court in Maharashtra, trying the paedophile couple from Switzerland, delivered the judgment on 29 March 2003, convicting both the accused under Sections 363, 367, 354, 292, 293, 341 and 201 of the IPC. The court also ordered compensation worth Rs. 5,000 each to the girl victims. While appreciating the role of police officers in taking prompt steps to arrest the accused, the court adopted child friendly procedures to protect the dignity of the child victim. The judgment underlines the importance of child psychology in understanding a child victim. In this particular case, the victims were girls less than 10 years of age. The court held that ‘their embarrassment and refusal to speak and remember the incident was evident through their body language.’
- The Court of the Judicial Magistrate of Pondicherry, which tried the case STR No. 10021/2001 registered by the Pondicherry police u/s 8(b) ITPA, held the three arrested women in the age group 25–30 years guilty of soliciting, and awarded a fine of Rs. 250 each. There is no mention of the ‘clients’ or the traffickers.
- The Court of the Judicial Magistrate of Pondicherry, which tried the case STR No. 912/2001 on a report filed by the police, acquitted the accused lady from charges of soliciting. The court observed that no passers-by were produced as witness, especially when the prosecution had stated that the accused was caught while pimping and soliciting. The court questioned why nobody was cited as witness. The observations of the court point towards perfunctory investigation.
- The judgment in Pondicherry (Reddiarpalayam) crime No. 70/98 from the Court of the Additional Assistant Sessions Judge speaks about evidence to show that one of the girl victims is 15 years old. The court awarded seven years imprisonment to both the accused (and also fined them) after convicting them u/s 5 ITPA as well as 363, 372, 373, 368, 109 IPC. The court observed, “The police could have invoked Section 367 IPC instead of 363 IPC against A-1, because 367 incorporates within itself 363 IPC.” It is to be noted here that the chargesheet by the police was only under IPC and not under ITPA. However, while framing charges, the trial court invoked Section 5 ITPA too. The judgment shows a high level of sensitivity towards the plight of girl children and said, “White slavery is still being practiced. The worst aspect of the crime is that a female child of 15 years was made to suffer excoriating and excruciating mental as well as physical torture at the hands of A-1 and A-2.... If any leniency is shown (in imposing punishment), it would be deleterious to the society at large.” The sensitivity conveyed through the judgment could be an eye opener for all those who are dealing with such issues. However, there is also something amiss. When the court was categorical that the child was 15 years old and that she was subjected to sexual assault for several months, charges should have been framed under Section 376 IPC. When the police officer concerned did not investigate the offence of rape, the court should have pulled up those who failed in their duty and carried out further investigation on rape and other offences. However, it was not done.
- In V.P. Road (Mumbai) police station crime No. 279/2000, the police filed a chargesheet against two accused persons u/s 366A, 372, 373 IPC and Sections 4, 5, 6, 9 ITPA. One accused was absconding and, therefore, the other person was put to trial. The court of the Additional Sessions Judge convicted the accused for offences under 366 A, 372 IPC and Section 5(a) and 9 ITPA, and awarded RI for seven years and a fine of Rs. 10,000. It is

heartening to note that the fine amount was ordered to be paid to the victim as compensation. In this case, the investigators have done a good job in tracing the trafficker from Mumbai city to a village in Andhra Pradesh and, thereafter, arrested the accused and brought the person to trial. The court has rejected the contention of the defence against the police, that the FIR was registered after the arrest. The court held that cryptic information cannot be considered an FIR and, therefore, the police did the right thing by getting it verified and in that process, the minor girl had to be rescued, which also led to the arrest of the accused. Therefore, the delayed registration of FIR was justified. Since the victims were speaking in Telugu and the case diary was in Marathi, the police had to use the service of interpreters in interviewing, understanding and translating the victim's version into case records. The court has appreciated the 'cogent and convincing evidence on record'. The court also commended the role of NGOs in not only rescue and rehabilitation, but also in counselling as well as in assisting the court in the trial process. The judgment mentions that the medical reports have confirmed that the victim was 14–15 years old and that she was subjected to assault, abuse, illegal confinement, intimidation and repeated rape for a long time. Yet, no charge was framed under rape or abetment to rape. Therefore, the fact remains that the larger issue of child rape was not attended to.

- Crime No. 255/01 of P.S. Kamala Market, Delhi is a case where the trial was concluded in a short time and the accused was convicted for the offences under 363, 366, 366B, 368, 373 IPC and 3, 4, 5, 6 ITPA. The convicted person was the kotha owner who has been awarded RI for seven years and has also been fined. The judgment speaks in detail about the saga of torture and violation of human rights of several victims in the process of trafficking as well as during their confinement in the brothels. There is a mention in the judgment that a few of the rescued girls are of the age group 15–17 years. If a girl is under 16, the very fact that she has been sexually assaulted should have invited charges under 376 IPC. The court could have directed the police for investigation in this regard. The judgment speaks about "the police complicity and connivance in facilitating prostitution and running of a brothel." This being a serious matter, the police administrators should have taken appropriate action against the concerned officials. In such cases, it would be advisable for the court to notify the Commissioner of Police. The prosecutor has to take the initiative in this regard.
- In criminal case No. 7/S/99/A of Goa, the court of the Judicial Magistrate at Bicholim, which tried the two accused women who were prosecuted u/s 8 ITPA, held that when the charges were read out to the accused, they pleaded guilty, an act which was "voluntary and unambiguous, and, therefore, awarded punishment of imprisonment till rising of the court and a fine of Rs. 500 each." In crime No. 69/2001 of Goa, the court of the Judicial Magistrate, Mapusa, which tried the case, held the accused woman guilty u/s 8 ITPA and awarded a sentence of "paying a fine of Rs. 250." Enquiries revealed that the prosecuted and convicted persons were trafficked earlier. Moreover, the differences in the fine amount also need to be noted.
- In Kamala Market police station (Delhi) crime No. 282/2001, the court of the Additional Sessions Judge convicted both the accused, holding one of them guilty for offences u/s 368, 366 IPC and the other person guilty u/s 373 IPC. The former was sentenced to seven years RI and fined Rs. 5,000. The latter was awarded eight years RI and a fine of Rs. 5,000. Obviously, this is a case where the exploiters received substantial punishment.

- In Champhai (Mizoram) case No. 79/99, u/s 372 IPC and Section 3(2)(a) ITPA, the order of the court of the Judicial Magistrate mentions that both the accused, who were on bail, were present in the court, but “the investigating officer has not filed any charge-sheet even after 433 days of investigation”, and that too, despite reminders. Therefore, the court held that “there is no point in wasting valuable time.” Since the Investigating Officer has not taken any interest, the case was closed. Such lacunae with the investigating agency need to be addressed.
- In the court of the Additional Deputy Commissioner, East Khasi Hills District, Shillong, the trial proceedings in G.R. case No. 12(a) 2002, u/s 366 IPC brought to light several important features, viz. the role of a hotel where minor victims were sexually assaulted and the role of two men who had lured the victims. Apparently, no effort has been made to arrest these two men (despite their being the traffickers) or to bring the hoteliers to book, despite the evidence on record that minors were sexually assaulted in the hotel. In such situations, ITPA has provisions for taking stringent action against the hotel, even amounting to the cancellation of license. These steps have not been initiated at all.
- In crime No. 105(8) 2001, UPS, Manipur, registered against two adults (one male and another female) u/s 3 and 4 ITPA, the trial court order states that “Evidently both the accused have committed willful wrongs and keeping in view their pleas, I have come to the conclusion that the prosecution case is precise against accused No. 1 and 2. Both the accused are, therefore, convicted u/s 4 of ITPA. After considering the magnitude of their involvement each of the accused is sentenced to pay a fine of Rs. 200, to be deposited within a period of 10 days.” The question that arises is whether the conviction and fine are commensurate with the crime committed.
- In Kamala Market (Delhi) crime No.43/97, two women were charged u/s 8 ITPA for soliciting. One of the accused pleaded guilty and was convicted u/s 8 ITPA. The judgment delivered by the trial court says that “Perusal of the case file reveals that accused has faced a long trial of more than five years. In view of this, accused is released on probation on furnishing a personal bond in the sum of Rs. 5,000, with one surety in the like amount, for a period of six months.” It is important to note that despite the fact that the trial lasted for more than five years, only four police officials were examined as witnesses. No doubt, justice delayed is justice denied.
- In Kamala Market (Delhi) crime No. 11/95, an adult male was charged u/s 3, 4, 5 and 6 ITPA on charges of living on prostitution, using the premises for prostitution and for detaining two girls for the purpose of sexual intercourse. The accused pleaded not guilty and claimed trial. The judgment of the court is: “Four witnesses are official witnesses (police officers) who reached the spot on receiving information. Their evidence is ‘hear-say’. Three public persons, who are the most important witnesses, have turned hostile and have not supported the case of prosecution at all. The IO has not been examined in the case. Under these circumstances the accused deserves the benefit of doubt, which must be given to the accused. Even otherwise, the IO and the complainant are one and the same person which is in violation of the judgment of the Hon’ble Supreme Court in *AIR 1995 SC 2339, Megha Singh vs. State of Haryana*. In these circumstances the prosecution has not been able to prove the case against the accused beyond reasonable doubt. He is acquitted accordingly.” This judgment shows

that the exploiter/trafficker escaped conviction because of poor prosecution and investigation. The judgment also raises questions on the quality of supervision over investigation of these cases.

- In Kamala Market (Delhi) crime No. 459/01, the accused woman was charged u/s 363, 365, 368, 372, 373, 376, 342, 506, 109, 34 IPC and 3, 4, 5, 6 ITPA. The charges were framed u/s 368, 366, 109, 376, 373, 34 IPC and 3, 4, 5 ITPA. The accused pleaded not guilty and claimed trial. The prosecution case was that she was lured and trafficked from Nepal, drugged and thereupon, pushed into commercial sexual exploitation in the brothel for a period of three years, after which she was rescued. However, during trial, she did not support the prosecution story. The court held that “The solitary prosecution witness, the victim, has not supported the prosecution case. She is 17 years of age and states that she indulged in prostitution of her own free will... The prosecution has failed to get any convincing evidence to support its allegations against the accused... Hence giving benefit of doubt to the accused, she is acquitted of the charges levelled against her.” The judgment is well received because despite the police chargesheet, the trafficked girl victim has got reprieve from the court from being convicted. However, the judgment brings out an important point — that the victim is still not above 17 years and, therefore, by definition, is a child under the JJ Act. There was clear evidence before the court that she was being sexually exploited for the last three years. Therefore, the exploitation commenced when she was just 14 years old. Under Section 375 IPC, sexual intercourse with a child under 16 years of age, even with consent, amounts to rape. Despite this, no charge was framed under 376 IPC and no investigation was done in this direction. Perhaps the court could have asked for further investigation since the work done by the police suffers from other drawbacks too. Since the girl had stated that she was trafficked from Nepal, the Nepali link should also have been promptly investigated and the traffickers brought to book. This was not done by the concerned police officials.
- Kamala Market (Delhi) crime No. 467/2001, was chargesheeted by the police u/s 363, 375, 376, 506, 34 IPC and 3, 4, 5, 6 ITPA. Charges were framed by the court u/s 342 IPC and 3, 4, 5, 6 ITPA. It was a case of trafficking several minor girls from Nepal to different parts of India. The prosecution examined 11 witnesses, but all of them turned hostile. Since they did not support the case, the trial court acquitted the accused. Despite the fact that it was a case of international trafficking of minor girls, the traffickers were not convicted and let loose.
- In Kamala Market (Delhi) crime No. 274/2000 u/s 363, 365, 366, 368, 372, 373, 323, 506, 109 IPC and 3, 4, 5, 6 ITPA, the court convicted the traffickers and exploiters, which include one male and two females. The court held that “It has been proved that the accused persons were forcing the young minor girls into prostitution and thereby depriving them of a decent and respectful normal life.” They were convicted and awarded RI for a period of seven years and a fine of Rs. 5,000 each. The court had also taken up the provision of eviction under ITPA. The judgment says, “An application was moved by Ld. APP u/s 18(2) of ITPA seeking direction for vacating kotha No. 42, first floor, G.B. Road, New Delhi. Heard. In view of this provision, I direct the occupiers of kotha No.42, first floor, to vacate the said kotha within seven days of the order.” This is a case where the traffickers and exploiters were not only convicted but evicted from the place that they were using for exploiting the minor girls. This

is an appropriate example to highlight the stringent provisions available in the ITPA. The judgment is a pointer to the need for professional investigation and prosecution, along with sensitiveness to women's rights and child rights, in the delivery of justice.

As mentioned earlier, this study has had the benefit of Focus Group Discussions with judicial officers who are presiding judges in the trial courts in Delhi. Moreover, the members of the NST had participated in several training programmes (see details in the chapter on Spin-Offs). These discussions on the judgements and orders by the courts discussed above bring to light certain issues that need to be considered in ensuring proper delivery of justice and law enforcement. They are listed below:

- Victim perspective should be the key in justice delivery. The violation of rights of these persons should be taken into consideration before arriving at any conclusion.
- Every criminal act should have not only *actus reus*, but also *mens rea*. If *mens rea* is absent, the person cannot be held guilty under ITPA. Therefore, investigation and prosecution should see whether the person being charged under Section 8 ITPA, the most commonly used section, did have the required intention or not. It is known that the trafficked woman/girl is made to solicit under duress, coercion, lure, deceit or compulsion by the trafficker or other exploiters. In such cases, the woman should be treated only as a witness and not as an accused. If there was no informed intention, the person cannot and should not be prosecuted for soliciting.
- Investigation and trial process need to be concluded in a specified timeframe. If the trafficked victim is an outsider, she may have to be detained in an after-care home till her evidence recording is completed and cross-examination is over. If she has been repatriated, she may have to be called to the court on and off. This causes a lot of inconvenience to the witnesses. Therefore, expeditious disposal is a must.
- The functioning of protective homes and corrective institutions, where the victims and the accused, respectively, are to be sent, needs to be streamlined. Moreover, the distinction between the two types of homes has to be clear to those involved in the delivery of justice.
- Vocational training facilities in the protective homes should be wide ranging and focused on the interests and choices of the persons concerned, with a view to empower them.
- Counselling should be integrated with rescue and rehabilitation.
- The criminal justice system should be victim-friendly, sensitive to the rights of the victims and also proactive in ensuring their dignity and human rights. Courts must adopt such an approach even during the trial. Effective victim-friendly procedures, like video-conferencing, etc., need to be brought about.
- Model courts and police stations could be established, at least on an experimental basis, to ensure expeditious disposal of such crimes and effective partnership should be formed between the various government agencies and NGOs in addressing the issue.
- Investigation has to go into the roots of trafficking. The police should be oriented and trained to be professional in their work. Investigation should be able to expose the entire trafficking nexus. Moreover, the procedures adopted by the police have to be sensitive, responsive and-victim friendly, keeping the human rights perspective in view. Prosecution should ensure timely appearance of witnesses so that the trial is not delayed. Courts have an important role in ensuring the compliance of these rules by the police and prosecutors.

- Judicial discretion in deciding cases and awarding punishment/fine should be exercised keeping the best interest of the victim/survivor.
- Victim compensation should be given due consideration in all cases of human rights violations. Trafficking being an extreme form of violation of several rights, due weightage needs to be given to compensation for the victim/survivor.

19.6 The emerging scenario

Concern for human rights and gender issues: Judicial activism, emerging from the concern for protection of human rights, especially of women and children, has been instrumental in bringing about a paradigm shift in the delivery of justice. This has led not only to protection of victims and vulnerable persons, but also to the prosecution of exploiters and eventually has been instrumental in leading to prevention of trafficking. However, the instances of judicial decisions discussed above point towards the essentiality of sensitisation of judicial officers, with a specific focus on the human rights perspective. The immediate requirement for sensitising police officers, medical experts, etc., has been discussed in the chapter on law enforcement and, therefore, is not being repeated here. As regards the judiciary, a recent publication of the UN says¹, “The judiciary is one of the most important sectors that need to be sensitised on gender issues and violations of rights of women due to trafficking. An analysis of the attitudes of judges reveals a protectionist approach rather than a substantive approach in their judgment of criminal cases against trafficking.”

The analysis shows that though gender sensitivity is not lacking, there is need and scope for improvement. Appreciating the need for sensitisation, the Supreme Court of India, with the help of the British Council, has initiated necessary steps in this regard. “A socially sensitised judge,” in the memorable words of the Supreme Court, is a “better statutory answer against gender outrage than long clauses of complex section with all the protection writ into it.” In this context, while commenting on the existing legislation, Justice V.R. Krishna Iyer has said², “The police officer cannot be the moral guardian of the Indian citizen, that Judges trying this class of cases, unless specially trained or put through courses, prove to be judicial obstacles rather than social justice vehicles. The masculine lethargy at every stage is writ large.” Justice Iyer advocates active involvement of social welfare organisations in justice delivery mechanisms. “Active participation in the very legal process will go a long way in socialising the legislation without isolating as a purely Police-Magistrate esoterica³.” He also advocates for a radical reform of the existing law. In this context, he says, “Khaki is ill-equipped and the robes too unrealistic. New tools must be fashioned if the law is meant to be more than a paper tiger⁴.” (Refer to Chapter 26 for detailed discussion on amendment of ITPA).

Sentencing Policy: The discussion above drives home the point that there is a lot of discretion in judicial decision-making. In one case, the person convicted u/s 8 ITPA was fined Rs. 250 and in another instance, the fine was Rs. 500, despite the facts of the case being almost the same. Similarly, even the exploiters and traffickers are awarded punishments of varying periods and fine of varying amounts. No doubt, the court takes into consideration several factors before arriving at a decision regarding punishment. In this context, according to the United Nations⁵,

Inconsistent sentences violate the rights of convicted persons and undermine deterrence. Inconsistency means that the same defendant receives different sentences each time he or she commits the same crime. It sends a message to

potential traffickers that they should ‘roll the dice’ because even if they are caught they may get off with a light sentence. Sentences rightly differ if the details of the crime are different or the sentence is enhanced because of multiple crimes or convictions. However, inconsistency based on different judges or other arbitrary reasons must be addressed. Sentencing disparity means that two defendants who are prosecuted for the same crime receive different sentences. Different sentences are appropriate if one defendant has played a greater or lesser role, or if one case is more heinous than the other. However, disparity may also exist because of favouritism (e.g. prosecution of female mamasans and low level personnel while letting males and higher ups go free) or corruption. It may also be due to excessive discretion of the judiciary, failure of legislation to provide for specific sentencing guidelines or lack of coordination among the judiciary. An effective law enforcement approach will address each of these considerations.

Punishing the exploiters: Punishment has four functions — retribution, rehabilitation, incapacitation and deterrence. Retribution recognises that trafficking is a grave and legitimate offence. Rehabilitation is intended to prevent recidivism. Incapacitation prevents traffickers from committing additional crimes while they are in jail. Deterrence seeks to deter the individual trafficker (specific deterrence) and potential traffickers (general deterrence) from committing the crime. Effective law enforcement requires punishment of offenders that serves all these functions⁶. In order to be effective, punishment must be certain, sufficient and proportional. In this context, the UN document states⁷, ‘Sufficient means that traffickers should be punished as severely as those who commit other serious crimes, such as murder, rape and kidnapping. The provision for a higher punishment of component offences than for the crime of trafficking, undermines the law enforcement response. Proportional means that the punishment fits the crime. Punishment that is perceived to be too harsh will often result in ‘jury nullification’, whereby the finder of fact refuses to find the trafficker guilty because of a perception that the penalty is too strong. On the other hand, proportional means that traffickers should not merely receive a slap on the wrist.’ This calls for certain regulations and predictability in the matter of sentencing by bringing in appropriate guidelines. Moreover, there is a need to bring in deterrence in punishment along with confiscation of assets acquired as the fruits of crime.

The court proceedings: The study shows that sensitive judges and trial magistrates have ensured victim-friendly ambience in the court, to the extent possible. When the court deals with child victims of trafficking, the ambience needs to be child-friendly. The proceedings in the court need to be monitored so that even the defence does not indulge in revictimisation and traumatising of the victims. The report of DWCD⁸ mentions, “The Judiciary is accused of playing a role in secondary victimisation, by its mode of questioning during court procedures, the long and tedious legal processes and the legal system is seen to be forbidding for victims who seek justice rather than deterring those who commit injustice.” The judiciary “moves at a snail’s pace and the law intimidates the victims of crime with the burden of proof while it does not see the perpetrators of the crime as punishable⁹.” At the level of the magistrate, the situation is far more mixed. Some are extremely sensitive and try to make the best possible judgment for the victims. Some are less caring and have sent women and girls to jail for prolonged periods of protective custody¹⁰.

Changes in law: The discussion in this chapter, as is the case with the chapter on police response, brings home the point that the existing law needs amendments and changes. Since the required changes are being separately listed out in a chapter on the very same subject, they are not being repeated here.

The role of police and experts: The role of the trial court usually comes into play only after the report of the investigation is filed by the police. The delay in investigation leads to delay in disposal. Wherever investigation has been professional, bringing in evidence against the exploiters, courts have generally been prompt in convicting the trafficker. Therefore, the analysis highlights the fact that professional policing and sensitive involvement of experts, which include doctors, prosecutors, psychiatrists, counselors, etc., is essential.

Community participation: The decisions by the apex court and the High Courts of Mumbai and Delhi, discussed above, brings home the point that justice delivery for trafficked victims can be effective if there is a working partnership of law enforcement agencies and the general community. The High Court of Delhi had ordered that an NGO should be associated in all rescue operations. As a result, the networking of the government agencies with the NGOs could effectively carry out rescue, repatriation and rehabilitation of more than 500 girl children in Mumbai and Delhi. This shows the necessity for community participation.

Need for a Bench Manual: The study has pointed towards the need for a bench manual for the guidance of the trial courts. Such a manual should include points that emerge from the discussion of the judgements, as stated above, and link it up with the statutes and international instruments (discussed in Chapter 16). This manual should have points with respect to bail, appreciation of evidence, interim orders, legal aid services, psychiatric and medical services, gender sensitive and child-friendly court procedures, sentencing guidelines, norms on public participation, role of interpreters, scope of PILs, protocols on minimum standards of care and protection to victims, etc. The NHRC could take initiatives in this direction by associating appropriate agencies, preferably those who carried out this field research, with those who participated in the training of judicial officers.

¹ Combating Human Trafficking in Asia: A Resource Guide to International and Regional Legal Instruments, Political Commitments and Recommended Practices, Economic and Social Commission for Asia and the Pacific, United Nations, New York, 2003. P.39

² Justice V.R. Krishna Iyer, "Gender Justice vis-à-vis Law Against Immoral Traffic – A Critique", Social Audit of Immoral Traffic Prevention Act, S.C. Bhatia (ed), University of Delhi, 1988, pp.21-22.

³ *Ibid*, p. 22

⁴ *Ibid*, p.25

⁵ United Nations, 2003 op.cit. p.39

⁶ *Ibid* p. 40

⁷ *Ibid* p.40

⁸ Department of Women and Child Development (DWCD) and UNICEF, 1996. *A Report on the Six Regional Workshops on Sexual Exploitation and Trafficking of Children*, New Delhi: DWCD, MHRD, Government of India

⁹ New Concept Information Systems Pvt. Ltd, 1998. *Situation Report on Trafficking of Children for Prostitution*, New Delhi: Department of Women and Child Development, MHRD, Government of India

¹⁰ United Nations, 2001. *Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women - Report of the Special Rapporteur on violence against women - Mission to Bangladesh, Nepal and India on the issue of trafficking of women and girls*, UNESCAP

Response by Government

This chapter provides an account of the policies and programmes initiated by the government and the NHRC, both at the Centre and in the states. Since the response by the judiciary in the process of delivery of justice and the response by the police in law-enforcement have been discussed in other chapters, the same are not being repeated here. Similarly, the legislative aspects have been discussed in another sub-chapter and, therefore, this chapter is confined to the responses by the government departments and other agencies of the government. It reflects the information and inputs received from the various ministries and agencies.

The Union Government

The initiatives of the Government of India have been multi-dimensional. Various departments and agencies have initiated several policy changes as well as introduced and implemented a variety of projects and programmes.

The Department of Women and Child Development (DWCD): In pursuance of the directions of the Supreme Court of India in its order dated 2.5.1990 in *Vishal Jeet vs. Union of India* and the order of the Supreme Court dated 9th July 1997 in *Gaurav Jain vs. Union of India*, the Government of India has taken several initiatives. A central advisory committee has been set up to deal with the problem of commercial sexual exploitation of children. This committee has made several recommendations which have been forwarded to the concerned central ministries/administrations in the Union Territories for taking appropriate action. As directed by the Supreme Court, the Committee on Prostitution, Child Prostitutes and Children of Prostitutes, headed by the Secretary, DWCD, has made an in-depth study of the problem of trafficking and commercial sexual exploitation of women and children and of the children of the women victims, to evolve such suitable schemes as are appropriate and consistent with the directions given by the Supreme Court.

The Committee has drawn up a National Plan of Action (NPA) to combat trafficking and commercial sexual exploitation of women and children, which was approved by the Prime Minister in 1998. Besides combating trafficking, rescue and rehabilitation of victims of trafficking and commercial sexual exploitation are also given priority under NPA. Under the National Plan of Action, legal and law-enforcement systems are activated to strengthen the implementation of the ITPA, 1956. The Department has issued guidelines to the states/UTs for effective implementation of the Plan of Action. A three-tier monitoring mechanism has been established to oversee implementation of the Plan of Action from the district level to the central level. At the central level, the Central Advisory Committee on Child Prostitution monitors the implementation of the NPA with respect to states. At the state level, a State Advisory Committee has been constituted under

the chairpersonship of the Chief Secretary/Additional Chief Secretary for implementation of the Plan of Action. Review meetings have been held by the State Advisory Committees of all the major source and destination states/UTs where the problem exists, especially West Bengal, Bihar, Maharashtra, Delhi, Andhra Pradesh, Karnataka, Tamil Nadu, Rajasthan, Goa and Pondicherry. These Committees have initiated steps to notify Special Police Officers, to set up Advisory Boards of Social Workers and NGOs in red-light areas, to conduct regular raids and take measures for the protection and rehabilitation of rescued persons.

In 1996, DWCD, along with UNICEF, carried out six regional consultations in India to understand the dimensions of child commercial sexual exploitation. This was a pioneering effort because it brought out focussed discussion by various stakeholders, leading to a comprehensive document on the subject. The report brought to focus the issues of trafficking of children, missing children, etc., which were hitherto not attended to in an integrated manner. The report also provided the material for assessment of the status of children in India. DWCD commissioned another major national-level study in the year 2002 on 'Women in Prostitution in India' to examine the extent and magnitude of the problem and to identify areas in different states which can be termed as 'prone areas'.

Protective Homes have been established by the government under Section 21 of the Immoral Trafficking Prevention Act (ITPA) exclusively for girls/women detained under ITPA and also for those who seek protection from being forced into commercial sexual exploitation. The Government of India also has an extensive network of more than 351 short stay homes assisted by the DWCD and juvenile homes set up under the Juvenile Justice Act for protection and rehabilitation of the victims. In some red-light areas, the Government of India has sanctioned projects for starting centres under the Integrated Child Development Service Scheme (ICDS). However, as yet, the Government of India has not done much work regarding protective homes. (See case study No. CS-DL-8).

A National Plan of Action for the SAARC Decade of the Girl Child (1991-2000), focussing on the survival, protection and development of the girl child, was formulated. A special set of interventions in respect of adolescent girls was institutionalised through the ICDS infrastructure.

Since the incidence of commercial actual exploitation is also related to the low status of women in society, the government is implementing various programmes of (a) Training-cum-income generating activities such as NORAD, STEP, CCEVT, SEP and DWCRA to economically empower women. Forty per cent reservation for women has been provided under the Integrated Rural Development Programme (IRDP), (b) As a special measure of affirmative action, the Rashtriya Mahila Kosh has been set up to provide micro-credit to poor women in the informal sector with low transaction cost through the mediation of NGOs, (c) Support services such as working women's hostels, short stay homes, creches, family counselling centres, etc. and (d) Awareness Generation Programmes for Women and dissemination of information regarding their rights.

The Government of India is in the process of amending the Immoral Traffic (Prevention) Act, 1956, with a view to making the laws victim-friendly and, at the same time, making punishment for traffickers more stringent and putting greater criminal culpability on them. The National Law School University, Bangalore, has prepared two sets of drafts of legislation for amending the

existing law. DWCD solicited comments from various governmental and non-governmental agencies. Thereupon, debates and discussions were organised. The government is also considering the need for setting up a Central Nodal Authority under the Act to monitor inter-state and cross-border trafficking issues. Concurrence of the state governments has been solicited on the proposed change in the law to set up such an authority.

The Government of India has approached the task of prevention of trafficking with a dual strategy, viz. awareness generation and economic empowerment of women. The awareness generation has two aspects. One is aimed at sensitising the major stakeholders in the process of combating trafficking and the other is oriented towards sensitising society in general. The major stakeholders who have been identified are government officials of the concerned departments, police, judiciary, social workers, medical officers, women's commissions and mediapersons. Regional sensitisation workshops are being held to convey to them the magnitude and ramifications of trafficking. Special sensitising manuals for the pre-service and in-service training of the police, district-level judiciary, social workers and field medical officers, i.e. people who actually participate in the process of rescue and rehabilitation, are being prepared.

The Government of India launched a scheme for recovery and reintegration of trafficked victims called Swadhar in December 2001. The scheme is meant for women in difficult circumstances, including victims of trafficking. The scheme envisages the provision of food, shelter, clothing, counselling, social and economic rehabilitation through education and skill upgradation, medical and legal support, helplines, etc. NGOs are partners in this holistic effort. The DWCD has also formulated a model grant-in-aid scheme for assistance to NGOs to combat trafficking in source, transit and destination areas through prevention, rescue and rehabilitation. Emphasis is placed on counselling, non-formal education and vocational training.

It is a widely acknowledged fact that metro cities are the major destination points for trafficking for commercial sexual exploitation. Therefore, the government has decided to target all major metros for efforts of rescue and rehabilitation under pilot projects to combat trafficking and commercial sexual exploitation of women and children under a grant-in-aid scheme for innovative projects. The state governments, in partnership with NGOs, would implement the scheme.

Section 13 (4) of the Immoral Traffic (Prevention) Act, 1956, provides that the Central Government may, for the purpose of investigating any offence under this Act or any other law dealing with sexual exploitation of persons and committed in more than one state, appoint Central Trafficking Police Officers, who shall exercise, in relation to the whole of India, all the powers and discharge all the functions as exercisable by special police officers. DWCD issued a notification on 28th August 2001, appointing the officers of and above the rank of Inspector of Police of CBI (Central Bureau of Investigation), as 'Trafficking Police Officers' with powers and functions in relation to the whole of India. This notification empowers the CBI to investigate cases of trafficking.

In order to improve the quality of counselling provided to the rescued women and children, efforts are being made to professionalise the counselling services in India. The Department is in the process of finalising an Annual Action Plan for counselling, in partnership with NIPCCD, CSWB, UNICEF, etc.

DWCD has undertaken regional efforts, in alliance with NGOs, to create greater awareness of the dimensions of trafficking and to increase sensitivity to the victims of trafficking among government departments, police and judiciary as well as within civil society at large. It has organised sensitisation meetings for the police in states adjoining Nepal and Bangladesh, from where there is considerable trafficking.

With the help of National Law School, Bangalore, DWCD is organising sensitisation meetings for the judiciary. The school is also bringing out a manual for the judiciary.

While trafficking within the borders of the country has been a problem for a long time, the incidence of the inter-country trafficking in the SAARC region has assumed larger dimensions in the recent past. The causes for the rise in numbers in inter-country trafficking are partly on account of greater attention and increased reporting. The major factors responsible for this are globalisation, economic disparities between countries, development of modern means of transportation, loosening of family ties, lack of employment opportunities, feminisation of poverty, prevalence of illiteracy, etc. On the other hand, the demand factors like growth of sex tourism, pornography, entertainment industry, changing public attitudes towards sex and morality combined with the myth that sex with a child can cure HIV/AIDS, etc., have provided further impetus for the growth of this phenomenon. In order to address the issue of cross-border trafficking, one of the important steps taken by the government is the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, which was signed at the Kathmandu Summit in January 2002. The process of ratification of this Convention is underway.

A variety of international instruments, which address this problem, already exist. This includes the Convention on Suppression of Trafficking in Persons and the Prostitution of Others, Convention on the Elimination of All forms of Discrimination Against Women, Convention on the Rights of the Child, the Platform for Action of the Fourth World Conference on Women and the Beijing Platform of Action, 1995. The Declaration and Agenda for Action adopted by the World Congress against Commercial Sexual Exploitation of Children held at Stockholm in 1996 focussed the attention of national governments, international media, parliamentarians, NGOs and others to the serious threat to the life of poor women and girls in all the countries of the world. The Government of India has initiated several steps as a follow-up of these conventions and declarations. Five years after the First World Congress at Stockholm, a Second World Congress against Commercial Sexual Exploitation of Children was held at Yokohama, Japan from 17 to 20 December, 2001. Its aim was to review developments as a follow-up process to strengthen the commitment to protect children from sexual exploitation and abuse. The Asian Development Bank (ADB) recently completed its project, in consultation with the Governments of India, Bangladesh and Nepal, to assess the magnitude of the problem and to devise methods to combat trafficking in women and children in South Asia.

The National Commission for Women (NCW) has, since long, been attending to the issues related to trafficking in women and girl children. Several workshops, conferences, training programmes and intervention programmes were carried out at different points of time. It has facilitated several studies, conferences, workshops, discussions and activities relating to advocacy. It commissioned a socio-legal study of trafficking. This report, published in 2001, makes an effort to understand the various issues by holding state-level consultations of various stakeholders. In 2002, the NCW

commissioned two studies on sex tourism and trafficking. In August 2003, the Commission constituted an Experts Committee on 'Women Trafficking'. This committee, headed by the chairperson of NCW, has several experts from the government as well as from non-governmental agencies, who have been working in this field for a long time. Based on the recommendations of the expert committee, NCW will be initiating further steps. On the legal front, NCW has taken several initiatives. In March 2001, specific suggestions were forwarded to the Government of India. This includes 45 recommendations on the changes to be carried out in the existing law, i.e. ITPA.

The Central Social Welfare Board (CSWB) of the Government of India was concerned about the plight of persons subjected to commercial sexual exploitation. Based on the recommendations of a national workshop organised by them on 'Prostitutes and Their Children' on 28th to 29th May 1990, CSWB commissioned a study on 'Prostitutes and Their Children in Six Metropolitan Cities in India'. The recommendations that emerged from the study include the following: (Source: Central Social Welfare Board, New Delhi).

- The law-enforcement mechanism should consider the phenomenon of prostitution as a socio-legal, economic and human problem, and thus, accordingly take steps under the existing legislations and if necessary, the laws may be reframed. In their attempts to enforce the laws, they should not allow themselves to be influenced by vested interests and try to rise above personal considerations, if any.
- Specific legal and administrative steps should be taken to check entrapping of girls/women for prostitution by the procurers and others. These should include strict vigilance, administrative will and a humane approach among the concerned authorities to make effective use of existing laws. Groups of social workers should be authorised to identify victims who want to be removed from the red-light areas. Moreover, those persons who are found to be negligent in the implementation of the laws, etc. should be punished.
- The rehabilitation programme should be formulated initially for those who would like to come out of this 'profession' and these programmes should be integrated and comprehensive in nature. Under these programmes, social and economic rehabilitation should be given priority. This would require organization of multiple activities. Such activities should include: formal and informal education, awareness generation programmes, vocational training courses, facilities for medical care and treatment, housing facilities combined with financial assistance for setting up of production centres, etc. It should also include education for the children of prostitutes.
- The activities should be organised after withdrawing the willing prostitutes from brothels. They should be provided with cottages and village homes, which should be run and administered preferably by non-governmental voluntary agencies. The government should help these organisations in different ways by providing financial assistance.
- Activities should be initiated exclusively for the children of the prostitutes regardless of whether they come out from the brothels or not. These may include; (a) making special provisions in the schools in terms of admission, including provision of scholarship; (b) arrangement of vocational training and other assistance for gainful employment to children; (c) sending some of the children to homes like the SOS villages and establishing more such

homes; (d) setting up coaching centres and condensed courses, (e) provision of medical care and treatment for children, (f) providing recreational centres and libraries to the children.

- A large number of day and night care centres/crèches to be opened for the children of prostitutes, particularly in red-light areas.
- Most of the proforma, including those for the admission of children to schools, have a mandatory column for the father's name. This should be scrapped so that sex workers can admit their children into schools without any difficulty.
- There should be concentration of efforts in prostitution-prone areas, with emphasis on counselling, integrated welfare services, supportive economic activities and proper implementation of laws against those who are involved in bringing girls to red-light areas.
- There are very few state-run Protective Homes in the country. It is essential to increase their numbers. Besides, proper training for the staff of the Protective Homes is essential for better implementation of the rehabilitation programmes.
- Even if the society is unable to accept the victims of commercial sexual exploitation totally, the minimum it can do is to treat these women with compassion, sympathy and understanding. Adoption of this attitude by the society will go a long way in improving the condition of prostitutes.
- Mass awareness-building for attitudinal development with comprehensive rehabilitation programmes and intensification of administrative and legal action along with involvement of selected people, voluntary organisations and mass media, particularly electronic media, can prove very constructive in reducing the evil effects of commercial sexual exploitation as well as contribute to the rehabilitation of the victims.

Based on the recommendations in the report stated above, the CSWB is funding 'Development and Care Centres' for children of victims of CSE at Varanasi and Allahabad (both in U.P.) and at Raisen in M.P. These centres, which are run by NGOs, provide integrated services to these children. The services include education, vocational training, nutrition, health check-ups, play and recreational facilities, etc.

Ministry of Home Affairs: In December 2002, India became a signatory to the UN Convention against Transnational Organised Crime (UNTOC), which includes the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The other two Protocols which the Convention covers are the Protocol against Smuggling of Migrants by Land, Sea and Air, and the Protocol against Illicit Manufacturing and Trafficking in Firearms, their Parts, Components and Ammunition. India has thus joined a distinguished club consisting of 145 countries, both developed and developing, which have signed the Convention. By becoming a participant in the Convention, a global instrument which advocates international and national action against organised crime, the Government of India has given a clear mandate to confront the evils of trafficking of women and children, money laundering, illegal sale of arms and smuggling of migrants. The Ministry of Home Affairs (MHA) considers this to be especially significant since India is not only a point of origin, but also a country of destination and transit for human trafficking, which the government views as a gross violation of human rights.

MHA has been coordinating with the various state governments, state police agencies and NGOs in follow-up actions. Given the seriousness of the trans-border trafficking scenario on the

borders, interface has been organised between the law-enforcement officials, NGOs, etc. at various places. For example, a meeting was held between Indian officials and the appropriate authorities in Nepal on 10th February 2002. A similar meeting was held with the Bangladesh National Women Lawyers' Association, an NGO dealing with trafficking issues, in December 2002.

The Ministry of Social Justice has taken initiatives to prepare a user-friendly system for speedy and effective restoration of missing, abducted/kidnapped and runaway children to their families. The system also assists juveniles in conflict with the law, by helping to locate their families for the purposes of grant of bail and/or long-term rehabilitation of the children. The Ministry is liaising with the National Crime Records Bureau and the police agencies of state governments in developing a national integrated system for dealing with the missing persons. As explained in Chapter 14, there is a direct linkage between missing persons and trafficking. Therefore, a concerted effort to address the issue of missing women and children will be of immense use and help in preventing and combating trafficking. In this context, the initiatives by this Ministry assume significant importance. The Ministry has also implemented a central scheme called 'An Integrated Programme for Street Children', which provides shelter, nutrition, health care, education and recreational facilities to street children and seeks to protect them against abuse and exploitation, including forced beggary.

Ministry of Labour: The plight of child labourers and the elimination of child labour continue to be areas of great concern and articles of faith and commitment for successive governments in India. According to the 1981 census, the estimated figure of working children was 13.6 million. The number came down to 11.28 million in 1991. As per the NSSO figures for 2000, the number further reduced to 10.40 million. The Government of India announced the National Policy on Child Labour in August 1987. The action plan under the National Child Labour Policy comprises:

- A legislative action plan,
- Focussing of general development programmes for benefiting children wherever possible, and
- Project-based action plans in areas of high concentration of child labour engaged in wage/quasi-wage employment.

The policy of the government is to ban employment of children below the age of 14 years in factories, mines and hazardous jobs and to regulate the working conditions of children in other forms of employment. The Child Labour (Prohibition & Regulation) Act, 1986 seeks to achieve this basic objective. It prohibits employment of children in 13 occupations and 57 processes. The Act also regulates the working conditions of children in all other kinds of employment, which are not prohibited under the said Act. Section 14 of the Act provides for penalties for contravention of the various provisions under the Act. Any person who employs a child in contravention of the provisions of Section 3 of the Act shall be punishable with imprisonment and fine. Any subsequent offence will invite grave punishment and fine.

National Child Labour Projects (NCLPs) have been set up in different areas to rehabilitate child labour. Under the scheme, Project Societies are set up at the district level under the Chairpersonship of the Collector / District Magistrate for overseeing implementation of the project. The major activity undertaken under the NCLP is the establishment of special schools to provide non-formal/formal education, vocational training, stipends, health check-ups, supplementary nutrition,

etc. to children withdrawn from employment. As of October 2003, 100 child labour projects have been sanctioned in 13 child labour endemic states under the National Child Labour Project (NCLP) scheme for covering 2.11 lakh children. The government has sanctioned 4022 schools for coverage of 2.11 lakh children in the 100 NCLPs and 1.87 lakh children have been mainstreamed into the formal education system, in all the NCLPs. The budgetary allocation for the Ninth Five Year Plan was Rs.249.60 crores. It has been substantially stepped up during the Tenth Plan to Rs.667.50 crores. The issue of child labour has also been given importance in the National Agenda for Governance, 1998, which states, "Measures will be taken to eliminate child labour".

Child labour is a complex socio-economic problem, to be dealt with through sustained efforts over a period of time. The government is committed to the goal of eradication of child labour in all its forms. Considering the nature and magnitude of the problem, a gradual and sequential approach has been adopted to withdraw and rehabilitate child labour, beginning with children working in hazardous occupations and processes.

The strategy of the Government of India for the tenth Five Year Plan has the following features:

- The target is to eliminate child labour from hazardous occupations and processes by the end of the plan through a determined and focussed effort and progressively move towards complete elimination of child labour from other occupations.
- The NCLP scheme would be expanded to cover 250 child labour endemic districts.
- A detailed survey would be carried out to assess the number of working children in the district, including children working in hazardous occupations and children working for a wage. The survey would also collect relevant information on families of working children to enable the benefit of other social sector schemes to be made available to them.
- The task of elimination of child labour would be placed on the top of the nation's agenda and given a 'mission mode'. The activities of all concerned ministries/departments have to be geared towards attainment of this common objective.
- Poverty and illiteracy have been identified as major factors compelling parents to send their children to work. Lack of awareness and educational opportunities and ineffective enforcement of child labour related laws contribute to the existence and acceptance of this social evil. Improvement in the living and working conditions of parents and overall improvement in economic conditions is considered crucial to the elimination of child labour.
- The efforts to eliminate child labour would be synergised and converged with the Scheme of Sarva Shiksha Abhiyan being implemented by the Ministry of Human Resource Development.
- Similarly, convergence with the anti-poverty programmes of the Department of Rural Development at the district level, to ensure that income-generation activities are provided to the parents of the children who are working as child labour, will form a very important and effective mechanism in the strategy to eliminate child labour.
- The government has approved the continuance of the NCLP scheme in 100 districts where it is being implemented at present. The government has also approved sanctioning of an additional 50 NCLP schemes in the Child Labour endemic districts and 100 more NCLPs in other Child Labour endemic districts, based on the incidence of child labour in accordance with the 2001 census.

The National Human Rights Commission

The NHRC is fully committed to the cause of anti-trafficking. Several landmark initiatives have been made in this direction. As a follow-up of a recommendation made by the Asia Pacific Forum of National Human Rights Institutions in its meeting held in Manila in September 1999, and as per the request of the United Nations High Commissioner for Human Rights, a Focal Point on the Human Rights of Women, Including Matters Related to Trafficking, has been set up in the Commission with Justice (Mrs.) Sujata V. Manohar, Member of the Commission, as the Focal Point. The NHRC has taken a multi-dimensional approach to the problem of trafficking with emphasis on the following aspects:

Coordination and Cooperation

- Review the existing commitments made at the international and regional levels to prevent and to eliminate trafficking and violence against women and suggest steps for their implementation.
- Promote better cooperation between countries and international organisations, and other catalysts which have a key role in preventing and eliminating trafficking and violence against women, including UNIFEM, UNICEF, the UN Centre for Human Rights, the UN Commission on Human Rights, ILO, UNESCO, UNDP, WHO, UNAIDS, INTERPOL, UN Crime Prevention and Criminal Justice Division, UNFPA, the World Tourism Organisation, the UN High Commissioner for Human Rights and the UN Special Rapporteur on Violence Against Women.
- Review/develop and strengthen comprehensive, cross-sectoral and integrated strategies and measures so that there are national and local-level agenda(s) for action and indicators of progress, with set goals and time frame for implementation, targeted at preventing and eliminating trafficking and violence against women.
- Network with civil society organisations in the prevention and elimination of trafficking and violence against women.

On Prevention

- Review and amend relevant laws to prevent trafficking and violence against women.
- Strengthen national, social and economic policies and programmes to safeguard women vulnerable to trafficking and violence.
- Develop special modules of sensitisation for personnel manning homes for women, police officials, border police officials, health personnel and NGOs to prevent and combat trafficking and violence against women.
- Initiate gender-sensitive public information campaigns to raise awareness about the nature and degree of human rights abuses experienced by women who are trafficked and subjected to violence.
- Mobilise the corporate sector, including the tourism industry, against the use of its networks and establishments for trafficking in women.
- Sponsor studies to create a reliable and relevant database on women vulnerable to trafficking and violence, their exploiters etc.

On Protection

- Review, amend, strengthen and monitor implementation of laws, policies and programmes to protect the rights of trafficked women as well as those being subjected to violence of different kinds, bearing in mind that the different types of perpetrators and ages and circumstances of victims require different legal and programmatic responses. In the case of trafficking of women, the Focal Point would ensure that the trafficked women have the right to initiate relevant administrative and legal proceedings against traffickers as well as obtain redressal for all harms they have suffered and that they have full access to women-friendly personnel and support services in all sectors, more particularly in the legal, social and health fields.
- In the case of trafficking of women, ensure that certain procedural protections are guaranteed before, during, and after any legal proceedings involving the trafficked women. These protections could include, for example, maintaining the confidentiality of legal proceedings, encouraging prosecutors to consult with experts on trafficking, informing trafficked women of the progress and disposition of any proceedings against the alleged traffickers, and allowing trafficked women the opportunity to testify by special means where live testimony may cause harm, whether physical or psychological, to the trafficked person.
- Identify, establish and strengthen networks between national and international law-enforcement authorities, including INTERPOL, and civil society to monitor the commercial sexual exploitation of women.

On Repatriation and Reintegration

- Taking effective action to ensure safe and voluntary return of trafficked women to their homes/communities.
- Suggesting measures/programmes to facilitate voluntary repatriation of trafficked women into their chosen communities.
- Providing support to non-governmental organisations that have developed programmes to assist the safe repatriation and reintegration of trafficked women.
- Suggesting provision of education, skills training and employment assistance to trafficked women in order to prevent re-trafficking.
- Suggesting suitable measures for recovery of women subjected to violence, including sexual harassment at the workplace.

Campaign of Public Awareness on the issue of Child Prostitution and Sexual Abuse of Children: During 1998, the NHRC, with the help of UNICEF and other organisations, carried out a campaign of public awareness on the issue of Child Prostitution and Sexual Abuse of Children. Subsequently, the Commission held four workshops in partnership with Prasar Bharati and UNICEF on Sexual Violence Against Children and the Role of the Media. As an outcome of these workshops the National Human Rights Commission released guidelines for the media to address the issue of child sexual abuse. A detailed guidebook on the subject is under preparation.

Information Kit on Trafficking: In order to inform the society about the various aspects of trafficking – its forms, the estimates, the causes, the consequences, the *modus operandi* and the role of the Commission, an Information Kit on Trafficking in Women and Children was prepared by the Focal

Point set up in the Commission. This Kit was released to the public by the Chairperson of the Commission on 9th October, 2001.

Action Research on Trafficking in Women and Children: Among the activities initiated by the NHRC is the Action Research on Trafficking in Women and Children in India, which is being conducted jointly by the NHRC, UNIFEM and the Institute of Social Sciences, New Delhi. The services of a senior officer from the Indian Police Service have been requisitioned by the Commission, as its Nodal Officer, for the research on trafficking. The research involves cooperation of State agencies, social scientists, the police, non-governmental organisations and victims. Through the action research, the NHRC endeavours to create an authentic database so as to strengthen the vulnerable groups in the supply zones both economically and socially. In the process, it also proposes to sensitise the public and law-enforcement agencies to the grave dangers inherent in trafficking and the need for its prevention. Moreover, the Commission also hopes to strengthen laws and law-enforcement processes to punish traffickers and revamp rescue and rehabilitation programmes. It also intends to help NGOs to take advantage of the National Plan of Action of the Government of India for this purpose.

Steps for Prevention of Cross-Border Trafficking: An NGO in Gorakhpur, Manav Seva Sansthan “SEVA”, engaged in the prevention of cross-border trafficking of women and children along the Indo-Nepal border, has, with the help of NHRC, successfully set up Rights Awareness Cells at three places near the Indo-Nepal open border to make migrants aware of their rights and, in the process, prevent trafficking. The Director Generals of Police of Uttar Pradesh, Bihar and West Bengal have been instructed to extend help and cooperation to the concerned NGO in prevention of trans-border trafficking of women and children.

Joint Project for Combating Cross-Border Trafficking by NHRC, India and NHRC, Nepal: The National Human Rights Commission is negotiating a project with the Human Rights Commission of Nepal to check cross-border trafficking and envisages taking all necessary steps for this purpose. In this context, NHRC of India and NHRC of Nepal have had two preliminary meetings at New Delhi in November 2002 and June 2003 and one meeting at Kathmandu in September 2003. At present, a draft MOU on Cross-Border Trafficking between the two commissions is under preparation.

Seventh Annual Meeting of the Asia-Pacific Forum of National Human Rights Institutions: The Advisory Council of Jurists of the Asia-Pacific Forum of National Human Rights Institutions that met in New Delhi on the 11th and 12th of November 2002, at its seventh Annual Meeting, deliberated on the role of National Human Rights Institutions in the prevention of trafficking in women and children, and also submitted its final report. NHRC is also negotiating with the APF to set up a network of Focal Points on Trafficking in the Human Rights Institutions in the Asia-Pacific region.

Sensitisation Programme on Prevention of Sex Tourism and Trafficking: In order to spread awareness on prevention of sex tourism and trafficking, the NHRC, in collaboration with UNIFEM and the Women’s Institute for Social Education, Mumbai, organised a one-day Sensitisation Programme on Prevention of Sex Tourism and Trafficking on 12th January, 2003 at the Taj Hotel, Mumbai. The main objective of the programme was to sensitise senior representatives of the hotel and tourism industry on various issues relating to sex tourism and trafficking.

Manual for the Judiciary: A manual on Trafficking in Women and Children is currently being prepared for the judiciary under the joint aegis of the NHRC and DWCD. For this purpose, 10 workshops have been conducted with Judicial Magistrates and representatives of NGOs in Karnataka, Andhra Pradesh, Goa, Madhya Pradesh, West Bengal, Orissa, Tamil Nadu, Maharashtra, Rajasthan and NCT of Delhi. As of October 2003, the draft chapters of the manual are under preparation.

Training Module on Trafficking Issues: NHRC proposes to develop a training module on trafficking issues for incorporation in training programmes for administrators, police personnel and other functionaries. As a part of the ongoing Action Research, the Nodal Officer of NHRC on trafficking has already carried out several training programmes on counter-trafficking in the different police training academies and other police training programmes in India.

Manual for District Magistrates: The Commission is in the process of making a manual for training District Magistrates on these issues, including trafficking in women and children.

The State Governments

All state governments were requested to forward a copy of the notification relating to special police officers and advisory body under Section 13 of ITPA and also any other government orders, circulars, etc. issued by them and the details of any other initiative undertaken by them. Despite best efforts and repeated requests, replies have not been received from some state governments. Therefore, only the data which has been received could be compiled, which presents the following scenario:

Special police officer to deal with offences of trafficking: According to Section 13 (1) of the Immoral Traffic Prevention Act, there shall be for each area to be specified by the state government in this behalf, a Special Police Officer (SPO) appointed by or on behalf of the state government. The SPO shall not be below the rank of an Inspector of Police. The section authorises the District Magistrate to confer upon a retired police or military officer the powers of SPO. The Act also says that the SPO shall be assisted by subordinate police officers, including women police officers, wherever practicable.

- (a) States/Union Territories which have intimated that they have issued the notifications: Andhra Pradesh, Assam, Chandigarh, Chhattisgarh, Delhi, Goa, Haryana, Himachal Pradesh, Madhya Pradesh, Manipur, Meghalaya, Orissa, Pondicherry, Sikkim, Tamil Nadu, Uttar Pradesh and West Bengal.
- (b) States which have intimated that they are yet to notify SPOs: Arunachal Pradesh, Gujarat, Mizoram, Punjab and Tripura
- (c) No response has been received from the other state governments and, therefore, the position could not be ascertained.

Advisory Body: As per the provisions of Section 13(3) (b) of ITPA, the state government may associate with the special police officer a non-official advisory body consisting of not more than five leading social welfare workers of that area (including women social welfare workers wherever practicable) to advise him on questions of general importance regarding the working of this Act. As per the information received from the state governments and Union Territories, the position with respect to the advisory body is as follows:

- (a) The states/U.Ts where notification has already been issued: Andhra Pradesh, Assam, Chandigarh, Haryana, Manipur, Punjab and West Bengal.
- (b) States/U.Ts where notification has not yet been issued: Arunachal Pradesh, Bihar, Goa, Gujarat, Mizoram, Pondicherry, Sikkim, Tamil Nadu and Tripura.
- (c) No response has been received from other states and, therefore, it is not known as to whether notifications have been issued by them.

State rules under ITPA: Since the state governments had earlier issued state rules under the Suppression of Immoral Traffic Act, 1956 (SITA), they were requested to forward a copy of the rules issued afresh under the ITPA after the amendment to the earlier Act in 1986. Based on the responses received from the states, the position stands as below:

- (a) State rules under ITPA issued: Uttar Pradesh issued the rules in 1993. Karnataka has notified the new rules in its Gazette dated 31.1.1991.
- (b) State rules under ITPA not issued: Meghalaya, Himachal Pradesh, Orissa, West Bengal, Pondicherry, Tamil Nadu, Madhya Pradesh, Goa
- (c) From the other states, no response has been received and therefore, it is not known whether they have issued amended rules under ITPA or not.

Other initiatives: As per the information received from the states/U.Ts, they have taken many initiatives as stated below:

In Chandigarh, the Advisory Body includes women members and sarpanches of villages, who have been notified for a period of two years. In Chhattisgarh, the Sub-Divisional Police Officer of the area/City SP of the area in six districts has been notified as Special Police Officer.

In Delhi, a general notification has empowered all Sub-Divisional Police Officers, all Assistant Commissioners of Police of Crime Branch and all Station House Officers as SPOs. The Commissioner of Police has issued a police standing order which lists out duties of the police under the Juvenile Justice Act. The Police Headquarters has moved the Government of NCT Delhi for notification of the Advisory Body.

The Government of Goa has taken a landmark initiative in addressing the issue of trafficking through the Goa Children's Act 2003, notified on 14th July 2003. For the first time in the history of the country, the word 'trafficking' has been given a legal definition in this Act, though it is with specific reference to 'child trafficking'. Moreover, this Act takes into consideration, trafficking of both male and female children for any type of exploitation. A detailed discussion on the Act may be seen in case study No. CS-GA-10. In Goa, the government has constituted an advisory committee consisting of government officials and representatives of non-governmental organisations. A short stay home and juvenile home have also been set up.

In Gujarat, though notifications are not specifically issued, the officers of the rank of Dy.SP and above carry out the raids under ITPA. In Gujarat, a state advisory committee was constituted on 10.4.1992. Four Homes for women, seven Reception Centres for women and nine NGOs have been recognised as protective homes under ITPA.

In Haryana also, the SPO notification is a general one, empowering all officers of the rank of the Inspectors of Police. In Haryana, a state advisory/coordination committee was constituted

on 19.4.1994 by both official and non-official members for a term of three years. A state-level advisory board, juvenile justice fund, juvenile courts, juvenile welfare board, etc. have been set up. A state After Care Home for boys is located at Sonapat. An NGO, 'CORE', is involved in the setting up of a shelter home. A rescue and rehabilitation package for trafficked girls in Mewat has been sanctioned to CORE.

In Himachal Pradesh, the Inspectors of Police, Sub-Divisional Police Officers and Additional Superintendent of Police, have been notified. In Manipur, all Superintendents of Police have been notified. There is one advisory body in each district of Manipur, with the Superintendent of Police as Chairman and five leading social welfare workers, including women, as members. The Superintendents of Police have been given the freedom to nominate appropriate NGOs in the Advisory Body.

In Meghalaya, 22 Inspectors have been notified area-wise. The Inspector, CID has been given jurisdiction throughout the state. The state advisory committee was constituted on 6.5.1994 and includes social workers and NGOs. A coordination committee has also been set up. The government has facilitated awareness generation camps by NGOs, setting up children's home by NGOs and other activities.

In Orissa, a general notification has been issued, authorising all Inspectors and higher officials to function as SPOs. In Orissa, a state-level coordination committee has been constituted to combat trafficking, with the Chief Secretary as Chairperson. Awareness campaigns have been taken up through the State Commission for Women, state Social Welfare Advisory Board, state AIDS Cell and some NGOs in the state. The state government of Orissa has set up 27 short stay homes, four juvenile homes, 15 observation homes and one protective home. These institutions take care of the persons rescued from the trap of commercial sexual exploitation.

In Pondicherry, SPOs have been appointed for different regions, with the Superintendent of Police of CID having power throughout the state. The Pondicherry government has taken several measures for the economic empowerment of women as well as for rescue and rehabilitation of trafficked victims. The services of the National Institute of Social Defence and the Aambagan Institute, which are run by the Voluntary Organisation of Social Health in India, are being utilised for rescue and rehabilitation.

In Punjab, as per the available report, though an advisory body has been constituted, appointment of SPOs is under consideration. A state-level coordination committee to combat trafficking was set up on 3.5.2001, with the Chief Secretary as the Chairperson. One protective home is functioning at Jalandhar and two juvenile homes have also been set up.

In Sikkim, Sub-Divisional Police Officers have been notified as SPOs. The state has constituted a coordination committee, which functions under the chairmanship of the Chief Secretary.

In Tamil Nadu, a general notification has been issued, authorising all Inspectors of Police as SPOs. One important feature is that the Anti-Vice Squad, specially constituted by the Director General of Police, has been duly ratified by the state government as an exclusive wing to investigate into trafficking cases. The squad has busted several trafficking and commercial sexual exploitation rackets, including those functioning under the cover of so-called 'Friendship Clubs'. They have also initiated stringent action against traffickers and brokers. A state-level coordination committee,

headed by the Chief Secretary, meets once in three months. District advisory committees, with the District Collector as Chairman and the Superintendent of Police as Vice-Chairman, with members from the Departments of Medicine, Social Defence, Social Welfare and representatives of NGOs, have been notified. They meet once in three months. Village-Level Watchdog Committees have also been constituted, in which the village panchayat president is the Chairman and the village Administrative Officer is the Convenor. This committee includes NGOs who are active in the village/area and a member of the Self-Help Group active in the village. Women helplines have been started in the All Women Police Stations to help women in distress and help booths have also been started by the Railway Police throughout the state. The government has created the Tamil Nadu Social Defence Welfare Fund for Women and Children for the rehabilitation of victims of 'moral exploitation' and children who are in vulnerable situations. The Police Department has done a comprehensive mapping of trafficking in terms of source, transit and destination points covering the entire state. All the District Superintendents of Police/Commissioner of Police have been designated as Nodal Officers for the purpose of prevention of trafficking and combating commercial sexual exploitation of women and children. The Department of Social Defence has organised sensitisation programmes for police officials, NGOs and government functionaries of the concerned departments on the Juvenile Justice System and trafficking. Moreover, all the women police officials in the state have been provided Basic Counselling Courses. The state government is running protective homes/vigilance homes and after care organisations in Chennai, Salem, Coimbatore, Trichy, Madurai and Vellore to provide shelter, counselling and vocational training to the victims. The government has also been running a Crisis Intervention Centre through the Indian Council for Child Welfare (I.C.C.W.), Chennai, for prevention of child abuse and neglect. Besides, a half way home to provide shelter and vocational training for girl children and women living in vulnerable situations is functioning in Ullundurpet. An After Care Organisation is being run in Vellore for the discharged inmates of children homes who need further rehabilitation. The government is also running eight service homes (two through NGOs) to provide protection to widows and destitutes. The Tamil Nadu Social Welfare Board is running 30 short stay homes through NGOs in different parts of the state for girls and women in the age group of 15 to 45 who are in 'moral danger' or abandoned by their families. The Board is also running 37 family counselling centres throughout Tamil Nadu through NGOs. Realising that ensuring the overall protection and development of women and children makes them less vulnerable to trafficking, the state government has announced the Chief Minister's 18-point programme with the broad objective of improving their status in general.

In Uttar Pradesh, the Assistant Superintendent of Police and the Deputy Superintendent of Police have been notified as SPOs. A state-level coordination committee functions under the chairmanship of the Commissioner of the Social Welfare Department. Regional and district-level coordination committees have been constituted under the chairpersonship of the Divisional Commissioner and District Magistrate respectively.

In West Bengal, a general notification has authorised all officers not below the rank of Inspector of Police under West Bengal Police and Kolkata Police to act as SPOs in their jurisdiction. The advisory body under ITPA includes NGOs also. The state advisory committee was constituted in 1994. District-level committees have also been constituted in West Bengal with the District Magistrate as Chairperson, District Social Welfare Officer as Convenor and ten other members.

The District Magistrate has been vested with the authority to co-opt three more representatives to represent any other interest relating to the subject. The West Bengal Milk Federation Cooperative Society has launched income-generating programmes under the STEPS scheme in the border districts of Murshidabad and Nadia, to prevent migration of destitute women from these areas. The rescue victims staying in short stay homes run by NGOs are provided with education, health counselling, vocational training, guidance, etc. Two homes, one at Kolkata and another at East Baganda, Hooghly are functioning exclusively for HIV-infected victims of CSE. Formal and informal education is being given to victim women in short stay homes. The Women Development Undertaking has also initiated programmes like computer courses for victims of CSE. Twenty juvenile homes are functioning under the JJ Act. NGOs like Durbar Mahila Samanvaya Samiti, JABALA and Sanlaap are working with government agencies and helping in the rehabilitation of women victims.

The Andhra Pradesh government has brought out a specific policy for combating trafficking of women and children for commercial sexual exploitation, on 31.1.2003. Specific steps were laid down for prevention, rescue, legal reforms, rehabilitation, economic empowerment, health care, education and anti-trafficking measures. In April 2003, an Anti-Trafficking Campaign was launched throughout the state by the Department of Women Development and Child Welfare, (WD&CD), Government of Andhra Pradesh. The campaign, which was carried out at the district level, was organised under the leadership of district collectors, with the active involvement of local elected representatives, educational institutions, NGOs, local bodies, self-help groups and adolescent girls. The campaign was marked by rallies and sensitisation workshops and was successful in mobilising public opinion against trafficking and creating awareness about the need for economic empowerment and rehabilitation of victims. Adolescent girls were sensitised and provided information about who should be contacted in times of need. On 21.04.2003, a rally with more than 1000 adolescent girls was organised at Hyderabad by the WD&CW Department. The rally was followed by a meeting, which was addressed by Ministers as well as other leading public dignitaries. A film titled "Daughters of Darkness" was screened and posters captioned "SAY NO TO TRAFFICKING" were released on the occasion. Rallies at District Headquarters were organised on 23.04.2003, led by District Collectors and Superintendents of Police, and to which MLAs and public representatives lent their open support. The Andhra Pradesh government has initiated the process for setting up a "SWADHAR" shelter home at Hyderabad and has allocated land free of cost besides state share for construction of the building. The Government of India has sanctioned the required funds. On the directions of the Goa Branch of the Bombay High Court to rehabilitate 1066 victims of CSE who were rescued from the Baina Beach red-light area and who originally belong to Andhra Pradesh, the WD&CW Department has initiated steps to set up "Temporary Shelter Homes" in the six regions of the state. CARD, a local NGO, has been given funds for the rehabilitation of 25 rescued trafficked victims. On 13.11.2003, the State Level Coordination Committee took several major decisions to facilitate the rehabilitation of rescued victims. Several girls who were rescued from brothels in Delhi have been rehabilitated. The District Collector of Guntur sanctioned five lakh rupees from the General Revenue Fund for the rehabilitation of children of victims of CSE. In February 2004, the Government of Andhra Pradesh informed the High Court of Delhi about its willingness to provide video conferencing facilities for the trial of traffickers who had trafficked girls from Andhra Pradesh to Delhi. As a result, these victims, who have since been rehabilitated in Andhra Pradesh, need not come to Delhi courts for giving evidence. This is a landmark initiative in the best interests of the

rescued victims. The government has also constituted a relief fund for providing relief to the victims. Special rehabilitation measures have been initiated for *Devadasis*, which includes a package of economic support. The government initiatives towards developing an effective working partnership between governmental systems and the NGOs have resulted in a remarkable improvement in the counter-trafficking scenario.

In Assam, a state-level body has been constituted by the Social Welfare Department for coordinating and overseeing the implementation of the programmes and measures. The members of this body include university professors.

In Bihar, the government has established Women Helpline Centres at Patna and Siwan. Four short stay homes are running in the high supply areas. The government has issued directions to give preference to women and child victims of CSE under various developmental schemes. A State Action Plan for three years has been formulated for the welfare and rehabilitation of trafficked women and children.

In Karnataka, the State Advisory Committee was activated in 1993. A *Devadasi* Rehabilitation Scheme has been set up, and self-help groups of *Devadasis* have also been formed. Residential schools to admit children of *Devadasis* and also other children have been set up in districts where the *Devadasi* system was prevalent. The special rehabilitation package includes vocational training as well as social and moral education. NGOs like ODANADI Seva Samithi have been extended facilities for their anti-trafficking activities.

In Madhya Pradesh, a state advisory board is in existence. The JABALI scheme, which was started in 1992-93, involved NGOs and is focussed on the welfare and development of women and child victims of CSE.

In Maharashtra, the State Advisory Committee was constituted in 1996. In pursuance of the directions of the High Court of Mumbai in a writ petition, the state government took further steps for the rescue and rehabilitation of several girls. In the year 1996, 448 girls were rescued from the red-light area of Mumbai. In 2001, the government set up an Advisory Body to tackle the issue of minors in commercial sexual exploitation. This body came out with a list of recommendations and the government has initiated further steps towards implementing them. The juvenile home at Deonar provides counselling, vocational training and health care facilities. The government has facilitated the setting up of juvenile homes by NGOs and others in Maharashtra. In furtherance of the findings of a study group appointed to identify *Devadasis* in affected areas, the *Devadasis* have been identified. Moreover, arrangements have been made for the economic empowerment and rehabilitation of *Devadasis* and their children. Through Zilla Parishads and other field functionaries, the Maharashtra government has initiated rehabilitation programmes and schemes for sexually exploited women. A district-level committee has been set up under the chairmanship of the District Collector for the protection of the rights of women and their empowerment. Exploited victims are treated at par with economically weaker sections under the Lok Awaz Yojana and other regular schemes. The Maharashtra State Social Advisory Board (MSSAB) is running 51 family counselling centres for the victims of sexual exploitation. Health care services have been specially provided through the Targeted Intervention Project in specific areas for the comprehensive health care of victims of CSE and their children. Family health care campaigns and awareness campaigns on

health issues are organised. The state government has set up 148 juvenile homes run by the government/NGOs, including a special home for the mentally challenged as well as rescued girls. Under the Rural Shelter Scheme, preference is given to the victims of sexual exploitation. With the help of NGOs, vocational training and rehabilitation programmes have been initiated. A task force has been constituted under the chairmanship of the Additional Chief Secretary, Home Department. A monitoring committee under the chairmanship of a retired judge has been set up to monitor the work of children's homes. The State Women's Commission has also taken up several programmes and projects to address various issues related to the trafficking of women and girl children.

In Mizoram, NGOs, particularly women's welfare organisations, are involved in assisting the government machinery. Vocational training is being imparted in the protective homes.

In Nagaland, an awareness-generation campaign against social evils has been carried out through different media channels, involving medical departments, schools, NGOs and churches.

In conclusion, it can be stated that the Union Government and the state governments have taken several initiatives to address the various issues related to the trafficking of women and children. The Plan of Action by the Union Government and their monitoring of the implementation of the programmes in the states have made a notable impact in addressing several aspects of prevention, protection and prosecution. However, the focus has been mostly in the field of rescue and rehabilitation. Several excellent initiatives by certain officials and agencies have not gathered the momentum that was envisaged.

The partnership between law-enforcement agencies and NGOs has been more ad-hocist and individual-centric. Similarly, the linkage between law-enforcement agencies and welfare agencies has more often been a matter of coincidence rather than design. This non-institutionalisation of the partnership between law-enforcement agencies, welfare agencies and civil society is a serious handicap in the proper delivery of justice to the trafficked victims. Prevention of trafficking has been given less attention and priority. This, coupled with distortions in law-enforcement in many places, has exacerbated the exploitation and the harm done to the trafficked persons.

Considering the inter-state and international ramifications of the organised crime of trafficking, effective law-enforcement calls for in-depth investigation by sensitive investigators, who may have to investigate beyond the state and, at times, even beyond national borders. The fact is that investigations have often been confined to the 'demand site' and the 'visible' face of exploitation, viz. the brothel, thereby leaving behind a large trail of unearthed stories of exploitation, that characterise the various steps and processes of trafficking. Even at the demand site, it is often the victim survivor who has been accused and convicted. One class of exploiters is often given a decent nomenclature as 'customers', and is seldom brought to book. They, along with other conspirators and abettors in the organised crime, have managed to escape the law and continue to carry on, abet or facilitate trafficking with impunity. Though there has been a marked improvement in the scenario in recent times, especially in certain places like Delhi, Mumbai, etc., where traffickers have been convicted and survivors have been rehabilitated, the overall situation is yet to show signs of tangible improvement. The lack of communication and networking between the government and the non-governmental sector as well as within the governmental sector has been a serious

handicap in the delivery of justice. Sensitisation of the officials and ensuring their accountability, while simultaneously providing them with adequate infrastructure, human resources, technical expertise, skills and knowledge support-base, can make the desired changes in the response scenario. Institutionalised mechanisms for a Joint Task Force, involving the police and NGOs working in the field of trans-border trafficking, are absolutely essential. A national nodal agency, which can network with the Nodal Officers in the states and facilitate all counter-trafficking activities, is another crucial requirement for addressing the missing links in the response scenario. This national nodal Agency can bridge the communication gap among various agencies, as well as integrate and reorient the existing policies, programmes and activities into a comprehensive, effective and workable system.

Considering the gender and age dimensions involved in trafficking, the picture which emerges is one of continued abuse of children and women, especially girl children. There is a clear undercurrent of gender discrimination and consequent exploitation. This can be addressed only if the issue of gender is integrated with schemes, programmes and policies in all the relevant sectors. Counter-trafficking measures, especially those relating to prevention and rehabilitation, should be integrated with the policies and programmes of all the related departments. Only such a holistic approach can, in the long run, provide the required empowerment to women and children, especially those in vulnerable circumstances, and equip them with safe livelihood options, rights awareness and guarantee against exploitation.



Community response to trafficking

Introduction

The issue of trafficking in women and children, whether for commercial sexual exploitation or exploitative labour and servitude, has been brought to the forefront by the initiatives of social activists like Vishal Jeet, Gaurav Jain and others. The public interest litigations they filed in the Supreme Court, the deliberations in the Supreme Court of India and consequent directives of the Apex Court have been instrumental in radically transforming the anti-trafficking scenario. The role of such social/human rights activists, public-spirited persons, non-governmental organisations (NGOs), community-based organisations (CBOs), international agencies, mediapersons and other wings of civil society, including families, has been studied in this chapter. An attempt has been made to list out some of the important initiatives taken by them.

Trafficking is a human rights issue as well as a social issue because it affects not only the rights and dignity of the individuals concerned, but also has a direct bearing on the community and society at large. The fact that exploitation and violations of rights commence before trafficking and continue during and after trafficking is clearly revealed in the data collected from the victims and survivors. The research has also shown how trafficking causes serious social problems. It traumatises deprived sections of society, leaving them to live with the stigma, indignity and contempt. On the other hand, certain sections of society capitalise on their vulnerability and exploit them in ways that are both illegal and morally reprehensible. It is in this context that these issues assume significance and meaning for the community at large. Trafficking can in no way be considered as just a criminal issue or a law and order problem. It is primarily a matter of the protection of human rights, especially those of women and children. Prevention of trafficking cannot be successful without the involvement of the community.

This is not the first time in India that voluntary agencies have taken the initiative in the social sector. Even before independence, renowned social activists and philanthropists, of both Indian and foreign origin, created history through their efforts in the spheres of public mobilisation and social development. Several NGOs have espoused the cause of the downtrodden and vulnerable sections of society, taking up cudgels with those in power and authority in order to gain justice for the victims. They have been instrumental in establishing a social forum within the country, in nurturing the spirit of human rights and inculcating a human rights approach and orientation in all walks of life.

Section 13(3)(b) of ITPA provides for an advisory body of NGOs in the enforcement of this social legislation. The Constitution of India has an express provision under Article 23, which prohibits the trafficking of human beings for all types of exploitation.

The SAARC Convention, which focused on trafficking for commercial sexual exploitation, also suggests a larger involvement of civil society in taking up preventive measures. The UN Trafficking Protocol envisages a major role and responsibility for the community in countering trafficking.

This action-oriented research on trafficking in women and children has seen the active involvement of several NGOs as research partners. During the research process, many action programmes were initiated by these NGOs. Moreover, these action programmes have also seen the involvement of several other stakeholders from the community. Therefore, the research and action programmes have found mutual cause-and-effect linkage. In this context, the researchers have come across commendable initiatives across the country on various aspects of anti-trafficking. Since it is impossible to enumerate all of them, a few significant ones, which could be collated, are listed below.¹

Community response on prevention

Of all anti-trafficking activities, prevention has the greatest scope for community intervention. A few examples are cited below:

- The **Bhoruka** case study (see case study No. CS-BH-12) demonstrates how NGO intervention was able to stimulate large-scale public awareness, much to the detriment of the traffickers, who until then were running rampant in the area — leading to a state of zero trafficking.
- **Prerana**, a Mumbai-based NGO, is involved in several activities aimed at combating and preventing trafficking. The organisation has played an active role in anti-trafficking activities not only in Maharashtra, but also at the national and international levels. Prerana has provided shelter homes for children, including victims of trafficking, living in brothels. By educating them, making them aware of their rights and empowering them with livelihood options, skills and resources, Prerana has achieved considerable success in tackling the problem.
- In Nepal, the NGO, **CeLRRd**, has initiated the ‘community surveillance system’ and ‘alternative lawyering’, which have shown excellent results in preventing trafficking from Nepal to India (see case study No. CS-NP-02).
- Similar activities of Indian NGOs like the **Bachpan Bachao Andolan** and **Bandhua Mukti Morcha**, as well as agencies like **CACL** (Campaign Against Child Labour) have made a significant impact on prevention of trafficking of children for labour and servitude.
- In the SEVA Model initiative, the Intervention Programme, through its ‘rights awareness’ campaigns in the border areas and public awareness campaigns by barefoot workers of the **Manav Seva Sansthan**, has had considerable success in the area of prevention, especially of trans-border trafficking from Nepal. The achievements of the Intervention Centre have been discussed in the case study titled, ‘the Sanauli Experiment’ (see case study No. CS-UP-01).
- **CACT** (Campaign Against Child Trafficking) has been networking in different parts of India. Their initiative has achieved tangible results across the country, especially in the sphere of raising awareness against child trafficking. Awareness building is the first and most important step towards the prevention of trafficking.

¹ This is not an evaluation of the work done by NGOs but is a reflection of their activities, based on the report and data collected during research.

- The **Stree Adhar Kendra** is a Pune-based NGO with a powerful networking programme that brings together the community, police and other agencies in a collaborative effort to establish zero violence zones. The Kendra's programmes include community participation through the creation of neighbourhood watch groups in partnership with the police, provision of counselling centres and other services.
- **Save our Sisters (SOS)** has launched an information campaign in Maharashtra and other places, on various facets of trafficking. The training programmes, which they organise for hoteliers and the tour operators, have established a channel of communication between the social activists and tourism professionals on matters relating to the prevention of sex tourism.
- **Action Aid India** has initiated several programmes at several places in India for addressing the vulnerabilities in women and children, which could have resulted in their trafficking. The proactive steps have paid good dividends
- **PRIs** in anti trafficking: The governments of Tamil Nadu, West Bengal and Andhra Pradesh have taken steps in involving the Panchayat Raj Institutions in preventing trafficking. The Tamil Nadu example of setting up the Village Defence committees and empowering them with awareness and mandate to address the issues has been widely appreciated. PRIs can have tremendous impact in addressing the issues of missing children, dealing with the vulnerabilities in women and children and, thereby, preventing trafficking. It is, therefore, essential that the government agencies and the NGOs recognise their potential and involve them in anti trafficking activities.

A culture of silence

In contrast to areas where public awareness and action have had a marked impact, this research has found that trafficking is rampant in places where a 'culture of silence' prevails. The crime is abetted by the family and community's passivity and their inability to respond to the situation. The problem is further compounded by social indifference. Criminals go scot-free largely due to an absence of concern or sensitivity regarding the welfare and rights of others as well as an all-pervading sense of apathy. When a child goes missing, more often than not, the blame is apportioned to the child. Several case studies documented in this research (see case study Nos. CS-MH-5, CS-DL-22, etc.,) show evidence of family and community complacency once the missing person report is lodged with the police. In most cases, the child is retrieved during rescue operations carried out by the police/NGOs, but not before suffering weeks or even months of abuse in a brothel. It is only on repeated enquiries, often by an NGO, that it turns out that the child had not 'gone missing' at all, but had been sold. Trafficking can be tackled only when communities are made aware of the problem and organise themselves to protect their children.

Community response on protection

There are, however, several instances where communities have displayed initiative and dynamism in protecting the interests and rights of victims and survivors of trafficking. A few examples are listed below:

- **Prajwala**, in Hyderabad, undertakes rescue, rehabilitation, counselling and reintegration. It also networks with government agencies as well as corporations on various rehabilitative programmes. The Government of Andhra Pradesh, in consultation with Prajwala, has framed

several guidelines and a detailed plan of action to address the problem of trafficking. This is a unique instance of a dynamic and functional partnership between the government and an NGO to combat trafficking in the different districts of Andhra Pradesh.

- **Arz**, an NGO working in the Baina red-light area in Goa, has successfully rescued several young children trafficked from different parts of the country. Sustained intervention, advocacy and an integrated approach has enabled the organisation to effectively confront a range of trafficking related issues.
- In Delhi, **STOP** has for some time been tirelessly pursuing rescue operations. In 2002, the High Court of Delhi, acting on a *suo moto* motion and in pursuance of a PIL pending in the High Court, directed the Delhi Police to associate this NGO with all rescue operations thereafter. STOP has been entrusted with the responsibility of rehabilitating victims. The exercise has shown that the survivor's integration into the community has a salutary impact on the prevention of re-trafficking of rehabilitated persons.
- **JWP** (Joint Women's Programme), Delhi, has introduced several initiatives to study the aspects of trafficking in the red-light areas. It has also opened a school for the children of victims of CSE in G.B. Road. This provides them not only with education, but also inculcates awareness regarding their rights. Besides this, the children gain exposure to the wider world and receive help with choosing alternative means of livelihood, upon which, in turn, would depend the issue of prevention of trafficking.
- **CORE**, another Delhi-based NGO, focuses its activities on empowerment, networking with corporations and sensitising police officers, especially those working at the field level, with the aim of making them receptive and accountable for the prevention of trafficking.
- The **Gender Training Institute (GTI)**, Delhi, has carried out training programmes for police officials in various parts of the country and has developed models for the prevention of trafficking.
- The **International Justice Movement (IJM)**, Mumbai, is fully involved in rescue operations as well as in the prosecution of traffickers and other exploiters. They also provide survivors with legal counselling, rights awareness and other facilities. Such activities have made a big impact on the anti-trafficking situation in Mumbai.
- **Sanlaap**, an NGO based in Kolkata, has initiated several sustained and focused programmes in the red-light areas of Kolkata and elsewhere, with special attention to the rescue, rehabilitation and reintegration of trafficked persons. They have carved out a name for themselves in the domain of anti-trafficking due to their long-standing activities in this regard.
- **Childline Foundation**, through networking in different parts of the country, has been instrumental in the rescue and rehabilitation of hundreds of children. Many of these children were reported missing or declared 'runaways from home'. Case study No. CS-BH-20 amply demonstrates the tremendous impact of Childline Foundation on the anti-trafficking movement.
- The **HAQ Centre for Child Rights** works for the prevention of child trafficking. It seeks people's participation by apprising them of the evils of child trafficking. The centre also conducts sensitisation programmes for members of the executive and legislature as also for the media.

- **Prayas**, an NGO based in Delhi, has been working with street children for over a decade. Their rescue home provides sanctuary to a large number of children rescued from several exploitative situations, including victims of trafficking. The counselling and rehabilitative training imparted by Prayas has been able to provide appropriate livelihood options for many children.

Community response on prosecution

Although unusual, communities can and have played a crucial role in prosecuting traffickers and other exploiters. The following illustrations are relevant in this context:

- **SLARTC** has been providing alternative lawyering for trafficked victims. Thanks to the Calcutta High Court order, they are involved in the prosecution of traffickers in the trial courts (see case study No. CS-WB-2). Their multi-dimensional activities directed at prevention of trafficking and rehabilitation of victims, especially those trafficked from Bangladesh, have been validated and supplemented by their efforts towards prosecuting the traffickers.
- **STOP**, in Delhi, has contributed significantly to the prosecution of traffickers. Victims who had already been repatriated to Bangladesh were brought back to Delhi to give evidence in the court of law. Due to the care and protection received from STOP, these victims proved to be excellent witnesses who ensured that the traffickers were convicted. STOP has also rendered outstanding service to the court in assisting as interpreters in cases where the victims were trafficked from Bangladesh.

Counter trafficking networks

There are a number of NGO networks which are committed to the cause of counter trafficking. These networks have initiated several programmes and projects aimed at prevention, protection and prosecution, some of which are listed below:

- **ATSEC** (Action against Trafficking and Sexual Exploitation of Children) provides shelter and assistance for victims of trafficking. ATSEC India's Plan of Action to prevent trafficking includes advocacy and lobbying, training, orientation and sensitisation, development of resource centres at the state level, compilation of a resource directory of NGOs working in the field of trafficking and reintegration and rehabilitation of child victims.
- **CACT** (Campaign Against Child Trafficking) is a national network of several agencies working against the trafficking of children for different types of exploitation. Their wider mandate covers intervention, training, networking and facilitating several action programmes for preventing and combating child trafficking.
- **CACL** (Campaign Against Child Labour) is a network of activists working exclusively against child labour. They undertake not only advocacy but are also actively involved in the rescue and rehabilitation of trafficked children.
- The **CHILDLINE India Foundation** is concerned with issues regarding missing children and has launched several initiatives in this direction. The **National Initiative for Child Protection** (NICP) is a national campaign that involves the orientation of different allied systems (police, teachers, doctors, CWC members, lawyers, concerned adults, etc.) to the problems and needs of vulnerable children, with the objective of creating a child-friendly

world. The Foundation has anchored over 600 trainings with the police systems to orient them on issues of child rights and child protection. Collaborative interventions between the police and CHILDLINE on issues like restoring missing children have evolved from many such interactions.

- **NASCET** and similar networks have also made a mark in community mobilisation for anti-trafficking initiatives. .
- **SAPAT** and **SAFAHT** are two international fora created by the various stakeholders under the auspices and initiative of UNIFEM. **The South Asia Professionals Against Trafficking (SAPAT)** is a forum of professionals, including law enforcement officials, medical and legal professionals, counsellors and international agencies. Activists, NGOs and community workers committed to the cause of anti-trafficking constitute the **South Asia Forum Against Human Trafficking (SAFAHT)**. These two fora, though nascent, have been able to forge a working partnership to increase awareness and strengthen the anti-trafficking movement, with the assistance of UNIFEM.

Role of media in counter trafficking

The media, both print and electronic, is no doubt a powerful instrument of social change. It has a large and important role in all aspects of counter trafficking, viz. prevention, protection and prosecution. Case study no. CS-NE-6 illustrates the catalytic role of the media in effecting a radical change in the anti-trafficking scenario of a North-Eastern state. Media focus on the issue of exploitation has not only generated public awareness, but also provoked sensitivity and improved response systems in the enforcement agencies. The media has been an effective tool in breaking the culture of silence, as discussed earlier, as also in generating positive community activism.

Role of corporates

The social responsibility of the corporate sector has given an impetus to the anti-trafficking movement. Of late, several initiatives launched by NGO-corporate partnerships have been instrumental in ensuring the appropriate rehabilitation of a large number of survivors. More than a mere welfare activity, corporate houses have espoused this cause as a human rights issue, hence the partnership has worked well. Case study No. CS-DL-30 presents the details. This shows that corporations can play a very effective role not only in protection and rehabilitation, but also in the apprehension of offenders and above all, in preventing trafficking.

International models

There are several international models of community response to anti-trafficking. The victim protection systems in USA have the active involvement of NGOs. NGOs like **BNWLA** (Bangladesh National Women Lawyers' Association) have been instrumental in networking with Bangladeshi officials and have carried out research, intervention, advocacy, rescue, repatriation, rehabilitation and prevention, especially with respect to trans-border trafficking. Case studies (see case study No. CS-NP-1) show how dedicated NGOs in Nepal have been instrumental in preventing trafficking to India. For instance, rescue work by the **Maiti Rescue Foundation** has exposed trafficking rackets under the guise of migration. Among recent developments, Thailand's Memorandum Of Understanding (MoU) can be considered as a model in community response. The first MoU is between the government departments that play a part in addressing trafficking. It requires the

integrated functioning of Departments, which are otherwise compartmentalised. The second MoU is between the government and NGOs. This has highlighted the complementary roles of the government and voluntary sectors and also institutionalised community intervention in anti-trafficking. The third MoU is between NGOs, for better cooperation and specialised functioning. The Thai model has been well appreciated as a model for the institutionalisation of community partnership with government systems.

An experiment with PLA

In order to understand the profound dimensions of public perception and involvement on issues relating to trafficking, a detailed study was carried out using the Participatory Learning and Action (PLA) method. Although this study was initially planned for a number of locations, due to certain constraints, it was carried out only in West Bengal. The details of the study are as follows:

Methodology

Altogether four Focus Group Discussions (FGDs) were held, two in each village. From each village, two groups were formed, one for men and the other for women. Discussions were held on the following issues:

- i problems faced by the community
- ii causes of these problems
- iii solutions to the problems as perceived by the community
- iv what the community has done so far to solve the problems
- v reasons for success / failure in solving the problems

The **Participatory Learning and Action** (PLA) method was adopted for interactions with the villagers, the advantage being that PLA is a community based method of collective decision-making. In this method, the local people, who are well acquainted with the specifics of their area, conduct the investigation and analysis. The information and insights so gained are shared with outsiders. The investigators following this method acquired a sound grasp of trafficking, which is regularly perpetrated from Bangladesh to West Bengal, by crossing the international border and using their villages as a transit route.

The study gave rise to the following findings:

Profile of the participants

A total of 32 people participated in the four FGDs. Of them, 15 were men and 17 were women. The age and nativity of the respondents are given in the chart below (see Table 21.1). Participation in Firozpur village was better than in Uttarpur, but in both villages, quality of women's participation was somewhat better than that of men.

Table 21.1: Profile of FGD participants

Age group	Uttarpur village		Firozpur village	
	Male	Female	Male	Female
Below 30		2		
30 – 40		4	3	
40 – 50	5		7	9
Above 50				2

Male participants were mostly in the age group of 40 years and above. Out of 15 men, 12 were above 40 years of age while only three participants were below 40 years. The younger participants belonged to Firozpur village. In the case of women, all age groups participated in the FGDs. Out of 17 female participants, two were below 30 years of age, four were in the age group of 30 years to 40 years, nine were from 40 years to 50 years while only two were 50 years and above.

It may be noted that in Uttara para village, no female participant was above 40 years of age, while in Firozpur village, no female participant was below 40 years of age. As regards livelihood, it was observed that the female participants were mostly housewives, while the male participants were involved in various occupations. Out of 17 women, 15 were housewives while two were working women — one was a schoolteacher and the other was a health worker. The occupations of the male participants are listed in Table 21.2.

Table 21.2: Occupation of male participants

<i>Occupation</i>	<i>Number</i>
Driver (auto and van)	3
Shopkeeper	4
Farmer	2
Fruit seller	1
Money changer	1
Employee in shop	1
Service people	2
Retired person	1
Total	15

Response to Trafficking Issues

The villagers were highly aware of trafficking and other cross-border crimes. According to them, not only trafficking but all sorts of cross-border crimes, like infiltration, smuggling and terrorism, were being committed in the border villages for decades. A large number of people regularly cross the international border to enter India from Bangladesh. Only 10 to 20 per cent are legal passport holders. The rest are infiltrators. They simply pay off the middlemen or some BSF officials to enter West Bengal. It is very difficult for the villagers to identify the trafficked victims among them. The participants said that they knew some of the persons who perpetrate cross-border crimes with the connivance of some law enforcement officials. According to these respondents, trafficking and other cross-border crimes occur at a steady rate in the border villages throughout the year except during the monsoon, when there is some decline due to the bad condition of the village roads. Because of the problems caused by these anti-social elements, the villagers, especially women, find it difficult to attend to their regular chores outside.

As regards the trafficked victims, it emerged from the discussions that the girls who are trafficked from Bangladesh to India are generally from very poor families. They are either illiterate or have a very low level of education. Most of the girls are minors. The traffickers or middlemen entice the girls with promises of lucrative jobs. These unfortunate girls are nicknamed ‘*Dhoor*’ (Fool) as they trust the traffickers and cross the border in the hope of a better life, but end up in the brothels of Kolkata and its suburbs. In some cases, the victims’ families are so impoverished that they accept their daughters’ profession and the girls are permitted to return to their villages

to meet their family members. At least once a year, they go to Bangladesh and re-enter India, crossing the very same border. The villagers know some of the girls by face and name.

As regards the middlemen, they belong to both the countries and play a pivotal role in the trafficking business. They are also embroiled in other cross-border crimes, specially smuggling. Any article can be brought into the country by simply paying off these middlemen. The traffickers cross the border and move to Basirhat in North 24 Parganas, from where they can easily move to any other place in India. They are said to have very cordial relations with certain elements in the BSF, whom they believe on a regular basis.

The villagers who participated in the FGDs discussed the causes of trafficking and its solution. The local community opined that there were two main causes of trafficking of girls from Bangladesh – **poverty** and the **existing social system**. In most cases, the victims come from very poor families, where fathers or elder brothers are small farmers or daily wage labourers. The villagers added that the victims' families were also very large. It is very difficult to support a large family and parents often have no other option but to push their girls into commercial sexual exploitation. According to the villagers, the existing social system is also largely responsible for trafficking. They said that society is male-dominated and the girl child has a subordinate position vis-à-vis that of a boy. They also stated that the situation is particularly adverse in poor Muslim families, to which the trafficked Bangladeshi girls belong.

The local community is not overly hopeful regarding a solution to this problem. The different opinions put forward by them in this context are:

- i Trafficking cannot be prevented without resolving the problem of poverty and also changing the social system
- ii This crime will not be prevented so long as the traffickers/smugglers remain at large
- iii Trafficking will not stop as long as corrupt officials facilitate the criminals by their acts of omission and commission.

At the same time, the villagers expect the government and Non-Government Organisations (NGOs) to jointly combat this evil. The villagers themselves pleaded powerlessness to take the initiative on their own, but they were willing to cooperate with the government and NGOs, as they wished to rid their villages of crime and corruption.

Summary of FGD findings

The FGD, by employing the PLA technique, brought home the point that the community is an essential part of any society and its participation in resolving any social problem is an inherent component of development. In the case of trafficking also, the community's response is critical, because it is the most reliable source of information on the actual causes and magnitude of trafficking in the area concerned. From the discussion, it transpired that the villagers are quite aware of the problems of cross-border trafficking and other cross-border crimes that transit through their villages. They know some of the traffickers and also some of the victims. They know how the business is conducted and who are involved. During the FGDs, they were able to identify the corrupt officials who had helped the traffickers and harassed innocent villagers. The villagers were unable to resolve the problem on their own because of the strong muscle power of the middlemen and the support they received from the authorities. As a result, they feel very insecure in their own

villages. They want to rid their villages of crime and corruption and to achieve this, they are willing to lend all support if the government takes the lead.

Conclusion

This chapter brings to focus the fact that it is not possible to prevent and combat trafficking without community participation. The general perception that the only role for the community is rescue and rehabilitation has been proved to be a myth. Although they cannot act as substitutes for the law enforcement and welfare agencies of the government, they certainly complement these agencies and put their best foot forward in all prevention, protection and prosecution activities. Case study No. CS-DL-26 provides ample testimony to the fact that the GO-NGO partnership is the most effective answer to the given situation. Thanks to the intervention and continuous monitoring by the High Court of Delhi, the partnership between the government agencies — mainly the police — and NGOs were not only forged, but also institutionalised. It is this partnership which has the capability to deliver results, keeping in view the best interests of the trafficked women and children. The role of the media cannot be underestimated by projecting it as concerned only with publicising human rights violations. The media, in fact, has a broader mandate, which includes building public awareness and facilitating empowerment — both social and economic. Undoubtedly the PRIs have an important role in preventing and combating trafficking. It is essential that this fact is recognised by all concerned and necessary steps are taken to involve them in all such activities. The community also includes corporates which can contribute immensely to the anti-trafficking movement, as explained in case study No. CS-DL-30. Corporates must play a larger role in specific fields, especially in addressing sex tourism, tourist-oriented paedophilia, call girl rackets, etc., where trafficking is carried out under the façade of tourism and business promotions.

This research has shown that every wing of the community has something to contribute to the anti-trafficking programme. The fact that a large proportion of the clientele consists of teenaged children, the youngest interviewed being only 16 years of age, shows that they need appropriate counselling and education, especially on the rights of women and children as well as on sex related matters, which can be adequately carried out by educational institutions. The role of the family is certainly of utmost importance. That the vast majority of the trafficked victims were victims of sexual abuse as young teenagers, points to the fact that the rights of these children are being violated within the family itself. Therefore, the study has opened up the need to have an integrated approach to fighting the menace of trafficking by involving every conceivable section of society in the movement.



International Response to Trafficking: A Regional Perspective

Over the years, trafficking in human beings has become a global phenomenon. It has reached epidemic proportions, leaving no country immune to it. The International Organisation for Migration estimates that the global trafficking industry generates up to US \$ 8 billion every year, making it the third largest international organised crime after arms and drugs.

The UN system has taken an important step forward in coordinating an international response to trafficking. The General Assembly has adopted a package of instruments against various forms of transnational organised crime, including the UN Convention against Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children.

Various UN agencies and organs like UNIFEM, UNICEF, ILO, UNDP, UNODC, among others, have been active in anti-trafficking.

ILO-IPEC

The International Labour Organisation (ILO) has, for a long time, addressed child trafficking through its 'Forced Labour Convention', which aims to eradicate "...all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". This powerful instrument confirms child trafficking as a practice similar to slavery and calls for countries to take immediate action to secure the prohibition and elimination of the worst forms of child labour.

Within the ILO, action against the trafficking of children has been undertaken by International Programme for the Elimination of Child Labour (IPEC) since 1992. Guided by the United Nations Convention on the Rights of the Child and ILO Convention 182, IPEC works towards the effective elimination of trafficking of children by addressing its root causes.

UNICEF

UNICEF is guided by the Convention on the Rights of the Child (CRC), which has been ratified by most countries. Articles 9 and 10 of the CRC state that a child must not be separated from his or her parents against their will, except where it is in the best interests of the child. Article 11 commits States to combat the illicit transfer of children abroad. Article 35 asks States to adopt appropriate national, bilateral and multilateral measures to prevent the abduction, sale or trafficking of children for any purpose or in any form. For children who do not live with their parents, Articles

20 and 21 declare the best interests of the child to be paramount, and note the desirability of continuing the child's ethnic, religious, cultural and linguistic background. Article 21 provides that international adoption must not involve "improper financial gain". Articles 32, 34, 36 and 39, which provide for protection against economic, sexual and all other forms of exploitation, and the child's right to physical and psychological recovery and social reintegration, are also relevant to the protection of child victims of trafficking. These articles are the steering wheel for UNICEF to determine its policy and area of intervention to combat child trafficking.

The UNICEF strategy for addressing child trafficking focuses on four main areas:

- Raising awareness about the problem,
- Providing economic support to families,
- Improving access to and quality of education, and
- Advocacy for the rights of the child.

UNICEF holds that any new policy on trafficking must build on standards already adopted by the international community, including the CRC. UNICEF has also played an important role in the elimination of child labour in India by supporting government and NGO activities in the area. The primary focus of UNICEF has been on preventing child labour through primary education. It has provided financial and technical support for legal enforcement studies along with workshops and discussions on child labour at the national and state levels. More recently, UNICEF has been involved in combating child prostitution and trafficking by organising regional workshops. It is working with the National Human Rights Commission to coordinate policy and do advocacy work.

UNODC

The UN Office on Drugs and Crime (UNODC) is the United Nations office responsible for crime prevention, criminal justice and criminal law reform. It pays special attention to combating transnational organised crime, corruption and illicit trafficking in human beings. Nine resolutions relating to UNODC were adopted by the General Assembly at its 55th session.

The UNODC Crime Programme cooperates with a network of international and regional institutions, allowing for a more comprehensive approach and an exchange of expertise. UNODC works with Member States to strengthen the rule of law, promote stable and viable criminal justice systems and combat the growing threat of transnational organised crime through better cooperation. The UNODC Crime Programme assists countries in the elaboration, ratification and implementation of international criminal law Conventions and protocols, such as the United Nations Convention against Transnational Organised Crime and the recently adopted United Nations Convention against Corruption.

The smuggling of migrants and the trafficking of human beings for commercial sexual exploitation and slave labour are two of the fastest-growing global problems in recent years. Recent studies show the increased involvement of organised crime groups.

The Global Programme against Trafficking in Human Beings (GPAT) was designed by the UNODC in collaboration with the United Nations Inter-Regional Crime and Justice Research Institute (UNICJRI) and launched in March 1999. GPAT assists Member States in their efforts to combat trafficking in human beings. It highlights the involvement of organised criminal groups in

human trafficking and promotes the development of effective ways of cracking down on perpetrators. The GPAT's overarching objective is to bring to the foreground the involvement of organised criminal groups in human trafficking and to promote the development of effective criminal justice-related responses.

OHCHR

The Office of the High Commissioner for Human Rights (OHCHR) has taken an active interest since 1998 in the problem of trafficking in persons, focusing in particular on trafficking in women and children. The High Commissioner has made public her decision to give high priority to the issue of trafficking. Concrete steps — including the allocation of additional human and financial resources — have been taken to implement this decision.

OHCHR action in the area of trafficking is currently taking place on two fronts. On the one hand, the Office continues to enhance the quality of its support to the relevant mechanisms dealing with trafficking and related exploitation. Secondly, OHCHR has developed an anti-trafficking programme.

OHCHR's work in the area of trafficking is based on two fundamental principles:

- Human rights must be at the core of any credible anti-trafficking strategy, and
- Such strategies must be developed and implemented from the perspective of those who most need to have their human rights protected and promoted.

The Special Rapporteur on Violence against Women and the Working Group on Contemporary Forms of Slavery have both specifically addressed the trafficking issue. Other relevant UN mechanisms include the Special Rapporteur on the Sale of Children and the Committee on the Rights of the Child. All of these mechanisms are serviced and supported by the Office of the High Commissioner for Human Rights. OHCHR has recently developed a system for intra-Office coordination on the issue of trafficking. Its purpose is to ensure that appropriate links are forged between the various mechanisms and among the officers working with them.

UNIFEM

The core agenda of the United Nations Development Fund for Women (UNIFEM) has been to promote women's human rights, political participation and economic security. Towards this end, it provides technical and financial assistance to innovative programmes and strategies. Within the UN system, UNIFEM promotes gender equality and links women's issues and concerns to national, regional and global agendas by fostering networks and alliance building across governments and civil society. UNIFEM began addressing the issue of trafficking in 1991 and in the initial few years, concentrated on working towards developing an acceptable conceptual framework to address the issue in South Asia. Trafficking was identified as a special area of concern at UNIFEM's First Ministerial-Level Regional Biennial Review of the Beijing PFA in South Asia (1996). NGOs and Governments agreed that UNIFEM, with its strategic position and its unique cross-cutting mandate to address gender-related concerns, should focus increasingly on the elimination of trafficking of women and children as a priority intervention in the region.

Since then, UNIFEM's regional anti-trafficking programme has been focusing on the following priority areas:

- Increasing political and community support at different levels in high-risk (both source and demand) areas,
- Increasing use of reliable data and research findings in advocacy, protective and prosecution work,
- Improving monitoring and lobbying for implementation of conventions/laws etc.,
- Bringing together different alliances and networking, and
- Enhancing the understanding and focus on trafficking

UNESCAP

The United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) is the regional arm of the United Nations Secretariat for the Asian and Pacific region. Its primary focus is on the economic and social development in the region.

UNESCAP conducted a detailed study in an effort to raise awareness of the range of legal instruments available to governments to fight human trafficking. It was released in the form of a resource guide on 19 December 2003, at the United Nations Conference Centre in Bangkok.

The publication, *Combating Human Trafficking in Asia: A Resource Guide to International and Regional Legal Instruments, Political Commitments and Recommendations*, provides a comprehensive framework for using legal and other instruments to combat trafficking in persons, especially women and children. It portrays trafficking as a multi-dimensional problem involving various forms of exploitation, including those involving human rights, slavery and slavery-like practices, trafficking, migration, labour and gender. The Resource Guide calls for a multi-faceted response to trafficking, utilising the complete range of legal and other instruments relevant to all dimensions of trafficking.

UNAIDS

UNAIDS is the global joint United Nations Programme on HIV/AIDS. It brings together seven UN agencies in a common effort to fight the epidemic, viz. the United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP), the United Nations Population Fund (UNFPA), the United Nations International Drug Control Programme (UNDCP), the United Nations Educational, Scientific and Cultural Organisation (UNESCO), the World Health Organisation (WHO), the World Bank and the International Labour Organisation (ILO).

UNAIDS leads, strengthens and supports an expanded response aimed at preventing the transmission of HIV, providing care and support, reducing the vulnerability of individuals and communities to HIV/AIDS and alleviating the impact of the epidemic.

REACH-Beyond Borders is the consolidated UNDP Special Initiative on HIV/AIDS Regional Programme for South and North East Asia covering 13 countries of the region: Afghanistan, Bangladesh, Bhutan, China, DPR Korea, India, Iran, Maldives, Mongolia, Nepal, Pakistan, the Republic of Korea and Sri Lanka.

In the region, moving beyond the narrow epidemiological profile of the HIV/AIDS epidemic and examining the broader socio-economic and development causes, an integral connection is evident between HIV/AIDS, gender and trafficking through the nexus of vulnerability and sexual violence.

UNAIDS has recognised trafficked persons as a group which is highly vulnerable to HIV/AIDS exposure because they are often subjected to a multitude of physical and psychological health problems. Women are specifically vulnerable to reproductive and other gender-specific health problems in trafficking situations as they have little or no access to reproductive health care. Therefore, UNAIDS has integrated anti-trafficking in its HIV/AIDS programmes in an effort to prevent the spread of the epidemic across the region.

USAID

The United States Agency for International Development (USAID) provides economic and humanitarian assistance in more than 100 countries. It has taken up trafficking in persons as an important area of concern. Pursuant to the Trafficking Victims Protection Act of 2000, President George W. Bush established the President's Inter-Agency Task Force to Monitor and Combat Trafficking in Persons. The State Department established an Office to Monitor and Combat Trafficking in Persons in October 2001. This office prepares the annual Trafficking in Persons (TIP) Report required by the legislation.

Internationally and domestically, the U.S. Government's approach to combating trafficking in persons is an integrated one, based on prevention, protection and assistance for victims, and prosecution of traffickers. Successful anti-trafficking initiatives are reinforced by programmes that support economic development, good governance, education, health and human rights, and flow from country-based collaborative frameworks that have the committed participation of civil society, government, and law-enforcement.

In South Asia, USAID has played an important role to combat trafficking under its programme, South Asia Regional Initiative — Women's and Children's Equity Programme (SARI-Q).

In India, the USAID/India anti-trafficking initiative is being implemented in collaboration with the United Nations Development Fund for Women (UNIFEM). USAID provides grant support to the policy planning process within government agencies to implement the National Plan of Action, capacity building for NGOs, rehabilitation of children of sex workers through education, piloting of community based actions, and Media and Advocacy.

AUSAID

The Australian Agency for International Development (AusAID), is the Australian Government's official overseas aid programme which aims to help developing countries reduce poverty and achieve sustainable development. AusAID is operational in many countries worldwide. In India, AusAID is supporting three major new activities in India in 2003-04. Technical assistance will be provided to the governments and communities of Shillong and Gangtok to improve water and environmental sanitation services for around 400,000 people. With nearly one per cent of India's adult population (or four million people) estimated to be HIV positive, Australia will help reduce the spread of the epidemic in Delhi and in three states in the North-East. A new Public Sector Support Programme will promote financial, health and education reform. AusAID is also looking at trafficking in persons as the main area of concern and is beginning anti-trafficking programmes very soon.

ASIA FOUNDATION

The Asia Foundation's programmes focus on: building the capacity of women and women's groups to participate in political processes and public life, expanding women's economic opportunities and legal rights, increasing access to education, supporting efforts to reduce trafficking and violence against women, and mobilising women for broad societal reforms. Foundation programmes help local organisations develop effective strategies to advocate for their agendas and build networks within and across borders.

The Asia Foundation feels that trafficking in women and girls is an urgent human rights problem in Asia. The Asia Foundation's anti-trafficking initiatives across Asia have enabled partner organisations — both government and non-government — to develop and test models and strategies and implement programmes to prevent trafficking, protect victims, and help bring traffickers to justice. The Asia Foundation has been actively involved in South Asia and has launched various programmes in Nepal, Pakistan, Bangladesh, Sri Lanka and India for the benefit of women.

In Nepal, The Asia Foundation aims to increase women's opportunities for full participation in social, political, and economic life by reducing the incidence of violence against women and combating trafficking and its negative effects on women and girls in Nepal. The Rural Women's Development and Unity Center (RUWDUC) is working to counter violence against women in Dadeldhura district of far-west Nepal. With the support of USAID, the Foundation launched a comprehensive three-year project in 2002 to combat trafficking of women and girls in Nepal, focusing on programme interventions that recognise women's rights to employment and mobility. The project has three inter-related objectives designed to strengthen prevention, rehabilitation and reintegration services, and the capacity of both government and NGOs to address the problem of trafficking. Activities focus on advocacy regarding anti-trafficking and safe migration issues. Partner NGOs include lead anti-trafficking players like Maiti Nepal, the Centre for Legal Research and Resource Development, the NGO Federation of Nepal, the Women's Rehabilitation Centre, and Agro-Forestry and Basic Cooperatives Nepal. These partners conduct rights-based prevention education activities in seven districts identified as both 'source' and 'transit' locations for trafficking.

PLAN INTERNATIONAL

This is an independent organisation dedicated to working with and for children. It is working in the line of CRC and believes that every child should have an equal chance to go to school, grow up healthy, live in safety and security, and to realise his/her full potential in life.

In Asia, Plan works in twelve countries spanning diverse cultures and languages. In India, Plan is working under the following heads — Building Relationships; Livelihood; Learning and Growing up Healthy; focusing on the all round development of children.

Child trafficking is seen as an issue of grave concern by Plan, which involves unscrupulous people tricking families into allowing children to move to another place, where they are put to work, more often than not, either in brothels or in slave-labour conditions.

To increase awareness of this violation of human rights, Plan has worked with local non-governmental organisations, organised community meetings and conducted orientation sessions for school children to make people aware of how trafficking takes place.

UN INTERAGENCY INITIATIVE ON TRAFFICKING IN NEPAL: BEYOND TRAFFICKING: A JOINT INITIATIVE IN THE MILLENNIUM AGAINST TRAFFICKING IN WOMEN AND GIRLS (JIT)

Beyond Trafficking: A Joint Initiative in the Millennium against Trafficking in Girls and Women is an innovative programme of the Ministry of Women, Children and Social Welfare (MWCSW) of His Majesty's Government (HMG) of Nepal and United Nations System (UNS) Task Force against Trafficking to support a pioneering initiative that will reduce the incidence of trafficking in Girls and Women. This programme was launched in November 2000. The UNS Task Force comprises UNDP, UNICEF, UNFPA, ILO, UNIFEM, OHCHR, UNHSTF, UNDP Regional Programme and NORAD. JIT is operational at district, national and cross-border levels. The focus of JIT is on the prevention of trafficking by changing the conditions that allow for trafficking of women and girls to occur. It focuses on making violations against the rights of women and girls more visible, thus galvanising both public and state commitment to redress the problem.

The main objective of JIT is to reduce the incidence of trafficking of girls and women by redressing gender inequalities and discriminatory practices that make women and girls vulnerable to trafficking.

Population Council

The Population Council is an international, non-profit organisation that conducts research on biomedical, population and social policy, reproductive health and family planning, and HIV/AIDS. The Population Council conducts research in over 70 developing countries, working collaboratively with governments, institutions, non-governmental organisations and individuals.

The Population Council has been working on trafficking in women and girls as one of its responses to the HIV epidemic in South and East Asia, among other concerns. This diverse work is aimed at understanding the types of strategies that can prevent HIV transmission, deliver care and support, and mitigate the effects of AIDS. The topics of research include:

- Preventing the trafficking of girls and women,
- Providing care and support for trafficked people,
- Scaling up care and support services for people living with HIV/AIDS,
- Facilitating community mobilisation among victims of CSE to encourage the use of condoms and building skills for alternative income generation,
- Studying workplace HIV/AIDS programmes, and
- Evaluating the effect of HIV prevention programmes in schools.



Prevention of Trafficking

23.1 Introduction

Trafficking of human beings, both for commercial sexual exploitation and for non-sex-based exploitation, provides a transnational and complex challenge as it is an organised criminal activity, an extreme form of human rights violation as well as an issue of economic empowerment and social justice. The issue of gender discrimination comes to the fore, especially with reference to commercial sexual exploitation, and in respect of non-sexual exploitation, the problem of protecting children also assumes importance. Prevention of trafficking has, therefore, to be multi-faceted, addressing a vast arena of policies and programmes with the purpose of putting a stop to trafficking. Preventive measures against trafficking should be proactive, precautionary, protective and deterrent.

Trafficking is an organised crime involving several *dramatis personae*, who are directly or indirectly linked to the various processes involved in trafficking. The manifestation of the crime of trafficking presents itself in the following essential ingredients:

(a) Displacement of the trafficked person from her/his community, at least for a short period
 (b) Exploitation, which could be physical, sexual, emotional, etc. (c) Commodification: The trafficked person is sold, purchased or bartered like any non-living object (d) Commercialisation: The traffickers and other vested interests derive benefit, usually pecuniary, from the exploitation of the trafficked person. The underlying feature of trafficking in women and children is the exploitation of the vulnerable situation that the victims are placed in.

23.2 Why Prevention?

Trafficking of women and children causes untold miseries, as it violates the rights and dignity of the individual in several respects. It amounts to violation of the right to life, right to dignity, right to security, right to privacy, right to health, education, right to self-determination, right to legal remedies and redressal of grievances. More often than not, especially with reference to trans-border trafficking, the trafficked victims' right to be heard before decisions are taken on their behalf is also denied. The issue of 'statelessness' often leads to the denial of the right to return to one's country. From the victimological perspective, the trafficked person is one who suffers several crimes which are perpetrated on her/him.

Despite the oft-reported distortions and problems in justice delivery to the trafficked victims, it is a fact that the state, being held singularly responsible for the welfare of its citizens, has incurred substantial expenditure in addressing the issues related to trafficking. Rescue and rehabilitation programmes and processes cost a lot of money. A case in point is the example of the

expenditure incurred by the Department of Women and Child Development (DWCD) in assisting the rescue and rehabilitation programmes of trafficked persons, under the 'grant-in-aid' scheme and the 'SWADHAR' scheme. As on 31st March 2003, DWCD had sanctioned Rs.711.84 lakhs for 3013 beneficiaries under the SWADHAR scheme and Rs.93.94 lakhs for 600 beneficiaries under the 'grant-in-aid' scheme. In fact, during the year 2001-02, the Delhi High Court, while monitoring the rescue and rehabilitation of the trafficked victims, came to know that the police department did not have any funds for the after care of the rescued victims. On the direction of the High Court, the required contingency was provided to the Delhi Police by the DWCD. The cost of post-rescue care and attention will be colossal.

The traffickers inflict damage to the society in several respects which cannot always be measured in tangible terms. It is a fact that continued commercial sexual exploitation leads to severe health hazards like HIV/AIDS not only for the trafficked victim, but also for the 'clientele' and through them, their families. The health hazards are immeasurable. Similarly, the lost dignity of the trafficked victims poses a serious challenge in their reintegration. Most of them are unable to get back to their normal selves. Trafficking causes suffering to the families of the victims in different ways. The damage caused to the children of trafficked victims is untold. By and large, these children are compelled to stay with the trafficked victims in brothels and other exploitative ambience. The growth and development of these children are severely hampered. For want of alternative livelihood options, they too are usually pushed into this exploitative world. The Supreme Court of India had observed (in *Gaurav Jain vs. Union of India*, 1990 Supp SCC 709) that "The children of prostitutes should, however, be not permitted to live in the inferno and the undesirable surroundings of prostitute homes. This was felt particularly so in the case of young girls whose body and mind are likely to be abused with growing age for being admitted into the profession of their mothers". Case study No. CS-MH-8 explains how these children are caught in the vicious cycle. On the whole, the traffickers cause a heavy loss to the society and the damages they inflict are irreparable. Therefore, the best remedy lies in prevention.

23.3 Is trafficking preventable?

Considering the multi-faceted dimensions and the intricate issues involved in trafficking, as well as the continued existence of several types of trafficking throughout history, it may appear almost impossible to prevent trafficking. However, the interesting models developed by several agencies in the country, governmental and non-governmental, have shown that the 'impossible' is only a question of difficulty and of whether appropriate initiatives are taken to surmount the difficulties involved. Case study No. CS-UP-1 explains how intervention by NGOs in partnership with the police, using a 'Rights Promotion Model', has been able to prevent trafficking of several children. In a span of nine months, trafficking of 65 children could be prevented at one transit point. Similarly, case study No. CS-BH-12 explains how a community-based awareness programme has been effectively utilised by the NGO, Bhoruka for preventing trans-border trafficking. This shows that the NGO, in partnership with government agencies, was able to create such an ambience in a known trafficking-prone area, that a stage has come when one can say that these villages have been liberated from the scourge of trafficking.¹ Innumerable police initiatives across the country display ingenious strategies for prevention of trafficking and related crimes. Community policing has been an effective tool in preventing trafficking. These examples not only establish the undeniable

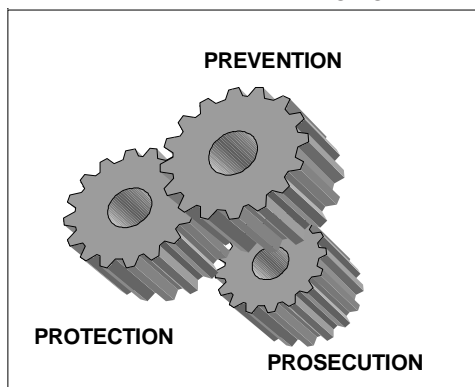
fact that trafficking is preventable, but also support the theory that effective prevention is possible only by a functional partnership of governmental and non-governmental agencies.

23.4 The methods and strategies of prevention

The UN protocol contains a number of provisions aimed at preventing trafficking — all of which are phrased in the UN's best, programmatic, non-obligatory style. State parties are required to establish policies, programmes and other measures aimed at preventing trafficking and protecting trafficked persons from re-victimisation.² State parties are to endeavour to undertake additional measures including information campaigns and social and economic initiatives to prevent trafficking.³ These measures should include cooperation with NGOs, relevant organisations and other elements of civil society.⁴

The essential attributes of trafficking, which presuppose the very existence of vulnerable situations of inequality and injustice, coupled with the exploitation of these vulnerable circumstances by the traffickers and others, causing untold harm to the trafficked victim with a multiplicity of rights violations, provide a status of uniqueness to trafficking. Therefore, policies, programmes and strategies that address prevention of trafficking have to be unique, with focus and orientation to all these issues. Accordingly, prevention of trafficking needs to be addressed not only in relation to the source areas, but also the demand areas, the transit points and the trafficking routes. Strategies in all these areas have to be oriented to the characteristics of the situation and the target groups. The study shows that the following aspects need to be considered:

- The best method of preventing trafficking is by integrating it with prosecution and protection. **Prosecution** includes several tasks like the identification of the traffickers, bringing them to book, confiscating the illegal assets created out of trafficking, making the traffickers compensate for the damages and ensuring that they do not cause any further harm. **Protection** to the trafficked victim includes all steps in the redressal of the grievances and violations, which may be tangible or intangible, that would help the victim to survive, rehabilitate and establish herself/himself. Thus, prosecution and protection contribute to **prevention**. However, considering the fact that prosecution and protection are the issues that come up only after trafficking has taken place, prevention of trafficking remains the bottom line.
- Prevention strategies for the source areas can be identified only after understanding the vulnerability situations. They should address the issues of livelihood options and opportunities, by focussing on efforts to remove poverty, illiteracy, etc. There should be special packages for women and children in those communities where entry into commercial sexual exploitation may be perceived as the only available option. Alternative systems of education offered to vulnerable children by NGOs like Prajwala in Hyderabad, Prerana in Mumbai, etc. have empowered these children and raised their hopes and chances of a positive future. Education and other services should be oriented towards capacity building and consequent empowerment of the vulnerable groups.



- Gender discrimination and the patriarchal mindset are important constituents and catalyst in the vulnerability of women and girl children. This manifests itself in several serious violations of women's rights, as seen in the high incidence of female foeticide and female infanticide, and the discrimination of women in health care, education, employment, empowerment, etc. Since these are vulnerability factors which trigger trafficking, prevention strategies need to be oriented accordingly.
- Natural calamities and man-made riotous disturbances do exacerbate the vulnerability situation. Therefore, relief and after care programmes need to have specific components focussed on the rights of women and children.
- At the micro level, prevention of trafficking in the source areas requires a working partnership between the police and NGOs. The case study of the Bhoruka experience (case study No. CS-BH-12) shows how the NGO initiated community policing and brought about a marked improvement in the scenario. The integration of the community with the police and the consequent empowerment and public awareness in several villages on both sides of the Indo-Nepal border, has brought about an unprecedented sense of vigilance, successfully preventing trafficking in women and children from these villages. Public awareness campaigns and community participation in the prevention programmes hold the key to prevention. This is best achieved by community policing. There are several examples of 'good practices' in many countries abroad. For example, the Memorandum of Understanding agreed at between the government and NGOs in Thailand gives ample scope for the intervention of civil society. The Child Protection Authority in Sri Lanka is another example of integration of NGOs in the functioning of the government in dealing with social issues.
- Once rescued, the victims are often sent to rescue homes. The field research shows that in many places, the police is reluctant to carry out rescue operations because of the lack of rescue homes. This is an aggravating factor perpetuating trafficking. There is a genuine need for an adequate number of proper Homes, where post-rescue care and attention can be given to the rescued victims. This will help in prevention of re-trafficking also. These Homes should have adequate infrastructure and human resources to counsel the rescued victim, detraumatise her and empower her. Proper knowledge and skill-based training should be provided, keeping the best interests of the victim in mind. These training programmes should not only empower her economically and socially but also make her aware of her legal rights and redressal mechanisms.
- The children of women who are subjected to commercial sexual exploitation are highly vulnerable and liable to be trafficked at any time. Therefore, preventing trafficking of these highly vulnerable children requires their rescue without any delay. In such situations, effective intelligence, followed by prompt law-enforcement, can prevent trafficking. Vulnerable persons who are on the threshold of exploitation need to be rescued, sequestered and conscientised, studied psychiatrically and given personalised protection. Pre-emptive semi-custody, with facilities for economic self-reliance and moral normalisation, are essential to prevent trafficking of such persons. "Prevention is better than cure and so, pre-emptive quasi-detention is a therapeutic necessity, if the social objective of ITPA is to succeed," says Justice V.R. Krishna Iyer.⁵

- The best interests of the woman/child should be the crucial factor in deciding the fate of the rescued persons. In one instance, releasing rescued minor girls to their advocate in Mumbai has resulted in their being re-trafficked (refer case study No. CS-MH-1). Therefore, the authorities who sit in judgement about the future of the rescued person should keep in mind the best interests of the child. Proper 'home verification' can reveal the situation at home. Effective counselling can help the trafficked person to decide for herself as to what would be the best course of action for her. This approach would prevent her from being re-trafficked.
- Sometimes, the brothel owners, pimps or traffickers come in the guise of the victims' parents or relatives. They bail them out from the courts/rescue homes, etc., only to re-traffic them. Therefore, proper identification of parents/relatives needs to be done before releasing trafficked victims.
- More often than not, trans-border trafficking takes place due to poor law-enforcement on the borders and absence of effective partnership between NGOs and law-enforcement agencies across the border. The case study of the Bangladesh National Women Lawyers' Association (BNWLA) is an example of effective police-NGO partnership in preventing trafficking (refer case study No. CS-BD-1). Similarly, the case study by an NGO, Maiti Nepal, also presents the justification for an effective partnership between the police and NGOs, extending beyond borders, for preventing trafficking (refer case study No. CS-NP-3). As this is a trans-national issue, it has to be appropriately dealt with. The Ministries of Home Affairs and External Affairs have to join hands to establish this kind of network. The agencies working on the borders, viz. BSF, SSB, etc., need to have close working partnerships with NGOs, especially those who have effective networking with NGOs across the border.
- Prevention programmes and strategies should also be specially oriented to the demand areas, the transit points and the destinations. There is no doubt that trafficking is demand-driven. The greater the demand for trafficked victims, the greater will be the magnitude of trafficking. The case study of Goa (vide case study No. CS-GA-1), explaining the shifting of the source areas supplying trafficked victims to the Baina red-light area, is a reference point. This case study has shown that even when the supply areas in Karnataka 'dried up', the demand in Goa did not reduce and that the continued demands, and probably the increased demands, 'created' other source areas. Therefore, the supply areas shifted from Karnataka to Andhra Pradesh. This case study explains the importance of addressing the demand factor for preventing trafficking. The programmes and strategies of addressing the demand areas should be oriented to the trends and patterns in demand as well as the perceptions of the clientele. Effective law-enforcement in punishing the clients, who are abettors and accomplices in the organised crime of trafficking, especially with reference to child trafficking and child sexual abuse, will have a detrimental effect. Similarly, bringing to book the traffickers, the pimps, the brothel keepers and other exploitators who operate in the demand area is also an important aspect of prevention of trafficking. Prevention strategies at the demand areas have to be not only reactive, but also proactive. Public campaigns and targeted interventions to educate the universe of clientele on health issues and rights issues can make a marked difference. As the study revealed, a substantial segment of the clientele comprises adolescents, mostly misdirected youth, visiting brothels out of curiosity or adventurism. Such people need to be counselled,

socialised and oriented to women's rights, child rights, health issues and related matters.

- Prevention strategies need to be addressed along the trafficking routes and at the transit points also. Intervention at these places, where trafficking becomes more or less visible, can be an effective tool to prevent trafficking, before the trafficked person is exploited. The Rights Intervention Cells started by SEWA at Sanauli, Gorakhpur and Bahraich, involving NGO workers and police officials, have demonstrated their effective role in preventing crime. The Sanauli experiment (refer case study No. CS-UP-1) shows that over a period of nine months, they were able to prevent trafficking of 65 girls. But for this intervention, these girls would have ended up as victims of CSE in some brothels in India. This experiment by SEWA in Sanauli is a classic example of community policing in preventing trafficking.
- Integrated model of development and welfare: Integrating the anti-trafficking component with other programmes, projects and policies, especially those of the Departments of Home, Criminal Justice, Social Justice, Labour, Women and Child Development, etc. can make a tremendous impact in the economic and social empowerment of the vulnerable persons and, thereby, prevent trafficking.
- The media has a large role to play in preventing trafficking. Case study No. CS-NE-6 explains how the media-NGO interface worked as a powerful tool in generating public awareness against trafficking. The media can make the public aware of their rights and, thereby, generate and augment human potential against exploitation. It can promote various government schemes addressing the vulnerability factors. The media can also facilitate the working of NGOs by creating public opinion in favour of them and, thereby, making their programmes broad-based. At the same time, the media also has to keep in mind the provisions of law that protect the victims' exploitation. Section 21 of the Juvenile Justice Act prohibits the publication of name, etc. of a juvenile involved in any proceeding under the Act. Section 228A IPC prohibits the disclosure of identity of a victim of rape and certain other offences. Keeping in view these legal provisions and the rights of the victims, the media can play a powerful role in preventing trafficking.
- Accountability: Fixing accountability of the government officials, whose duty it is to ensure prevention of crime, is another aspect that needs to be stressed. On the one hand, this requires appropriate and timely action against negligent officials to hold them accountable for their omissions and commissions. On the other hand, accountability could be utilised as a positive tool in improving the morale and efficiency of the officials concerned, especially by promoting, facilitating, advertising and rewarding the good work done by anybody in combating and preventing trafficking.
- Most of the trafficking-prevention initiatives of NGOs as well as the government have suffered for want of funds. Case study No. CS-DL-29 shows that the service centre started by JWP, Delhi, for the children of victims of CSE, despite being an effective experiment in preventing trafficking, has had to deal with serious financial constraints. Involvement of corporates and business houses is an essential requirement. The best alliance against trafficking is a partnership of government agencies (GO) with non-governmental organisations (NGOs) and Corporate Houses (CORPS). This integration of 'GONGO CORPS' can make a tremendous impact on trafficking, as substantiated by case study No. CS-DL-30. Government departments and agencies need to coordinate their activities. The water-tight

compartmentalisation of policies, programmes and projects has to be done away with. Similarly, governmental agencies have to recognise the role of NGOs and ensure effective partnership. Case studies on community policing illustrate the fact that such a partnership is the best strategy in any given situation. The Thailand experience in anti-trafficking can be considered to be a good model. They have MOUs between the related government agencies, among NGOs and between the government and NGOs. The networking of NGOs with the government has already been envisaged in the ITPA, where there is a provision for constituting an Advisory Body of NGOs. This has more strength than an MOU as the former has legal sanction.

- Political will is an essential requirement in the given context. The disability cost discussed in the chapter on psychosocial issues (refer Chapter 15) and the irreparable harm that is done to the victims (that has emerged from the study of victims and survivors) are serious issues, which call for political solutions.
- Involving local leaders: Case studies on the involvement of panchayati raj institutions (PRIs) in Tamil Nadu and West Bengal have shown how the participation of the local elected leaders can make a marked difference in preventing trafficking. The village-level and district-level committees involving the officials in the district administration, district police and elected representatives of PRIs have the potential to be a formidable force at the ground level in not only creating awareness and initiating preventive strategies but also as a strong contingent acting against traffickers. There lies a huge potential in empowering the panchayat bodies elsewhere in the country and involving them in the process of counter-trafficking.
- Legal literacy: “Creating legal awareness is one of the most important functions of any Social Action Programme because without legal awareness it is not possible to promote any real social activism,” says Justice P.N. Bhagwati.⁶ The case study by an NGO in Nepal (case study No. CS-NP-1) has shown how legal awareness can be an effective tool for creating an anti-trafficking movement. Legal awareness empowers people by making them aware of their rights and, therefore, works towards strengthening them to develop zero tolerance to abuse and exploitation.
- The lack of coordination in addressing the issues involved in trafficking across the country has been a serious impediment to the prevention of trafficking. Several children rescued from brothels in Mumbai, who were to be rehabilitated in their communities in the North-East, were languishing in rescue homes in Mumbai because of the delay in ‘home verification’. Things started moving only when an NGO took the initiative. There is an urgent need for a national coordinating mechanism to deal with all aspects of trafficking, with specific focus on prevention. This could be set up as a National Nodal Agency against trafficking, which should be able to coordinate the activities of various departments and agencies, both governmental as well as NGOs, CBOs, etc.
- Immigration officials at the borders need to be sensitised so that they can network with the police as well as NGOs working on prevention of trafficking.
- There is a linkage between missing persons and trafficking, as several case studies have shown. The chapter on Missing Persons has established the importance of addressing this linkage as an effective tool to prevent trafficking.

- Helplines and help booths are very important requirements for providing timely help to any person in distress. Case study No. CS-BH-20 shows how Childline, Patna has been instrumental in preventing several children from being exploited. The Ministry of Social Justice and Empowerment is considering a collaboration between governmental agencies and NGOs in setting up helplines and help booths to provide timely assistance to child victims. It will be appropriate if the Childlines all over India, NGOs working on child rights, missing persons bureaus and police helplines are linked together, so that it can become a formidable tool in preventing trafficking.
- Proper law-enforcement is essential for prevention of trafficking. This requires a multi-dimensional approach. The data collected from police officials shows that only 40 per cent of trafficking crimes are reported and 60 per cent crimes go unreported. Similarly, despite the fact that the majority of the exploiters are males, among the arrested persons, 92.9 per cent were females and only 7.1 per cent were males. The concomitant figures of prosecution and conviction of females, who are usually the victims, and their consequent re-trafficking, has been brought out in the data obtained from the police. Therefore, prevention of trafficking calls for a radical change in the existing paradigm of law-enforcement.
- Indian missions abroad, especially in those countries which are either source areas or demand areas, need to network with the concerned agencies in order to make a strong impact in the prevention of trafficking. They have a large role to play in arresting sex tourism. Case study No. CS-MH-12, which deals with a convicted paedophile, explains how several foreign nationals were regularly indulging in paedophiliac activities with impunity for a long time. One of the paedophiles, who managed to escape from India, was later put on the 'look out notice'. He was apprehended by alert immigration officials in India, despite the fact that he was travelling in disguise, under a different name and passport. This calls for proper verification and monitoring of such persons while granting visa, in order to ensure that paedophiles are not allowed entry.
- The SAARC Convention requires several initiatives to be taken for prevention of trafficking. One of them is setting up a joint task force. At present, the District Magistrates and the Superintendents of Police of several districts bordering Nepal, on their own, have informal arrangements with their counterparts across the border to deal with this problem. There is a need to strengthen these initiatives and develop them into institutionalised mechanisms to prevent trafficking.
- The SAARC Convention, under Article VIII, identifies several measures to prevent trafficking in women and children. In addition to the regional task force mentioned above, the measures suggested by the SAARC Convention include: (a) Training and assistance to the concerned authorities for effective investigation and prosecution, (b) Sensitising law-enforcement agencies and the judiciary, (c) Setting up of bilateral mechanisms, (d) Regular exchange of information in respect of agencies, institutions and individuals involved in trafficking, identifying the *modus operandi* and the routes used by the traffickers. Sharing of information, including fingerprints, photographs, police records, conviction records and methods of operation of those involved in trafficking, (e) Initiating necessary measures within the countries for supervising the employment agencies to prevent trafficking under the guise of recruitment, (f) Focussed prevention and development efforts in the source areas of trafficking, and (g)

Promoting awareness through media and other channels on the problems and causes of trafficking.

- The responses across the world to prevent trafficking are many. For example, the Victims of Trafficking and Violations Protection Act 2000 (VTVPA) of the United States provides its government with a mandate to address the issue of trafficking across the world. The prevention strategy of VTVPA includes (a) economic assistance, (b) training, (c) police protection and (d) detection and investigation. The Act also provides financial assistance and technical support for prevention strategies in other countries.
- In India, there are several initiatives by the Government of India and the state governments. The National Plan of Action by the DWCD has provision for elaborate steps to prevent trafficking. The Indian Constitution is probably unique in that it specifically addresses the issue of trafficking of human beings (Article 23). The focus on prevention of trafficking under the ITPA shows a paradigm shift from the earlier Act, i.e. Suppression of Immoral Trafficking Act (SITA). Accordingly, the government has launched the National Plan of Action as well as several initiatives and programmes. Long-term training cum income-generation programmes have been launched by the government in several states. (For details, the chapter on government response may be seen.) Efforts are afoot to make amendments in the existing legislation. There is a need to have a separate chapter on prevention in this statute. (For details, see the discussion in the chapter on changes in the law.)
- Joint initiative by UN bodies: The JIT has been instrumental in setting up a joint front of officials and activists across the Indo-Nepal border. Such ad hoc arrangements can be strengthened and institutionalised by ratification by the governments concerned. Moreover, the members of the joint front can be empowered by providing them with adequate resources and other capacity building programmes like regular training.
- Similarly, the commendable initiatives of several NGOs across the country in preventing trafficking can be developed as models, which need to be strengthened, propagated and facilitated. The details of the same may be seen in the chapter on community response.
- Attitudinal orientation: Research has shown that trafficking is an issue of low priority for law-enforcement agencies. Similarly, among the NGOs, there are very few which are genuinely committed to prevention of trafficking. International attention to trafficking and the involvement of several funding agencies have created a favourable situation for several NGOs to work in the field. Since trafficked victims are subjected to the worst forms of human rights violations, it is imperative that prevention is considered to be the best remedy. This calls for an appropriate attitudinal orientation among the governmental and non-governmental agencies.

¹ This is not an evaluation of the work done by NGOs but is a reflection of their activities, based on the report and data collected during research.

² Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Ref. Art 9.1), supplementing the United Nations Convention Against Transnational Organised Crime.

³ *ibid*, Article 9.2.

⁴ *ibid*, Article 9.3.

⁵ Krishna Iyer, Justice V.R. "Gender Justice vis-à-vis Law against Immoral Traffic – A Critique" in *Social Audit of Immoral Traffic Prevention Act*, (ed: S.C. Bhatia), University of Delhi, 1988.

⁶ Bhagwati, Justice P.N., "Intensifying Social Action".

Spin-offs in action research

Introduction

The present study by the National Human Rights Commission was intended as a baseline survey, coupled with action programmes wherever feasible and possible. Accordingly, the study was to be action oriented, action involved, and action facilitating. Jean Dreze has observed, “The value of scientific research can be enhanced even further if it is combined with real-world involvement and action. Research and action belong to a common cause” (*Dreze 2002*). The action-oriented research programme, spanning almost two years with effect from March 2002, saw the involvement of several stakeholders including government officials, social activists, corporate personnel, victims and the public at large. The action programmes were facilitated, promoted and sometimes initiated by several organisations and individuals committed to the cause of anti-trafficking. They include human rights organisations, government departments, NGOs, UN agencies, especially UNIFEM, and others. Accordingly, the spin-offs from the research include planned and unplanned action programmes. The unplanned programmes may appear incidental, but are more or less a natural outcome of the processes undertaken by the action-oriented research. This research was the outcome of the National Human Rights Commission’s concern and commitment to guaranteeing the provision of justice and safeguarding human rights, especially to the vulnerable sections of society, and the action programmes had a tremendous impact by way of galvanising government agencies and non-state actors. Therefore, the action component of the research was instrumental in sparking off a national awakening and rallying a strong movement to combat trafficking.

Action programmes

A taxonomy of the action programmes is difficult because of the diverse nature of activities carried out. However, they can be broadly grouped into three areas:

- Sensitisation of officials dealing with issues of trafficking; raising public awareness and thereby, bringing accountability to law enforcement, justice delivery and programmes for its prevention, prosecution and protection.
- Facilitation of individual or group activities for prevention, protection and prosecution.
- Setting up of a national network of government officials, NGOs and INGOs and all stakeholders for effective counter-trafficking.

The Major action programmes carried out during the research are listed below.

Training and sensitisation

Police officials: The Institute of Social Sciences organised two training programmes (on 10.09.02 and 08.11.02) for 25 police officials from various parts of the country. The discussions and deliberations during these sessions were instrumental in sensitising officials to the serious human rights violations perpetrated on the victims by the traffickers and the different ways and means of combating it.

The Nodal officer of the NHRC took part in 34 training programmes held in state police training centres and academies in different parts of the country (from March 2002 to January 2004). In this period, over 2,000 police officials of various ranks were sensitised to legal provisions, the law enforcement scenario and lacunae in implementation. (see Table 24.1).

Judicial officers and prosecutors: Members of the NST participated in seven training programmes for judicial officers and made presentations on the existing scenario of justice delivery with respect to offences relating to trafficking in women and children. The interactive sessions were greatly appreciated. Nearly 100 judicial officers, including trial magistrates and judges, participated in these interactive sessions. (see Table 24.2).

Other government officials, including correctional service officers: The training courses for judicial officers conducted by the NICFS, listed in Table 24.2, saw the participation of prosecutors, correctional officers and welfare officers from different parts of the country. The involvement of these government officials not only facilitated their sensitisation but also paved the way for establishing proper linkages with the law enforcement machinery, which was in the best interests of the victims of trafficking.

NGOs and community workers: Since community participation is an essential prerequisite for the prevention and combating of trafficking, wherever possible, the NST did not miss any opportunity to participate in the training and sensitisation programmes organised by several NGOs and social activists in different parts of the country. Some of these workshops were organised by a collective of governmental and non-governmental agencies. During the fieldwork phase of the action research, 36 such training programmes on anti-trafficking were conducted for NGOs. More than 300 NGOs from various parts of the country participated in these programmes. (see Table 24.3). The NGO and community worker training had a positive fallout in strengthening their partnership with the law enforcement machinery. The increased levels of awareness of NGOs have been instrumental in ensuring the protection of the victims' human rights as also in the prevention of trafficking.

Public awareness

In order to disseminate knowledge of human rights at the grassroots, several public awareness campaigns were initiated during the research. These campaigns were focused on raising public awareness on fundamental rights, the principles of human rights, basic laws relating to trafficking, the role of various agencies and the ways in which the public could be involved in and contribute to counter-trafficking programmes. The thrust of the interaction was on forging a working partnership between the various stakeholders and to ensure that steps were taken to prevent trafficking. The campaigns were targeted at various groups, some of which are listed below:

Vulnerable groups: Interactive sessions in the red-light districts helped to raise consciousness about trafficking among vulnerable groups, particularly children and their parents.

Community workers: At Gorakhpur, Bahraich, Shillong, Pondicherry and other places, training sessions with community workers served to increase their levels of awareness and information regarding these issues.

The tourism industry: In January 2003, the NHRC, with support from UNIFEM and WISE, organised a conference in Mumbai on the subject. The first of its kind, it drew the attention of hoteliers, tour operators and others in the industry to the issues of sex tourism and trafficking.

NGOs and activists: The initial consultations held in all the states with the researchers and state level officials, involved the participation of several NGOs and activists working on various related issues in the concerned state. These two-day consultations in each state fuelled large-scale public awareness across the country. Many NGOs took their cue from the discussions and followed up with campaigns against trafficking.

Rescue, rehabilitation and repatriation - national

The action-oriented research uncovered several instances where the victims of trafficking had not received adequate justice. The NGOs which had spearheaded the cause of these victims took up the matter with the NHRC or the National Study Team (see case study Nos. CS-BH-1 and CS-MH-1). Immediate action was thereupon initiated to involve the various agencies in the concerned state in order to ensure that justice was delivered. More often than not, this required coordination of agencies in several states. When some rescued children in Mumbai were found to have been trafficked from the North-East, networking between the NGOs and government officials in the North-East ensured home verification of the rescued children and also their safe repatriation from Mumbai.

Trans-border repatriation and rehabilitation

Many cases of trans-border trafficking, especially of girl children, have come to light, where for various reasons, justice delivery has been impaired. In one such instance (see case study No. CS-BH-1), intervention by the NHRC enabled a girl child, who had been in jail for two years on charges of soliciting, to find justice. In another case (see case study No. CS-DL-33), a minor girl, who was to be deported to Bangladesh as an illegal immigrant, was saved from the clutches of traffickers and human predators by the timely intervention of an NHRC representative.

Justice delivery

Several action programmes carried out as an extension of the research process have contributed to ensuring and expediting the protection of the human rights of the victims and survivors. Kamala (see case study No. CS-BH-1), a girl who was arrested at the age of 14, was languishing in jail for two years as an 'under-trial prisoner'. She would have remained in jail had it not been for the intervention of the NHRC and the efforts made thereafter towards securing her release, and getting her repatriated and rehabilitated in her village in Nepal.

NGO-police partnerships

In all the 13 states covered by the study, strong partnerships of police officials and NGOs, including research partners and other NGOs who are committed to the cause of anti-trafficking, have been promoted. This collaboration has been instrumental in carrying out several action programmes in furtherance thereof.

Media-government-NGO network

The action-oriented research has underscored the role of the media in combating as well as preventing trafficking. Despite the fact that there were no reported cases of trafficking in the state of Meghalaya before July 2002, often the interactive session with the media, organised as a part of the research, and the resulting increase in awareness among mediapersons, there have been instances where the media has taken up the anti-trafficking campaign (see case study No. CS-NE-6). As a result of media intervention, the law enforcement scenario has undergone a paradigm shift, in that a large number of cases of trafficking have now been reported and action initiated.

National anti-trafficking network

The NHRC requested all state governments to earmark two nodal officers, one representing the police department and the other representing the Departments of Welfare, Labour, Women and Children. The first national conference of these nodal officers was held under the auspices of NHRC, facilitated by UNIFEM, in Delhi on 29 October 2002. The conference brought to the fore the need for a national system to combat trafficking. It was also instrumental in identifying the role and responsibilities of the various agencies in addressing the various allied issues. In the course of the research, NGOs committed to anti-trafficking activities were identified in the 13 states under study. These NGOs, along with the nodal officers, can form a formidable nationwide front against the trafficking of women and children.

Corporate involvement

The NHRC, supported by UNIFEM and WISE, organised a workshop to sensitise the officials of the hotel and tourism industries to the hazards of sex tourism and the sexual abuse of children. This is probably the first time that the corporate sector has been drawn into the anti-trafficking campaign in India. The workshop, held on 12 January 2003, focused on promoting awareness and sensitivity among the various stakeholders, in order to develop a common strategy to address the issues. Similarly, on 19 September 2003, Prayas and the American Chamber of Commerce organised a workshop in Delhi on the role of corporations in combating trafficking. The discussions helped to identify the areas and issues on which corporations can join hands with the existing systems to address the issues.

International networking

The action-oriented research has contributed to the international networking of professionals. The SAFAHT (South Asian Forum Against Human Trafficking) meetings have witnessed the various activities undertaken by Indian NGOs in partnership with NGOs in other countries. Similarly, SAPAT (South Asian Professionals Against Trafficking) is growing into an informal but operational network of officials and activists in the region. During the research, efforts were made to enhance the understanding of such international networks regarding the magnitude of the problem. This

helped in elucidating the ways and means of combating this crime. This is a modest beginning, but it has the potential to grow into an effective agency for the prevention and combating of trans-border trafficking.

Discussion, debate and action on changes in the law

The NHRC, along with the NGO, Prayas, organised a two-day workshop at Mumbai on 27-28 February 2004, to discuss the laws related to rescue and post-rescue activities. The discussion highlighted the issues, challenges, responses and the required changes in the law. Certain lacunae in the laws and their implementation were pointed out. Networking by researchers with the judiciary, prosecutors, lawyers and academicians has initiated discussions on the changes required in the existing legal regime. This has been instrumental not only in promoting national debates on change in the law, but also in prompting public interest litigations in the Supreme Court and High Courts on various issues of law and law enforcement.

Judicial intervention in justice delivery

This research has been instrumental in exposing the exploitation of victims and highlighting the need for appropriate redressal mechanisms. The study has demonstrated that intervention by the NHRC does, in fact, provoke judicial action to ensure justice delivery, as in the case of the girl child who was locked up in jail for no fault of hers (see case study No. CS-BH-1). Similar intervention was seen in the case of a writ petition filed by the NGO, Prerana, in the Mumbai High Court on behalf of the 10 children who went missing after they were released by the court, that too, after they had been rescued from brothels.

Establishment of state advisory bodies

Under Section 13(3)(b) of ITPA, state governments may set up advisory bodies with the involvement of NGOs. During state-level consultations, at which government officials and NGOs were present, it transpired that advisory bodies had not so far been instituted in many states. The discussions at these meetings stressed the advantages of setting up such bodies. Subsequently, many state governments initiated appropriate action in this direction. The notification of the advisory body in Manipur was issued in April 2003, and the one in West Bengal was issued in July 2003.

Prevention of trafficking

Several prevention strategies were formulated as a part of the research. Researchers have participated in various campaigns and programmes in source areas like Sanauli, Bahraich, Bettiah, Goa, Shillong, etc. Similar campaigns have also been carried out in the demand areas like Baina Beach in Goa, G.B. Road, Delhi, Pondicherry, etc.

Protection of victims and vulnerable individuals

During the research, many programmes were initiated and interventions carried out in order to guarantee protection of the rights of victims and those who are most vulnerable to trafficking. This has been substantiated on a number of occasions, as for example, when timely intervention by an NHRC representative was instrumental in safeguarding the rights of a girl child (see case study No. CS-DL-33).

Consultancy services

For officers and activists in the field: Due to the awakening of a national consciousness triggered by the research, NGO officials and researchers in the field consulted each other as well as the members of the NST and the NHRC on various issues relating to preventing and combating trafficking. For example, in September 2002, the Assistant Superintendent of Police, Muzzafarpur, Bihar, sought the NST's advice on conducting of rescue operations. She was provided with detailed information on the procedures to be followed, and there upon further activities were initiated by networking with an NGO. During May 2003, an NGO working in Mysore suspected the involvement of organised gangs in the trafficking of girls across state borders. They wanted guidance on the course of action to be followed. The legal provisions and procedural requirements were explained to them. Subsequently, together with the police, they rescued several minors and initiated action against the traffickers. Similarly, in February 2004, Bhagalpur Police officials requested for and were given advice on the most appropriate measures they could undertake to protect the interests of several girls who had been picked up from massage parlours, but who were originally victims of trafficking. During the same month, while conducting raids on beauty parlours, the Patna police found girls trafficked from Siliguri and other places being subjected to commercial sexual exploitation. The Patna police officials solicited advice on the do's and don'ts of post rescue and care of the rescued victims. They were briefed on the best methods that could be followed to protect the rights of victims of trafficking. There are many such examples of informal consultations with the National Study Team (NST) sought by law enforcement officials and NGOs from various parts of the country on several issues relating to various steps in the counter-trafficking activities, including prevention, protection and prosecution.

For the NCW: The National Commission for Women (NCW) has utilised the services of the members of the National Study Team for various activities, viz.,

- as part of the core team to advise NCW on anti-trafficking matters
- as part of the expert team to advise NCW in the larger mandate of ensuring gender justice with respect to all violations and abuses and
- for various inquiries and consultations.
- Synergy in action with the NCW can help channel the findings of this research into the various programmes in the country, especially those relating to women's empowerment.

Interlinking anti-trafficking with health

Since the study has shown that trafficked victims are prone to several diseases, including HIV, the linkage between health professionals and counter-trafficking activists is crucial. Towards this end, the National Study Team and the researchers organised discussions and debates on the partnership between these two agencies. The NST presentation at the national conference organised by NACO and the West Bengal AIDS Control Society promoted a deeper understanding of the relationship between the issues involved and also led to several integrated activities.

Interlinking anti-trafficking with development and empowerment

One of the most critical issues in preventing trafficking is the economic and social empowerment of the vulnerable sections. This would involve the intervention of government agencies, especially in the development sector. During consultation meetings and presentations across the country,

special attention was devoted to publicising the special programmes and policies of the government, such as 'Swadhar', 'grant-in-aid', etc.

Initiating the process of law enforcement against trafficking

During the research, several instances of abuse and human rights violations, which had hitherto remained unnoticed by law enforcement agencies, came to light. Possibly due to a lack of awareness, the public had not approached the police regarding initiating action. For example, despite the fact that trafficking was rife in Meghalaya, no case was registered until July 2002. The interactive sessions and detailed discussions organised by the NST and an NGO drew public attention to the manner in which trafficking takes place. As a consequence, several cases of trafficking were registered and investigated.

Promoting law enforcement in other spheres

The action-oriented research has led to spin-offs even in spheres of law enforcement other than trafficking. For example, the data on missing women and children collected from the states and the attention focused on this aspect has made law enforcement officials aware of these issues. Even during the interactive sessions, the police officers' attention was drawn to their serious disregard of the issue of missing children. Similarly, trafficking for labour and other forms of servitude has also been underlined and brought to focus in the main frame of law enforcement. Another spin-off in this context is the increasing awareness that has been created on the issues of children's and women's rights. The interactive sessions with police officers have encouraged introspection and brought about a better understanding of the matters that need to be addressed.

Raising the human resource potential for anti-trafficking activities

An integral aspect of the sensitisation programmes and workshops was the endeavour to motivate and rally the appropriate human resources, who would in turn generate further awareness and anti-trafficking activity on an expanding scale. Many of these sessions turned out to be training of trainers (TOT). The TOT for senior police officers from various states organised by the National Police Academy and the TOT at Chandigarh organised by the Gender Training Institute for police officers of Delhi, Punjab, Haryana and Himachal Pradesh, among others, proved extremely effective in building up the appropriate human resource potential for future trainers.

Linkages with UNIFEM empowerment programmes

UNIFEM, the sponsoring agency for the NHRC's action research, played a major role by involving itself in technical backstopping as also in the research, which was integrated with several of its existing anti-trafficking activities.

Carrying the NHRC human rights mandate to the grassroots

In the course of the study, the researchers went to the grassroots for data collection. Moreover, interactive sessions, including consultation meetings, were held. All this brought a better understanding of the issues concerning human rights to the various stakeholders, including police constables and other officials at the police stations.

Carrying the NHRC mandate to international fora

In 2002, the NHRC hosted the Asia Pacific Forum of Human Rights Organisations in Delhi. The Forum appreciated NHRC's initiative in carrying out this action-oriented research. NHRC representatives participating in various other international forums have also highlighted the critical nature of the work. The NHRC's focus on networking with the Human Rights Commission of Nepal, especially on cross-border issues, has given a new dimension to the understanding of trans-border trafficking.

National anti-trafficking movement

The special attention given by the NHRC to the grave human rights violations inherent in the trafficking of women and children and the existing response scenario has been instrumental in raising public opinion against trafficking on a national scale. The national network of nodal officers and NGOs, coupled with the action programmes carried out as a part of this research as well as several spin-offs from the research, will serve as a springboard for the launching of a national anti-trafficking movement.

Conclusion

On the one hand, the various spin-offs from the action-oriented research indicate the wide spectrum of anti-trafficking initiatives that were undertaken. On the other hand, these action programmes have exposed the existing vacuum in the response scenario, as many of the persons charged with the responsibility of preventing trafficking and ensuring the protection of the human rights of women and children have failed in their task. The larger question of accountability and the crucial issue of sensitivity are two aspects that need attention. The spin-offs thus present a veritable menu for future programmes that should emanate from the findings of this research. The policies, programmes and projects of both the governmental and non-governmental sectors need to be suitably oriented on the basis of these findings. The system of Nodal officers on anti-trafficking in all the states of India has to be developed as a functional integrated system by the institutionalisation of their networking, as well as by facilitating linkages with appropriate NGOs in India and elsewhere, especially in the source, transit and destination areas.

Table 24.1: Training of police officials carried out in the field, as part of the action research on trafficking in women and children

No.	Date	Place	Details of participants
1.	30.03.02	ISS, Delhi	Senior officials of Delhi Police & others - 25
2.	17.04.02	ISS, Bangalore	Karnataka Police & others - 30
3.	22.05.02	RFP, Chennai	Tamil Nadu Police & others - 35
4.	30.05.02	Chandigarh	Chandigarh Police officials - 20
5.	14.06.02	Conference Hall, Patna	Senior police officials, Bihar Police - 20
6.	11.07.02	PTC, Delhi	Delhi Police officials - 30
7.	06.08.02	Chief Secretariat, Shillong	Meghalaya Police & others - 35
8.	12.08.02	Mumbai	Maharashtra Police & others - 30
9.	19.08.02	IDS, Jaipur	Rajasthan Police & others - 25
10.	27.08.02	Commissionerate, Gorakhpur	UP Police & others - 20
11.	29.08.02	PTC, Sitapur	Sub-Inspectors of U.P. - 270
12.	30.08.02	PTC, Muradabad	Sub-Inspectors of U.P. - 796
13.	07.09.02	Police HQ, Hyderabad	Senior police officials of AP & others - 30
14.	21.10.02	CORE, Delhi	Senior police officials of CPO - 20
15.	29.10.02	UNDP Hall, Delhi	Nodal Officers Conference - 40

No.	Date	Place	Details of participants
16.	16.12.02	Shillong, Meghalaya	Senior police officials of Meghalaya - 25
17.	07.02.03	Kishanganj, Patna	Police officials of police stations - 35
18.	08.02.03	Bettiah, Bihar	Police officials of police stations - 35
19.	04.03.03	PHQ, Delhi	Delhi Police officials - 45
20.	13.03.03	NPA, Hyderabad	Senior police officials of India - 20
21.	13.03.03	APPA, Hyderabad	Police officials of Andhra Pradesh - 40
22.	18.03.03	PHQ, Goa	Police officials of Goa - 40
23.	26.03.03	BPRD, Delhi	Senior police officials of Delhi - 20
24.	07.04.03	CORE, Delhi	Police station officials of Delhi Police - 45
25.	11.04.03	Chandigarh	Haryana Police officials - 250
26.	06.06.03	NICFS, Delhi	Senior police officials from different states - 25
27.	13.06.03	Shillong, Meghalaya	Police officials of Meghalaya - 20
28.	10.07.03	Pune, Maharashtra	Police officials of Pune city - 35
29.	23.07.03	Delhi	Delhi Police officials - 30
30.	01.08.03	Chennai, Tamil Nadu	Police officials of Chennai city - 30
31.	04.08.03	Coimbatore, Tamil Nadu	Police officials of Coimbatore - 37
32.	19.09.03	Delhi (by Prayas)	Senior police officers of India - 20
33.	27.09.03	Kolkata	Police officials of Kolkata - 20
34.	06.01.04	NPA, Hyderabad	Senior police officials of India -15

Table 24.2: Training courses for judicial officers carried out by members of the NST

No.	Date	Place	Details of participants
1.	01.08.02	JOTI, Nagpur	Judges and Judicial Magistrates of Maharashtra and Goa (20)
2.	15.12.02	Shillong	Judicial officers of Meghalaya
3.	22.01.03	NICFS, Delhi	Judges of various states attending course on Criminology
4.	08.03.03	Ahmedabad	Judges attending workshop of Gujarat State Legal Services Authority
5.	06.06.03	NICFS, Delhi	Judges, correctional officials, prosecutors of various states attending course on Criminology at NICFS, Delhi
6.	27/09/03	Kolkata	Judicial officers, police officers, correctional officers, NGOs (20)
7.	20.01.04	NICFS, Delhi	Training the participants of the 70 th Course on Crime and Justice for District and Sessions Judges, Additional District and Sessions Judges, Superintendents of Police, Deputy Commissioners of Police, prosecutors, defence personnel and officers from correctional services

Table 24.3: Training courses for NGOs, community workers, etc., carried out by members of the NST

No.	Date	Place	Details of participants
1.	30/03/02	Delhi	NGOs & social activists of NCT, Delhi - 25
2.	17/04/02	Bangalore	NGOs & social activists of Karnataka - 30
3.	22/05/02	Chennai	NGOs & social activists of Tamil Nadu and Pondicherry- 35
4.	14/06/02	Patna	NGOs & social activists of Bihar and Jharkhand - 20
5.	06/08./2	Shillong	Social activists of Meghalaya and other states of the North-East - 35
6.	12/08/02	Mumbai	NGOs & social activists of Maharashtra - 30
7.	19/08/02	IDS Jaipur	NGOs & social activists of Rajasthan - 25
8.	27/08/02	Gorakhpur	NGOs & social activists of Uttar Pradesh - 20
9.	07/09/02	Hyderabad	NGOs & social activists of Andhra Pradesh - 30
10.	21/10/02	Delhi	NGOs & social activists from different parts of India - 20
11.	16/12/02	Shillong	NGOs & social activists of all North-East states - 25
12.	05/09/02	Delhi	Regional Consultation for Law Change on Trafficking by HRLN - 25 NGOs
13.	19/10/02	Delhi	International conference organised for NGOs & others by Prayas - 25 NGOs
14.	07/11/02	Delhi	Training organised by CACT at Delhi - 15 NGOs
15.	12/01/03	Mumbai	WISE, Mumbai for tourism industry - 35
16.	18/01/03	Delhi	Lawyers Collective Workshop on Trafficking Laws - 30 NGOs and lawyers
17.	06/03/03	Delhi	National Conference organised by JWP - 25 NGOs

No.	Date	Place	Details of participants
18.	25/03/03	Delhi	Vertical Interaction Course for police officials, along with NGOs from different parts of India, organised by Prayas
19.	07/04/03	Delhi	Training of police officials organised by CORE - Intervention by NGOs
20.	11/04/03	Chandigarh	National Seminar on Trafficking for police officials and 50 NGOs
21.	21/05/03	Bhutan	Presentation before the participants – SAARC Ministerial Conference
22.	23/05/03	Nepal	Presentation before UNIFEM and other international agencies in a review meeting held at Nepal
23.	27/05/03	Nepal	Meeting of SAFAHT members
24.	13/06/03	Shillong	Discussion organised by Impulse on Trafficking Laws - 25 NGOs
25.	21/07/03	Delhi	Presentation before Expert Committee on Gender and Police at NCW, Delhi
26.	27/09/03	Kolkata	Sensitisation on Trafficking & Sexual Exploitation of Women and Children: organised by SLARTC - 10 NGOs
27.	13/10/03	Darjeeling	On Prevention of Trafficking and Commercial Sexual Exploitation of Women and Children organised by SLARTC
28.	16/10/03	New Delhi	Training Programme for 20 field level social activists "Creating Awareness about Women and Child Trafficking through Community Action", organised by JWP
29.	01-03/11/03	Bodh Gaya	Training-cum-Orientation on legal rights relating to trafficking for Members of Gaya District Women's Right Watch organised by OSERD Patna and DFID, as part of the Poorest Areas Civil Society (PACS) programme held at Bodh Gaya in November 2003
30.	11/12/03	New Delhi	Presentation on "Involvement of Multiple Stakeholders and also on the Provisions of SAARC Convention" in the consultation workshop organised by STOP, on the subject, "Trafficking and HIV: Disaggregating the Vulnerabilities", in which 20 NGOs and 10 government officials participated
31.	18/12/03	New Delhi	Presentation on "Policy, Legislation and Law Enforcement on Commercial Sexual Exploitation of Children" during the Orientation and Validation Seminar on CSEC organised at New Delhi on 18/12/03 by ECPAT International and PLAN. 20 NGOs attended
32.	18-19/01/04	Mumbai	Presentation at WSF on "Globalisation & Child Trafficking - A Regional Perspective on Challenges & Responses" organised by International Federation Terre Des Hommes, Campaign Against Child Trafficking (CACT) Save the Children, India
33.	03/02/04	Delhi	Interaction with NGOs of India and USA on the role of NGOs in combating trafficking in children. The interactive session was organised by HAQ Centre for Child Rights, New Delhi
34.	01/02/04	New Delhi	Workshop of NGOs and lawyers, organised by the National Commission for Women on the laws on trafficking and their implementation.
35.	23/02/04	Pune	SAFAHT meeting organised by UNIFEM on trans border trafficking
36.	28/02/04	Bombay	Discussion on laws relating to rescue and post-rescue activities, organised by NHRC, along with Prayas, Mumbai
37.	09/03/04	New Delhi	Interaction with counsellors (15) from India, Bangladesh and Nepal, organised by SAARTHAK, Delhi.
38.	16/03/04	New Delhi	Presentation at the workshop on 'Development, Destination and Child Rights in the Context of Globalisation' organised by Bachpan Bachao Andolan - presentation made on 'Trafficking of Children for Servitude'.
39.	17/03/04	New Delhi	Consultative workshop on bilateral arrangement in trafficking and HIV/AIDS - Discussion forum of officials and activists in the South Asian region - presentation made on SAARC convention and its implementation.
40.	20/03/04	Lucknow	South Asian Regional Conference on "Strengthening Cross-Border Coordination to Combat Trafficking" organised by SEVA, Gorakhpur with participants from all countries in South Asia - Presentation made on strengthening cross-border initiatives.
41.	25/03/04	New Delhi	Meeting of professionals of South Asia on addressing issues of trafficking and violations of women's rights - Developing initiatives and strategies - organised by SARI-Q. Made presentation on the possibilities, challenges and way ahead.

Findings and Conclusions

This research on Trafficking in Women and Children was commissioned by the NHRC with the aim of understanding the trends and patterns of trafficking, studying the demand situations and the vulnerability factors, and looking into the response by the various concerned agencies. The preceding chapters have presented the analysis of the data collected by interviewing 4,006 persons falling under seven categories, coupled with the qualitative data that was gathered from more than 150 case studies on different issues, as well as the inputs and knowledge that came from the feedback during the many focus group discussions and several training programmes attended by judicial officers, police officers, other government officials, NGOs, social activists, lawyers, academicians, media personnel, etc.

There are many important aspects that can be flagged as a contribution of this research. Firstly, this study has explored new vistas which were hitherto unexplored. The study has, for example, interviewed 160 traffickers and 582 clients. So far, no other study is available in India, or known to be available elsewhere, which has made efforts to fathom the world of exploitation by venturing into a detailed, structured interview of these exploiters. The second important aspect is the validation of certain beliefs. The study has confirmed that among the trafficked persons, the majority are girl children. This and other similar findings provide a sound database for initiating appropriate intervention programmes. A third important feature of this study is that it has negated certain popular myths. A popular conception is that the clientele who visit the brothels or abuse trafficked girls are men who live away from their families and, therefore, look for options to satisfy their sexual urges. However, the study shows that among the respondents, 45.5 per cent are married and, among them, 72.9 per cent are living with their spouses. Therefore, this data provides appropriate indicators for various agencies, governmental and non-governmental, to reorient their policies, programmes and projects accordingly.

The study has made an effort to demystify the world of trafficking and the existing response scenario. It has identified and studied the issues of trafficking, segregating them from that of commercial sexual exploitation. The common perception, that the rescued survivors and those who are still in brothels are ‘prostitutes’ who indulge in soliciting and make profits in this ‘trade’, has been thrashed by uncovering the reality of the situation — these hapless women and children are victims of grave human rights violations, having been trafficked by vested interests by lure, deceit, compulsion, threat, coercion and, thereafter, pushed into the world of commercial sexual exploitation or other types of bondage. According to the study, the exploitation of women and children takes place not only before trafficking, but also during trafficking and after trafficking. Vulnerability situations and gender discrimination, which prevail in society, have not only been promoting and

facilitating trafficking but have also been perpetuating it. The rights of the trafficked persons are violated with impunity. They are subjected to physical and emotional harm — from sexual assault to economic deprivation, and violation of human dignity. The post-trafficking scenario finds the victim at the end of the tunnel, with almost no hope of survival. She is subjected to different types of conceivable and inconceivable acts of perversion and exploitation. The strong nexus of vested interests ensures that the victim is caught in a spiralling debt bondage, which is one of the many strategies adopted by them to keep the girl in constant servitude.

This study is unique in that the responses by several agencies, including the judiciary, have been looked into. The focus group discussions with serving judicial officers held at NHRC, the interactive sessions with judges and jurists and the training programmes of judicial officers attended, have provided valuable inputs in understanding the judicial perspective. The analysis of several judgments presented in Chapter 19 also reinforces our understanding. It demonstrates that more often than not, the trafficked victims are the ones who are convicted and fined.

The study clearly brought out the fact that law enforcement, in most places, violates the rights of victims. It is a common practice to arrest, chargesheet, prosecute and convict the trafficked victims. Human rights violations are rampant during the rescue and post-rescue efforts. Hence, there is a need for radical change in the law enforcement practice and methods. The response by government departments and agencies, and non-government agencies also emphasise the need for radical improvement in many respects. The present approach, which victimises the victim further, has to be immediately substituted by a firm commitment to protect the human rights of these victims and, at the same time, ensure stringent action against the traffickers and other exploiters. The intervention by the High Court of Delhi (for details see case study No. CS-DL-26) has shown how things can be improved if the law enforcement style and strategies are properly monitored.

Trafficking of women and children is not a localised issue and so, it can be safely presumed that the study represents the national status though it was carried out only in 12 states of India. There may be a few instances of trafficking within a community, but trafficking is largely a borderless crime, transgressing the boundaries of police stations, districts and states. The study has brought out the serious dimensions of inter-district, inter-state and international trafficking.

The legal system in India has mostly emerged from the British system, but the specific laws relating to trafficking for commercial sexual exploitation are from the post-independence era. The law enacted in 1956 for Suppression of Immoral Traffic was amended in 1978 and later in 1986 when the orientation was changed to prevention rather than suppression. The amended law takes into consideration the international conventions that existed then and provides for stringent punishment for procurement, commercial sexual exploitation, running brothels and related exploitative activities. There is enhanced punishment for offences against children. It provides for closure of brothels, externment and surveillance of exploiters, etc. The Indian Penal Code also provides for punishment for rape, and selling, buying or importing girls. However, under the existing system of jurisprudence, the prosecution has to prove the case against the offenders beyond reasonable doubt. This puts a lot of pressure on the victims to convincingly present their case and substantiate the same during the cross-examinations. Absence of victim protection programmes, lengthy court proceedings, heavy backlog of cases pending trial and a host of issues of implementation discussed in the chapter on the legal regime create a situation where it is the

victim who often gets victimised. Taking cue from such rampant human rights violations, this study has come up with certain suggestions for the amendment of ITPA as well as for changes required in law enforcement and justice delivery.

The data from the 561 survivors (rescued victims) shows that more than 50 per cent of them are from the socially deprived sections of society. The majority of them come from dysfunctional families. The fact that 56 per cent of the survivors have been rescued by the police shows that even in the present situation, law enforcement agencies play an important role in the rescue of such victims. It may be noted that 38 per cent of the survivors have been rescued by NGOs, despite the fact that in most of the states, NGOs have not been officially notified by the Advisory Body (Section 13(3)(b) ITPA). There is an essential requirement for a partnership of police with appropriate NGOs in the rescue operations and post-rescue activities. Such combined initiatives have delivered commendable results, which have been presented in several case studies (for example, Nos. CS-DL-26 and CS-MH-17). These partnerships have been forged and facilitated by the intervention of the High Courts of Delhi and Mumbai. Among the survivors, 20.7 per cent are children below 18 years and the majority of them were trafficked at a very young age. The high level of exploitation and vulnerability of children is obvious. Among the survivors who were interviewed, 17.5 per cent had been rescued once earlier, 1.8 per cent twice before, and 6.6 per cent were rescued more than two times. This data shows the extent of re-trafficking. Moreover, 57.5 per cent of them had been arrested by the police earlier. This means that the victims have been criminalised. Having not been rehabilitated, they had no option but to return to brothels. Moreover the data shows a high percentage of return to brothels of those who were 'rescued' or 'arrested' earlier. This exposes the glaring deficiencies in the existing system of law enforcement, justice delivery and rehabilitation programmes.

The survivors had to face an average of seven clients per day and most of them had no say in deciding the number. They had no choice with regard to use of condoms or any other safe sex practices. As regards health issues, 32.3 per cent of the respondents had been suffering from one or other ailment, and among them, 8.3 per cent were suffering from HIV, 30 per cent from STDs and 17 per cent from other gynaecological problems. This revelation is despite the fact that many of them were not willing to speak about their health status, mostly out of fear or stigma. The conditions in the rescue homes left much to be desired. Though the satisfaction level was almost 50 per cent, the issues of further human rights violations of the rescued persons and the social stigma imposed on them almost negated the efforts to mainstream them.

The data analysis from the 929 trafficked women and children, who still continue to be victims of CSE, further confirms the level and extent of exploitation and abuse unleashed on them by the exploiters. This data shows that 2.9 per cent of them are from Nepal and 1.1 per cent from Bangladesh. It may be noted here that the response of the rescued survivors had indicated that 1.8 per cent were from Bangladesh, 4.5 per cent from Nepal and 0.2 per cent from Pakistan. These figures prove the existence of trans-border trafficking for commercial sexual exploitation. This, clubbed with the observations from the intervention centres in the transit routes, shows that the actual number of women and girls trafficked across the border would be very high. Case study No. CS-UP-01 shows that out of the eight major trafficking routes across the U.P.– Nepal border, the Rights Awareness Programme initiated on one of the routes exposed the fact that of the 3,535

persons who migrated to India in a short span of nine months, at least 65 girls were victims of trafficking. This is to be seen along with a study conducted by Dutta and Zutshi, who have scanned through the police records for the period 1999–2002 regarding the nationality of the persons rescued by the police in Delhi, Mumbai and Kolkata. Their study shows that 31 per cent of the victims rescued during the period were from Nepal, with their highest percentage in Mumbai. Similarly, women and children of Bangladeshi origin were also rescued in large numbers, especially from Kolkata. The data collected from the shelter home in Kolkata also supports the fact that the number of women and children trafficked from Bangladesh and Nepal is increasing every year.

Among the interviewed survivors and victims, a vast majority were those trafficked within the country. This highlights the seriousness of the problem of inter-state and even intra-state trafficking in India. This is equally applicable to women and children trafficked not only for commercial sexual exploitation but also for other types of exploitation such as labour and other forms of servitude. The mapping of trafficking patterns presented in Chapter 4 shows that in many states like Andhra Pradesh, Karnataka, Tamil Nadu, Maharashtra, Rajasthan, Uttar Pradesh, Bihar and West Bengal, there is a very high rate of inter-district trafficking within the state. Delhi and Goa, on the other hand, have high levels of trafficking from other states. Among the ‘source’ states, Andhra Pradesh tops the list (for further details, Chapter 4 may be seen). The study finds a need for the concerned ‘source’ states to take strict action against the traffickers and recruiters. They also need to initiate necessary steps to prevent trafficking whereas the ‘demand’ states have to arrest the demand for trafficked women and children. However, such efforts cannot be successful if they are done in isolation, as seen in case study No. CS-GA-1. The responses at the demand areas, the supply areas and the transit areas have to be coordinated so that the push and pull factors are dealt with simultaneously.

The study has brought to light that trafficking, though not reported from many places, is happening almost everywhere. The situation is worse in areas which are underdeveloped. It emerges from the study that trafficking of women and children from the North-Eastern states of India and bordering countries, in both directions, is a serious issue which has not drawn public attention. Pangsa and Dimapur in Nagaland and More in Manipur are the major transit and demand centres. According to the information collected during research, women and children from Assam and Bangladesh are trafficked to More and from there, they are moved out to Myanmar and other countries in South East Asia through the Golden Triangle. Similarly, women and children from Assam (especially Jorhat), Nagaland (especially Mokokchung, Tuensang, Pangsa) and Bangladesh are trafficked through the Pangsa International Treat Tower and then moved to the Golden Triangle. Dimapur is a transit centre for people trafficked from Assam, especially upper Assam, Luming, Guwahati, etc. They are moved to More or the international border at Tuensang and from there to the Golden Triangle. The long drawn extremist activities as well as the ethnic clashes and conflicts between several groups in this region have made women and children in the entire region highly vulnerable. Lack of infrastructural development and livelihood options have exacerbated the situation. Since trafficking in this area cuts across different states and countries, it needs to be studied in detail and dealt with appropriately by the agencies of the Government of India, along with the state governments and appropriate NGOs working in this field.

More than 60 per cent of the victims of CSE were also victims of child marriage. Figures show that a vast majority of the victims of CSE are those who have been subjected to sexual assault as children — 45.6 per cent had their first sexual experience while they were under 16 and 27.7 per cent when they were in the 16-17 age group. The extreme vulnerability of children and a high demand for them for commercial sexual exploitation is established by the fact that 22.9 per cent had been pushed into brothels even while they were less than 16 and 21.4 per cent while they were in the 16-17 age group. Among the victims of CSE, 10 per cent stated that they are victims of re-trafficking. This is another issue that needs to be taken serious note of.

The data from the victims and survivors indicates that almost 50 per cent of the traffickers are females but it doesn't reveal the larger dimensions and networks of traffickers. The fact that 68 per cent of the victims in brothels were lured with promise of jobs and 16.8 per cent by promise of marriage, makes it clear that deception is by far the most frequent means used by the traffickers to ensnare their victims. The data from the survivors also supports this point. Based on the information from the victims, it emerges that a total of 1,092 traffickers were involved in trafficking 437 respondents. This shows the networking and organised linkage among traffickers.

The study has made a profile of the needs of survivors. Dignity, self-esteem and the need to belong, emerge as the most important requirements. Psycho-social support services are, therefore, essential. Moreover, the survivors and victims require care and attention, especially with respect to life-threatening diseases, shelter and livelihood options.

The precarious situation in which the trafficked persons are placed can be gauged from the data from the survivors and victims. According to the study, the entire population can be broadly categorised into three groups: Group 1: Newly-inducted women and children who desperately want to be rescued; Group 2: Old women who have no options whatsoever before them; Group 3: Middle-aged women who are almost reconciled to continuing in the brothels because of many reasons, including lack of livelihood options. That the strategies in addressing the problems and sufferings of these three categories cannot be similar is ascertained by the study. The first category is craving for rescue. Case study No. CS-MH-16 presents the travails of such a victim. These newly trafficked persons are very eager to come out of the brothel and, therefore, are waiting to be rescued. However, they are much in demand, and bring maximum returns to the exploiters, who keep a watchful eye on them. So they are mostly hidden and produced only on 'customer-demand'. Even if it is a challenge to the law enforcement agencies, their rescue should be a priority. This calls for prioritisation of law enforcement strategies. The case of the elderly persons, most of whom do not have any clientele, is no different because they are also wanting to be appropriately rehabilitated. The middle-aged group would include a few who are willing to continue, despite odds, because of the fact that they have no other livelihood options. The entire scenario demands active involvement of the government agencies, along with the NGOs, in extending appropriate rehabilitative programmes. However, it needs to be emphasised that this is essentially a responsibility of the government agencies, and the NGOs can only complement them, but can never be a substitute.

The study has mapped the vulnerability factors that caused the trafficking of these victims and survivors. Whereas the pull factors that appear to be the dominant cause of trafficking, the push factors are not only contributory but at times, exacerbate the situation. It is the economically backward and socially discriminated, especially those below the poverty line and those belonging

to the ST, SC, OBC, and other deprived sections of society, who are the most vulnerable. Even among them, children constitute the largest contingent. Further, girl children and handicapped children are extremely vulnerable. The status of the girl child, who is more often regarded as a liability, the gender discrimination prevalent in the social milieu, and different forms of violence against women like infanticide, female foeticide, etc., add to the vulnerability. This is further accentuated during periods of acute economic distress, for example, drought, flood, food shortage, etc. The debt crisis due to economic deprivation as well as the collapse of social security systems has spurred migration, which has also eventually contributed to trafficking.

Whereas for many of the trafficked girls, the end point is the brothel, for boys it can be a workplace where their helplessness can be exploited by putting them to hard labour on nominal or no wages, and bad work conditions. In many cases, involvement of family members in trafficking creates a very difficult situation. The study shows that even women (sometimes related to the girl child) are involved in trafficking. However, the men involved in trafficking are the main beneficiaries. They provide the muscle power and work out the strategies for the most profitable disposal of their 'merchandise'. From home to the destination point, the child passes through many a hand. There is a chain of traffickers who exploit the children en route and instill fear in their minds through threats and punishments so that the child becomes submissive and accepts all orders.

The clientele who visit the victims in the brothels are from different walks of life. Most of the clients look for girls who are young virgins and would withstand all types of perversions in silence. Among the respondents, 9.8 per cent stated that their clients were students. The strategies for action against the clientele have to be oriented according to the type of the client. Law has to be ruthlessly enforced against those who come with the deliberate intention of exploiting children and women. While their criminal activities of rape, unnatural offences, etc., have to be dealt with firmly, there is also a need to counsel young teenagers who are mostly misdirected or disoriented.

Places where the demand comes from are mostly urban, and supply areas are mostly rural or semi-urban. However, a percentage of the supply is from within the exploitative surroundings, as is the case of the children of trafficked victims and children of women in brothels. The brothel atmosphere, as revealed by the victims and survivors, shows extreme levels of exploitation. The trafficked persons have no say over the timings, the number of clients or the type of clients. They have to surrender to the whims of the clients even in matters of safe sex, like the use of condoms. The money earned by the victims inevitably goes to the brothel owner and it is upto the latter to decide the mode and timing of sharing it. Often, the victims have to take loans from the brothel owner for various personal expenses. The high rates of interest and the spiralling dues exacerbate the debt bondage of the victim. Case study No. CS-MH-18 aptly presents the variety and type of exploiters who gang up to unleash violations on the trafficked women and children.

In order to understand the dynamics of the demand angle, 582 clients were interviewed. They were from different age groups starting with teenagers and going even upto septuagenarians. A little more than a quarter of the clientele interviewed (26.6 per cent) were from the 16–25 age group and an equal number was in the 26–30 age group. The youngest client interviewed was 16 years old. Married clientele constituted 45.5 per cent of the respondents, and 44.7 per cent lived with their spouses. Another trend that came to light was that 54.3 per cent of the married clientele had wives who were below 35 years. Among the clientele, 82.6 per cent had never come across

any police interference in the brothels. When this is coupled with the fact that arrest and conviction of clients is almost an exception, and that the majority of the interviewed law enforcement officials believed that no action can be taken against clients, the emerging scenario is one where the clientele is free to indulge in unlimited and unchecked exploitation of the trafficked victims.

A total of 412 brothel owners were interviewed. Since certain states like Tamil Nadu did not have known 'red-light' areas, the researchers had to work their way through in identifying the places where commercial sexual exploitation of trafficked women and children takes place. As many as 67.2 per cent of the respondents stated that they were victims of CSE before becoming brothel owners and 11.4 per cent had inherited the brothel ownership. This confirms that lack of livelihood options is an underlying factor in perpetuating the exploitative world of trafficking. However, this, by no means, would mitigate the onus of the brothel owners in the exploitation of trafficked women and children. The nexus of the exploiters has been brought out in the research, with 75.7 per cent of the brothel owners having direct dealings with traffickers supplying women and children. At the time of interview, 393 brothel owners stated that they had 2,702 victims of CSE with them, making an average of seven trafficked victims per brothel owner. Shockingly, 82 brothel owners admitted that they have girls below 16 years in their brothels. This is not only a serious human rights violation of these children, but is also against the existing law, which has a stringent provision against brothel owners for keeping children. The brothel owners admitted that the 'customers' show a high preference for young and virgin girls.

That trafficking is a low-risk and high-profit venture has been proved by this study. A well-established trafficker with many links may easily have an extremely profitable and safe business of trading in women and children, with an income running into several lakhs a year. As far as the trafficked persons are concerned, their earnings are a pittance compared to those of their exploiters. The failure of the law in arresting exploitation in the brothels has emerged clearly. This stems from the fact that 34.5 per cent of the interviewed brothel owners had never faced any police action during the preceding one year and 53.4 per cent of them had avoided arrest or police action by bribing the concerned police officials. Besides, 29.1 per cent of the respondents stated that police officials had a share in their income.

The health parameters indicate that the chances of trafficked victims contracting diseases, especially HIV/AIDS etc., are very high. It has also come up in the study that the linkage between trafficking and HIV/AIDS is a domain which has not been seriously addressed. In fact, the medical and health issues of trafficked victims remain shrouded in mystery, never properly attended to. There are certain instances of paramedical help reaching some brothels, but nothing is institutionalised. Of late, certain efforts have been made to attend to psycho-social issues, but the medical and medico-legal issues have been, by and large, neglected.

Added to the health problems is the extreme level of exploitation of girl children living in the brothels. Among the interviewed brothel owners, 56.8 per cent stated that women/girls in their brothels had their children living with them. As stated by them 285 girl children, all below 18 years of age, were found to be staying with their mothers in the brothels, on the day of interview. The vulnerability of these children to exploitation is obvious.

In the course of this study, 160 traffickers across the country were interviewed. However, most of the traffickers, who were identified after painstaking efforts, chose to remain anonymous with respect to names and other particulars, about themselves as well as their accomplices. Among the interviewed traffickers, there were almost an equal number of males and females. The source of locating the trafficker was usually through the victim and, therefore, the interviewers could lay their hands on the recruiters at the grassroots. The interviews did throw light on their nexus and networking with master traffickers, who are mostly males. These linkages and networking were established from the fact that the majority of the traffickers were intimately related to the world of commercial sexual exploitation as brokers, pimps or brothel owners. Only a few of these master traffickers could be located and interviewed. Most of the interviewed traffickers were young, with 25 per cent in the 18–30 age group and 37.5 per cent in their thirties. Though the traffickers adopted different modus operandi, 51.9 per cent lured the victims by offering some job or the other and 16.3 per cent lured them by false promises of marriage. The high demand for girl children in commercial sexual exploitation has been confirmed by the traffickers. Almost 50 per cent of the traffickers focus on rural areas for recruitment. Targets are decided based on the vulnerability factors, which include a combination of lack of livelihood options and opportunities, ignorance — mostly arising out of illiteracy, social and gender discrimination, etc. The unbelievable assets that the traffickers generate have been brought to light in several case studies (Nos. CS-BH-3 and CS-DL-2). The study has also shown that so far there are no instances of forfeiting or confiscating the illegal wealth amassed by traffickers.

Since this study takes into consideration trafficking for exploitation of any kind, an effort was made to identify children, both male and female, who were rescued after being trafficked predominantly for purposes which are not sex-based. They were used for domestic labour, industrial labour, agricultural labour and in the entertainment industry (viz. circus, camel jockeying, etc.). They were also used for illegal adoptions, illegal organ transplants, false marriages, etc. Among the 510 children who were interviewed, 14.7 per cent were in the 6–10 age group, 21 per cent were in the 11–12 age group, 27.6 per cent were in the 13–14 age group and only the rest were 15 years and above. These children had to leave their studies at a very young age and this is an important factor in their becoming vulnerable to traffickers. Of the children who were interviewed, 34.3 per cent could not continue studies due to poverty and 27.9 per cent had to quit studies to earn for the family. Among the respondents, 39.6 per cent hold their family members or relatives responsible for trafficking them. A large majority (74.5 per cent) were trafficked by the lure of jobs. The level of exploitation gets further exacerbated by the fact that at the time of trafficking, 37.8 per cent were less than 11 years old and 41.7 per cent were in the 11–14 age group. Another dimension of the problem is seen from the fact that a majority of the victims trafficked for labour and servitude are children from marginalised sections of society.

Trafficking of children, even for non-sex-based purposes, emerges as an organised affair, with the traffickers often indulging in mass trafficking, as explained by 50 per cent of the respondents who were trafficked in large groups. Besides the linkages of the traffickers with the source areas, the vulnerability of the victims and lack of attention by the government agencies, the culture of silence prevalent in the community has also been a factor which helped the traffickers to indulge in trafficking of children for non-sex-based purposes. The study also shows that even these children are subjected to high levels of exploitation. Out of the respondents, 39 per cent reported about

physical abuse, 11.8 per cent about verbal abuse, 12.4 per cent about sexual abuse, and 36.2 per cent about a combination of these abuses. The extreme levels of abuse find resonance in several case studies like case studies No. CS-PB-2 and CS-TN-8. The fact that 69.8 per cent of the respondents had no freedom to move and 81.2 per cent had to work for more than 11 hours every day explains the levels of exploitation. It is in this context that 30.4 per cent of the respondents tried to run away but did not succeed. Similarly, 33.8 per cent of these children were suffering from one ailment or the other. The study has shown that trafficking of children for labour and servitude is also a 'business' with high profit and low risk. Case study No. CS-TN-28 substantiates this point.

This research, despite being focused on the processes involved in trafficking, has provided adequate inputs to understand the variety and dimensions of non-sex-based exploitation. Though this type of trafficking is primarily for labour and servitude, the victims were not free from sexual exploitation, in addition to physical and verbal abuse. Instances are aplenty where children, both boys and girls, were trafficked for domestic labour, agriculture labour, industrial labour, etc. The level and extent of trafficking for exploitative labour in the entertainment industry like circus has been highlighted in Case study No. CS-DL-3. This research also shows that trafficking of children takes place for illegal adoptions and organ transplants. Case study Nos. CS-KER-2 and CS-PB-1 highlight the human rights violations of children by organised racketeers involved in illegal kidney sale. Improper implementation of the law relating to organ transplant has been responsible for allowing their illegal trade to flourish.

The research has also brought out the linkage between migration and trafficking. Whereas trafficking is never consensual, migration has an element of consent. Consent could have been obtained, before or during trafficking, by deception, lure, cheating, coercion, force, threats etc. on the victim by the trafficker or anybody acting on his/her behalf. However, trafficking could be a follow-on from migration. Exploitation is an essential ingredient of trafficking whereas there could be exploitation in migration also, though not essential. Case studies of trafficked children rescued from several places in India (e.g. CS-WB-12) show the linkages between migration and trafficking. Similarly, the rights intervention centre started by the NGO, SEVA at Sanauli, brings to light the fact that trafficking takes place under the façade of migration. The rights awareness campaign carried out in one trunk route of migration for a period of nine months shows that out of the 3,535 persons who migrated to India, 3,435 could be presumed to be regular migrants coming in for vacation or tourism, or for employment, whereas the rest (100) included 65 trafficked victims and 35 persons who were suspected traffickers. Though the proportion of migrants to trafficked victims could be different at other places, this case study explains the existing trends in trafficking and also its linkage with migration. Research has also brought out the fact that maximum trafficking takes place from those places where vulnerability factors are high. Even within a state, those districts with high levels of illiteracy, exposure to natural or man made calamities, social and economic exploitation, etc., are more vulnerable for trafficking.

While exploring the links between migration and trafficking, it has emerged from the field study that restrictions on women's migration, coupled with lack of protective measures increases their vulnerability to trafficking. If the restrictions are focused only on migration of women, but do not address the scope for their exploitation, they become counter-productive. Therefore, migration has to be understood and addressed from a human rights perspective, if trafficking is to be prevented.

As the literature shows, there is a strong linkage of migration with gender, development and good governance, besides human rights. A holistic approach, addressing all these dimensions, is called for.

Trafficking is linked to smuggling of human beings. Whereas the latter is considered an immigration issue, the former is a violation of human rights. The exploitation and violence that the victim is subjected to, in some form or the other, continues during the entire trafficking process and the post-trafficking scenario. This distinguishes it from smuggling. Whereas smuggling is essentially a trans-border phenomenon, trafficking can be national or international. The UNIFEM briefing kit (2003) delineates the distinction between smuggling, migration and trafficking in such a way that it would facilitate proper understanding by the law enforcement officials. This could be used as a guide book for training all concerned.

Safe migration, prevention of trafficking and containment of HIV/AIDS are central to the development and security of persons and the region. These are parameters having a direct bearing on public safety and, therefore, on national security. The situation calls for strategies that recognise people's rights to move with informed choice and prevent trafficking as well as HIV/AIDS.

With the advent and importance of tourism in several parts of the country, sex tourism and related trafficking has also gone up. Case study No. CS-GA-8 explains the linkages of sex tourists and trafficking in Goa. In this case, the organised racketeers exploited innocent children, mostly boys, in several ways and for long periods. The 'tourism circuit' in Tamil Nadu (refer case study No. CS-TN-9) is another example which substantiates the fast growing linkage between tourism and trafficking. Sex tourists include both domestic and foreign tourists. The factors responsible for the growing phenomenon of child sex tourism include anonymity of the tourists, easy predator ship on the trafficked children, lack of attention by law enforcement agencies etc. Moreover the feeling among certain foreign tourists that children from third world countries can be exploited as chances of detection are slender, the belief that children are less likely to contract sexually transmitted diseases (STDs) and hence sex with them is safe, the wrong notion of some people that sex with virgin girls cures HIV/AIDS, as well as the fact that the governments of many developing countries, with a view to encouraging tourism and consequent economic development turn a blind eye to these problems. Undoubtedly, economic development cannot be at the cost of exploitation and trafficking.

Technological advancements, especially in the IT sector, have been capitalised by paedophiles who form a major constituent of sex tourists. Cyber pornography has exacerbated the scope and extent of sex tourism. This research indicates that there has been phenomenal increase in sex tourism in several cities in India. This includes the famous tourist destinations on the western and eastern coasts as well as several inland tourist spots. There is high demand of women, especially girl children in and around the places of pilgrimage, especially during festivals.

Whereas sex tourism and related trafficking of women and children are showing a very high increasing trend, the response of the agencies concerned is lackadaisical and poor. On the whole, there is hardly any awareness or any conscious effort to address the issues concerned. To top it all, there is total lack of coordination among the agencies concerned. For example, the activities of known paedophiles visiting the country disguised as tourists can be monitored only if the

immigration agencies in the airports work in tandem with the state police agencies. Perhaps there is a need for a Memorandum of Understanding involving all government agencies and NGOs working in this field to prevent and combat sex tourism. Goa has made a good beginning in addressing the issues. The Goa Children's Act, 2003 is a state legislation which, for the first time, deals with the issue of sex tourism. There is a need for such legislation in other states where tourism and trafficking are linked. However, the enforcement of the law is more important than the law itself. Business promotion and tourism promotions cannot be at the cost of human rights violations. There is a need to ensure protection of child rights in these areas, which are highly vulnerable to child sex and paedophilia under the façade of tourism promotion.

Trafficking for commercial sexual exploitation has been exacerbated by certain cultural and social practices in several parts of the country. This includes the devadasi system, reported from different states or certain localised areas, and community sanctioned customs like *nath uthrai*, which exists in certain places in Rajasthan. Sometimes, the induction of girls into commercial sexual exploitation is legitimised by conducting some 'religious ceremonies'. Girls are bought and sold like any other commodity and carry a price tag depending on their age and looks. The bottom line is that girl children are highly vulnerable to exploitation in these communities, mostly because the community itself ratifies the exploitation under the façade of customary practices. Though it may appear difficult, it is not impossible to break these community-sanctioned barriers and provide succour and relief to the women and children trafficked for such exploitation, and also prevent such instances. Case study No. CS-DL-26 is a model to substantiate this point. Thanks to the judicial intervention by the High Court of Delhi, the girls who were trafficked from certain villages in Rajasthan could be reintegrated into the community and, despite the cultural practices which sanctioned their sexual exploitation, the agencies concerned (government and NGO) were able to ensure that these children were not re trafficked and that their rights were not violated any further. Similarly, case study No. CS-GA-1 has shown how trafficking from Karnataka to Goa could be curtailed by effective implementation of the Devadasi Prohibition Act. Of course, this involved effective partnership of the enforcement agencies and the community at large. The Goa Children's Act, 2003 takes into cognisance the linkage of cultural practices with trafficking. These provisions need to be effectively implemented and replicated in other states where similar problems exist.

In this research an effort has been made to understand the linkages between 'missing persons' and trafficked persons. Collecting the data on missing women and children in India was a difficult task because in most of the states, the records were incomplete. In many places, the data available was only about the number of missing persons but not about the number of persons who have been traced or located. However, with painstaking efforts and continued persistence with the various police agencies across the country and with the cooperation of the latter, the data could be collected from most of the states. The analysis of data for a six-year period (1996–2001) shows that on an average, every year, 22,480 women were reported missing in this country. Among them, on an average, 5,452 continued to remain missing and only the rest were traced or returned. Similarly, during the same period, on an average, an annual number of 44,476 children (male and female) were reported missing, out of which 11,008 children remained untraced every year. This alarming data raises several questions — where, why and how have these children gone missing? Hence, during research, efforts were undertaken in different parts of the country to verify whether the

persons rescued from the brothels have been reported to be missing in their hometowns. The efforts were revealing. Several instances of this linkage have come up and have been reflected in case study Nos. CS-DL-22, CS-MH-5, etc. These case studies present several instances where, despite the fact that the women and children were trafficked, their parents or guardians have reported to the police that the person concerned was missing. More often, these parents were unaware of the fact that their children had been trafficked. Despite reporting to the police, the enquiries remained haphazard and did not lead to the rescue of the person even as the girl was already being exploited in some brothel in a distant place, usually in a different state. When the police of this state, mostly along with NGOs, independently carried out rescue operations in the brothels, these children could be saved. Their interviews have revealed how the traffickers managed to traffic them from their communities. The missing link between the missing persons and the trafficked persons has been established through these case studies. Lack of coordination among the various state police agencies and lack of an effective central monitoring and coordinating system has been a bane in addressing the issue of missing women and children. Based on the data from the field study, the chapter on missing persons has discussed the role of various agencies working in this field and thereupon has brought out suggestions in addressing the issues involved. There is a need for an effective, national-level monitoring mechanism. It should not only be a database and clearing house but also a facilitator and coordinator for locating and safely returning of the missing children.

As a part of the research, an effort was made to understand the existing responses to trafficking in women and children. The chapter on the legal framework presents a comprehensive analysis of the international, national and regional conventions, protocols, laws and regulations. The Constitution of India, under Article 23, prohibits trafficking of human beings for any exploitation. However, the ITPA takes into consideration only trafficking for sexual exploitation. This is a special legislation with stringent provisions for punishing violators and exploiters, with enhanced punishment for sexual exploitation of children. There are several steps prescribed in this legislation towards prevention of trafficking. However, it is a fact that most of the provisions of the law remain unenforced and unimplemented. Usually, there are serious distortions in implementation. Despite ITPA being a social legislation, no role has so far been envisaged for DWCD in monitoring the law enforcement process. Though police is a state subject, considering the interstate and transnational nature of trafficking, if the law enforcement and justice delivery mechanisms are carefully monitored by the DWCD, it would be a great and effective initiative in the protection of women's and children's rights.

The IPC is the substantive criminal law with separate offences dealing with many of the issues that constitute trafficking and related exploitation. The Goa Children's Act, 2003 is a state legislation which, for the first time in the legal history of India, has defined trafficking. Though the Act is child-specific, the provisions are such that they could be considered as a model for developing a comprehensive legislation. The research has brought out several points on which the ITPA needs to be amended. These have been separately dealt with in the chapter on recommendations. In addition to ITPA and IPC, there are several special legislations relating to child labour, organ transplant, adoption, marriage, etc., which need to be effectively implemented in combating the related issues of trafficking.

The chapter on the government response has discussed in detail the pros and cons of the responses by several departments and agencies of the union government and the state governments. On the whole, the initiatives have been ad-hocist and disjointed, and rarely comprehensive or integrated on a national level. Despite the fact that CBI has been notified by DWCD in 2002, authorising them to investigate the crimes under ITPA, till March 2004, no case has been taken over by CBI nor handed over to CBI by state governments, despite the fact that there are innumerable cases registered with many state police agencies where, considering the interstate and international linkages of trafficking, CBI would have been the appropriate agency to handle such crimes. The 'Swadhar Scheme' and the 'Grant-in-Aid Scheme' by the DWCD have been recently extended to cover the rehabilitation of survivors. However the focus of Swadhar is providing shelter based rehabilitation. This institution-focussed approach has its thrust on repatriation than reintegration. The implementation of these schemes, as of today, have been half-hearted having no linkages with the existing homes nor with the other developmental schemes of the government like NORAD, STEP, etc. More importantly, the HIV linkage to trafficking has not been addressed. Such problems and challenges call for an integrated rehabilitation scheme with adequate linkages to all issues concerned. Many NGOs across the country have informed that there has been inordinate delay in the sanction of schemes. Therefore only a microscopic section of the trafficked survivors have been benefited so far under the Swadar and Grant-in-Aid Schemes. However, recent initiatives by the union government and certain states have made a marked difference in the counter-trafficking scenario. The partnership between the government and NGOs, which has been institutionalised in Andhra Pradesh, Tamil Nadu and Maharashtra, are good examples. Same is the case of involving PRIs in Tamil Nadu and West Bengal. The Goa Children's Act 2003 is a comprehensive legislation addressing the various issues in a holistic manner. The National Plan of Action (NPA) of the Government of India is, no doubt, a comprehensive document, which takes into consideration an integrated approach in preventing and combating trafficking of women and children. The findings of the research substantiate the need for immediate implementation of the activities envisaged under the NPA of the Government of India and the plans of action drafted by several state governments. While validating the NPA, this research brings to focus the need for a human rights approach in addressing the issues concerned and, in this respect, calls for appropriate changes in NPA.

The research shows that the situations with respect to the implementation of the law leave much to be desired. More than the law, it is law enforcement and justice delivery which are problematic. The police officers interviewed for this study have themselves stated that almost 60 per cent of the crimes are not reported. Many of the reported crimes are not registered. Therefore, there is a wide gap between the number of crimes taking place and those registered in police records. This gap needs to be addressed, so that action is initiated against traffickers. Stringent action on exploiters is one of the most urgent requirements for preventing and combating trafficking. As of today, registration of crimes is usually rescue-oriented. FIRs are being registered only after rescue. The very fact that the victim has been trafficked constitutes a substantive offence under ITPA, warranting an FIR at the source area itself. Crime should be registered at the place from where trafficking takes place. If this is done, there is no doubt that more FIRs will be registered in the source area as against the demand/rescue area. This calls for proactive law enforcement, intelligence gathering, public cooperation and community policing.

The study clearly brings out the existing tendency to criminalise the victim and see things from the narrow perspective of crime. Even the trafficked women and girls who are rescued from brothels are charged with soliciting and thereupon, arrested, prosecuted and eventually convicted. It is disturbing to note that out of almost 14,000 persons arrested every year under ITPA, approximately 90 per cent are women, despite the fact that the majority of exploiters and abusers, including traffickers, clients, etc., are men. Case studies amply demonstrate that girl children are abused by a vast population of men of different age groups, all of whom belong to the category of exploiters, and yet, this vast majority of male exploiters remain mostly untouched by the law enforcement machinery. They are seldom arrested and brought to book. This shows serious distortions in the very understanding and implementation of the law. However, there are a few states like Bihar, Jammu and Kashmir, etc., which are exceptions to the above-mentioned national pattern of arrest and harassment of women. The details may be seen in the chapter concerned.

The all-India pattern of law enforcement thus shows that the rights of the trafficked victims are being violated with impunity. The situation gets further confounded when these victims are the ones who get convicted. As per the Indian legal system, the court has got judicial discretion to drop the charge by discharging or acquitting the case, if there is even reasonable doubt that innocent persons have been prosecuted. Moreover, the court has powers to refer back the matter to the police for further investigation if it is perfunctory or incomplete. The court also has powers to frame the charges under different sections of law than those mentioned in the police report. Despite these provisions, as the research revealed, the victims who are charged with soliciting are the ones who are getting convicted. Therefore, the scenario of victimisation of the trafficked persons in the process of justice delivery, usually noticed in most places, exacerbates the violations of the rights of the very victims.

A word about data surveillance on the crime figures on trafficking is relevant here. It is a common practice in the police systems in India to hold regular crime meetings by field level officers, especially at the superintending and managerial levels. Usually, the monitoring and discussions are focused on the data with respect to 'grave crimes' or 'special report crimes' or such other crimes which are considered important. This research has shown that trafficking in women and children, despite being the ultimate violation of human rights, is given least priority by most of the police agencies and, therefore, there is no monitoring of the data, except in rare instances. This is one of the reasons for lack of control and supervision, which results in the perpetuation of violation of rights. Therefore, there is an urgent requirement for the police agencies across the country to carry out regular monitoring and surveillance of the data with respect not only to ITPA cases, but also to the related sections of IPC and other local laws as well as the preventive sections of CrPC and special/local laws under which actions are initiated against women and children on charges of soliciting. The data analysis has to be carried out section-wise (for example, Sections 3 to 9 of ITPA) with specific focus and disaggregated data on the age and sex of the arrested persons. This would bring to light the serious distortions in law enforcement and thereby provide appropriate indicators that make it mandatory to bring in radical improvement in the situation. Such monitoring of data on an age and sex-disaggregated basis will also bring in accountability of the agencies concerned.

Intervention by the law enforcement agencies on the exploiters is sporadic and there are not many instances of traffickers being arrested or convicted. For the police, burdened with increasing

rates of crime, this is a low priority area. They complain of lack of adequate personnel and resources. There are several police stations without even minimum infrastructure — where even basic law books are not available. On the other hand, this study also has brought out instances where, in some places, certain police officials are regularly paid by the brothel keepers and, therefore, the ‘business’ is profitable for them too. Occasionally, when brothels are raided and women and girl children are rescued, the police finds it difficult to secure a place where they can be safely kept. Rescue homes/children’s homes run by the welfare department are often crowded and the facilities provided by them are far from adequate even in terms of food and water. In certain places, homes are simply not available and, therefore, the police was found reluctant to carry out rescue in such situations. The study has brought out several instances of rescued persons being re trafficked for want of proper repatriation and rehabilitation. Restoration of the child is not always possible and may not even be desirable. What is needed is rehabilitation, which can be effectively ensured through collaboration with appropriate NGOs. If the persons are required in court proceedings, they would be called back even after rehabilitation. The study has brought out the difficulties in this process and has identified ways and means, which may be of least inconvenience to the survivor. The order of the Delhi High Court (2004) for videoconferencing and the order of the Supreme Court (2004) laying down the guidelines for victim protection during court trials are relevant in this context.

Ascertaining the correct age of inmates of a brothel during rescue operations is a problem. Medical professionals have a large role to play in the delivery of justice. Even here, the issues are many. Female doctors are usually not available. Secondly, there is a lot of confusion and contradiction in age assessment. Case studies from Mumbai have shown how persons assessed to be ‘adults’ by the doctor have been later held to be ‘children’ by the medical board, after NGOs appealed for reassessment. Such distortions in age assessment facilitate the scope of exploitation of children and thereby, violate their rights. The research report deals with this problem and suggests a procedure for assessment and verification of age, keeping in view the best interest of the survivor. There is a need for training and sensitisation of medical professionals and all others involved in the process of justice delivery. Appropriate course capsules, manuals and handbooks need to be developed in this regard.

The research points out that at present, the linkage between trafficking and HIV/AIDS has not been recognised or appreciated by the agencies concerned, despite the fact that they have a direct functional linkage. Moreover, in the brothels, no measures are taken to protect the trafficked victim from STD and HIV/AIDS. The customers are not careful about taking preventive measures for themselves or for the children/women they exploit. In fact, some of them consciously opt for unsafe sexual practices due to certain misconceptions, including the myth that they will be able to get rid of their diseases by having sexual intercourse with a child.

One of the distortions in the present day response scenario is that the issues of children tend to get neglected or ignored as they are clubbed with the issues of women. Though there are many common points, the fact that children are highly vulnerable and are the most exploited section, demands higher priority for them. All policies, programmes and activities should have a special component, separately addressing child trafficking.

One important problem that the research has brought to light is that of children born in brothels. Obviously, they cannot but be affected by the vicious atmosphere of the brothel. They are ready material for trafficking. It is, therefore, imperative that a plan, to ensure a proper atmosphere for their growth, is implemented at the earliest.

The rehabilitative scenario presents a very dismal picture. More often than not, the efforts are disjointed and ad-hocist. There are no institutionalised mechanisms in most of the states. The counselling and vocational training imparted in the 'Homes' are usually dictated by the availability or otherwise of facilities and resources in the homes and not by the best interests of the trafficked person. The rescued homes should look after the needs of the rescued person in a comprehensive manner, starting with trauma counselling. Along with psycho-social intervention, medical care, vocational training, recreational needs etc also have to be taken into account. The rehabilitation programmes have to extend beyond the homes. Livelihood options have to be provided to the victims. Micro-credit and such other facilities need to be extended. The fellowship programmes started by certain NGOs for trafficked survivors is an important initiative. Once rehabilitated, it would be better and essential that the district administration ensures regular monitoring to see that there is no re-trafficking. The programmes of empowerment and livelihood options should extend to non-rescued trafficked persons too. There is a need to provide them access and awareness to such facilities through helplines, help kiosks, public awareness campaigns, etc. Moreover, the government, along with NGOs and corporates, should take steps to ensure marketability of the products so that the rehabilitation programmes are sustainable.

The study also brings out several good practice models. Due to the intervention of the High Court of Mumbai and High Court of Delhi, there has been a paradigm shift in the system of law enforcement and justice delivery. Details have been presented in case study Nos. CS-DL-26 and CS-MH-17. Thanks to the monitoring by the Delhi High Court since 2001, in a span of three years, the trial courts in Delhi have convicted more than 30 traffickers and several *kothas* have been closed down. Effective systems of victim protection, compensation and rehabilitation have been taken up. Strong networkings of several departments of government, as well as a working partnership between governmental agencies and NGOs, have come to stay. Thus, the national trend of victimising the victims seems to be diminishing, at least in these places. The research has also brought out innumerable instances, across the country, of good practices in law enforcement, justice delivery, care and protection, prevention of trafficking, etc. However, these initiatives are ad hoc in nature and mostly individual-oriented. Therefore, their sustenance and continuation depends on their institutionalisation. This study points to the steps and initiatives required in this direction. High Court interventions have shown the way. This has to be followed up by the administration. There is an urgent need to coordinate and dovetail the functioning of various departments of the government in delivering justice to the trafficked persons and also in preventing trafficking.

The role of community is an important aspect in addressing social issues. Accordingly, the response by the community was also looked into. It brought to light the fact that the origin and momentum in the anti-trafficking activities are basically due to several PILs initiated by community-based organisations and public-spirited individuals. This is obvious from the Supreme Court decisions in *Vishal Jeet vs. Union of India*, *Gaurav Jain vs. Union of India*, and the High Court decisions of Mumbai and Delhi, presented in the case studies (CS-DL-26 and CS-MH-17). The research has

brought out the essential and inevitable role of community in prevention, protection and prosecution. Many case studies substantiate this point. The best model that emerges is one of integrated functioning of government agencies, NGOs and corporates (see case study No. CS-DL-30). There is a need for institutionalising the existing networks within the country and across the borders. DWCD should take the initiative. Cross-border trafficking cannot be prevented and dealt with, unless the law enforcement agencies network with the civil society on both sides of the border. Moreover, there is a need for setting up regional cooperation, and bringing in regional protocols and other mechanisms to facilitate the functioning of these networks. SAPAT (South Asian Professionals Against Trafficking) and SAFAHT (South Asian Forum Against Human Trafficking), which have been set up under the initiative of UNIFEM, can be important instruments in this context. Research shows that among the NGOs working in anti-trafficking, there is a lot of duplication of efforts and consequent wastage of resources and efforts. At times unhealthy competition also causes duplication. Synergising efforts and responses would be in the best interests of all concerned. Specialisation is called for, to improve professionalism. The list of NGOs working on anti-trafficking appended to this report presents the area of specialisation of the NGOs concerned.

Several international agencies based in India and elsewhere have put their eggs in the basket of anti-trafficking. There are commendable initiatives by various agencies, mostly in facilitating NGOs across the country to carry out advocacy, training and action programmes. A UN agency, UNIFEM, has sponsored several research projects in the South Asia region, for a more comprehensive understanding of the dimensions of trafficking. There are a few instances of inter-agency networking like the JIT programme addressing the problems at the Indo-Nepal border (refer case study No. CS-NP-4). The feedback from a multiplicity of NGOs working on various issues of anti-trafficking, of which some are even working at cross-purposes, presents a picture of lack of inter-agency understanding and appreciation. It was gathered during the field research that certain NGOs could approach different UN and multinational agencies and seek help from them simultaneously. The scope for such liberal funding assistance, without inter-agency coordination and crosschecking, will result in squandering of public money and could defeat the very purpose. Many NGOs have voiced concerned that different international agencies are concurrently funding the same programmes and projects. As a corollary, there are some NGOs across the country, which are committed and dedicated to the cause of anti-trafficking, and are carrying out several ingenious and innovative activities which have made or could make a permanent dent in the anti-trafficking scenario and, yet, are unable to get help from such funding agencies for their work. Therefore, there is a need for integration and coordination among the UN agencies, other international agencies, donors and funding agencies, so that the resources can be appropriately utilised.

Considering the violation of rights and untold miseries that the trafficked victims have to face before, during and after trafficking, and the victimisation that results from distortions in law enforcement and justice delivery, it has been well acknowledged that prevention is the best strategy. The 'business' in women and children generates enormous profits. The demand for the services of the victims has been expanding rapidly with increasing urban incomes. As a consequence, the number of places other than brothels in urban areas, specially in metropolitan towns, where these 'services' are made available, is on the increase. The chapter on psycho-social issues has highlighted the harm that trafficking has caused to the individual and the community. All these factors emphasise

the importance of prevention. The study shows that the village is usually the starting point for trafficking of women and children. The end point could be within the same state in which the village is located or another state or even another country. The victim of trafficking is a complete stranger to the place where she is brought to and may not even know the language spoken there. These exacerbate the vulnerability of the women/girl child for further exploitation. Therefore, trafficking of women and children has to be addressed in the specific context of the push factors in the concerned community. Since the exploiters take advantage of the helplessness of poor rural families, preventive action must necessarily involve empowering the powerless, especially in rural areas. Concerted efforts by the government, in cooperation with NGOs whose work has been documented in research reports, can be helpful in achieving this. The example of Tamil Nadu has shown that PRIs can contribute a lot in preventing trafficking. Their services can be effectively utilise in implementing the various schemes of government that would empower the women and children, spread awareness among them, and thus help remove the vulnerability factors which, in turn, can be the best method of preventing trafficking.

The study has confirmed the need for an integrated approach involving all the three components — prevention, protection and prosecution — in effectively addressing trafficking. Since trafficking is an organised crime, involving a multiplicity of actors linked together in a chain, professional methods of dealing with them are called for. Certainty and stringency of punishment of the exploiters, without any delay whatsoever, is the essential requirement for preventing trafficking. Simultaneously, the victims need to be rescued and rehabilitated. Case study No. CS-MH-16 deals with the distress call of a trafficked victim waiting for relief. As lack of priority, time and sensitivity as well as ignorance of the issues concerned are commonly seen as the factors responsible for the present day dismal picture in enforcement, an effective networking of the law enforcement agencies with NGOs can make adequate dent in the given situation. The order of the High Court of Delhi directing that NGOs should be associated with all rescue operations of the Delhi police testifies to the deliverance capability of this partnership. Effective methods of rehabilitation, counselling, reintegration, redressal of grievances and monitoring are instrumental in ensuring that the rescued persons are not re-trafficked. The study has brought out many important initiatives for prevention in source areas, transit areas and destination areas. These initiatives by individuals and organisations, which are sensitive and committed to the cause, need to be appreciated and institutionalised.

Since this study was meant to bring out a status report on trafficking in women and children in India, it has oriented itself to understanding the dimensions of not only trafficking within the country, but also trans-border trafficking. The data collected from the victims of CSE and survivors indicate that large numbers of women and children are trafficked from Nepal, Bangladesh and Pakistan. Though their percentage is less than 10 in the number of interviewed persons, this, by no means, is indicative of the exact number of persons trafficked from these countries to India. It can only be concluded that among the sample selected by the researchers for interview, the percentage of survivors and victims from the neighbouring countries, was less than 10 per cent. At the same time, case study No. CS-UP-2 explicitly highlights the trends in numbers. In a matter of nine months, the number of suspected girls trafficked from Nepal to India, through one of the eight main transit routes on the U.P. border, was 65. Similarly, case study No. CS-WB-3 clearly brings out the fact that the number of girls trafficked from Bangladesh to India has shown phenomenal increase

in the last decade. The data from Delhi Police shows a high percentage of Nepali girls among those rescued from the brothels in Delhi. Data from the NGOs in Mumbai, who were associated with the rescue for the last few years, shows a high percentage of Bangladeshi and Nepali girls among the rescued. This calls for immediate attention to the issue of trans border trafficking of women and children.

The response scenario with respect to trans-border trafficking has encountered more challenges and problems than that relating to trafficking within the country. The nationality of the trafficked person often becomes a serious issue. Case study No. CS-DL-33 clearly shows how the Bangladeshi nationality of the girl child invited serious risks and challenges to her, despite the fact that she was trafficked from Bangladesh, brought to Mumbai and sexually assaulted in a brothel. Another issue with respect to trans-border trafficking is that of the procedures of repatriation. Case study No. CS-WB-3 amply demonstrates that several trafficked children were languishing in rescue homes waiting for repatriation to Bangladesh. In fact, many of them are confined to rescue homes for more than a decade despite the fact that they had to suffer exploitation in brothels for only a few months. The post-rescue non-rehabilitative scenario was not only traumatic but also violative of human rights. Though the issues are no different with respect to victims of inland trafficking (as depicted in case study No. CS-DL-18), the problems, challenges and violations are more and severe with respect to trans-border victims. The problems are aggravated because the host country usually refuses to acknowledge the nationality of the person. In many instances, the victims are unable to recollect the details of their parentage and original village, causing difficulties in verification and authentication by the country concerned. In order to address these issues, many officials and NGOs have developed informal trans-border networks. These networks have been able to expedite home verifications and facilitated repatriation. The initiative which has been described in case study No. CS-DL-33, though started as a 'test case', has gained momentum with the involvement of sensitive officials of BSF, ably supported by committed NGOs. However, most of the efforts have been purely ad hoc and have usually been initiated or facilitated by NGOs. The study shows that appropriate governmental systems are yet to take shape and become functional. This is an area that needs immediate attention. The Joint Task Force envisaged under the SAARC Convention has not been formed (as of January 2004) because all members of SAARC have not yet ratified the Convention itself. Trans-border bilateral arrangements are immediately called for to address these issues. It is high time that the concerned government agencies took initiative in this regard.

The situation in the country presents a picture of lack of cohesion and coordination. Whether it is intra-state trafficking, inter-state trafficking or trans-border trafficking, the agencies involved in rescue do not seem to have any coordination with the agencies concerned with rehabilitation. The issue of missing women and children has been seen in isolation and was never seen in correlation with trafficking. There is no common platform linking up prevention strategies between source and destination areas. The absence of a national coordinating/monitoring agency has been a serious impediment in justice delivery and protection of human rights. The intervention by the High Court of Delhi has made it clear that without a coordinating agency, such activities will not be able to result in justice. Therefore, in order to ensure the best interests of the victims, to bring about effective coordination at the national level and to coordinate preventive strategies, programmes and policies, there is a need for a national nodal agency to combat trafficking. This action-oriented

research by the NHRC has set the process in motion by creating two nodal officers in each state, one representing the police department and the other representing the welfare department. This national nodal system has to be sustained. Many of the action programmes carried out in the course of this research (refer chapter on spin-offs for details) were effected with the help of these nodal officers. Similarly, the research has highlighted the role of the NGOs which are genuinely working in this field. It is essential to establish a system at the national level by integrating the nodal officers and the appropriate NGOs in the states with the national nodal agency. Moreover, it would be advisable to involve the State Human Rights Commissions, the State Women's Commissions and the National Commission for Women. There is no doubt that the DWCD has a large role to play in the functioning of this national coordinating system. Moreover, it would be essential to involve the Ministry of Social Justice and Empowerment, the Ministry of Labour, the Ministry of Welfare, the Home Ministry, etc., so that the anti-trafficking programmes are also integrated into the policies, programmes and projects of these ministries/departments. Moreover, this kind of synergy will facilitate the maximum utilisation of resources and also contribute to the best results possible.

Considering the fact that various state governments have reservations about setting up a national nodal agency at par with the Narcotics Control Bureau, perhaps the best bet in the given context would be to have the national nodal agency or at least a national rapporteur-cum-coordinator, under the aegis of the NHRC. The national rapporteur with adequate sensitivity, skills, knowledge and understanding of the issues involved in trafficking could kickstart the process, if supported with the required authority and the essential infrastructural requirements.

In the context of the integrated functioning of the government departments and their partnership with NGO, the Thai model is an ideal example. In order to combat trafficking in women and children, the Thai Government and civil society have come to realise that the best results could be achieved only by such integration. Accordingly, three Memoranda of Understanding (MOU) were arrived at. The first MOU is between the various government departments. This is a commitment of the concerned departments to work together and assist each other in anti-trafficking activities. The second MOU is between the government and NGOs. The partnership has been forged for ensuring not only co-management and co-participation but also for sharing of responsibility. The third MOU is among the NGOs concerned. There are certain areas where civil society itself can make commendable initiatives. It is in this portfolio that the third MOU finds its place.

The number of non-governmental organisations working in the field has increased enormously during the last few years. However, the vast majority of them are located in urban centres and very few have grassroots connections. Therefore, there is a tendency among some NGOs to come to conclusions on the basis of unconfirmed reports. There is a dire need for genuine and concerned NGOs to work on anti-trafficking in the rural areas, especially in the source and transit areas. Their synergy with the PRIs, as stated earlier, can yield good dividends. Moreover a study of the functioning of the NGOs shows that they are mostly working on rescue and post-rescue activities, including protection and prosecution. There are very few NGOs which are focussed on prevention of trafficking. This area also craves for attention by the civil society.

This study has brought to light the power relationships that operate in the world of trafficking. Whether it is trafficking of males or females, there is an overt and explicit demonstration of

subordination of the vulnerable by the powerful. This power could be due to the exploiter's position of authority, economic well-being, social 'status', or sheer manifestation of a criminal mind. In the case of trafficking of children for labour and servitude, it is the ignorance and innocence of the children that is mostly exploited. As regards trafficking for commercial sexual exploitation, the power equations have the additional dimensions of gender bias, female discrimination and the culture of patriarchy, which are explicit in the social systems. For most of the victims, it is a crude manifestation and demonstration of male authority and power, whether of the traffickers or the clients. Therefore, the bottom line in trafficking is the exploitation of the powerless by those in power or those who can command power, even temporarily. No doubt, the connivance and complexity of the authorities exacerbate the situation

The shifting of commercial sexual exploitation from brothels to non-brothel-based situations has been observed in almost all the states where the research was carried out. The latter manifests itself under the façade of massage parlours, friendship clubs, etc. These emerging trends are visible not only in the projections in certain segments of the media but also in the form of internet pornography. These activities create demand for sex, which is instrumental in perpetuating trafficking of women and children. They need to be addressed immediately. Moreover, information technology could be properly utilised not only to combat cyber pornography but also to generate public attention in addressing these issues.

This project has promoted and facilitated several action programmes, along with field research. In fact, the study has benefited from these action programmes, many of which have been test cases of immense strength, capability and impact in addressing several issues relating to trafficking. The proper marriage of research with action has been to the mutual benefit of both. The action programmes listed out in the chapter on spin-offs show that the world of anti-trafficking or counter trafficking is relatively new, with not many genuine takers. On the one hand, trafficking of women and children is the ultimate violation of human rights, but on the other hand, the response of the government and non-governmental sector is more or less ad hoc and individual-oriented, and seldom institutionalised. It is to be remembered that women and children trafficked for commercial sexual exploitation are victims of continuous sexual assault and extreme perversions. In addressing the issue of rape of a woman, the Supreme Court of India (*Gurmeet Singh vs. Punjab*) had held that rape destroys the soul of a person, and called for sensitive handling and effective law enforcement by even holding that uncorroborated testimony of the victim is adequate to convict the accused. If one rape can destroy the soul, incalculable is the harm that multiple rapes can and do to the trafficked victim. The extent and depth of exploitation of the trafficked victims have never been fathomed by the agencies concerned and, therefore, the response scenario has been dismal. The study also shows that post-rescue programmes lack the essence of empowerment. The welfare approach, which is commonplace, has to be replaced by a rights-based approach, where the survivors, the victims as well as prospective victims (the vulnerable ones) should be involved not only in developing strategies but also in implementing them. A participatory and holistic approach can be in the best interests of the victim, survivor and all concerned. In this context, the action programmes of this NHRC-sponsored research have been instrumental in kindling appropriate response mechanisms in various quarters, and in the process, ensured that the entire approach is based on the human rights paradigm.

Irrefutable is the fact that trafficking in children represents the ultimate violation of human rights and child rights. The innocence and ignorance of children have been trampled upon by adults, both male and female, for satisfying their greed and lust. The high demand for male children to be used for labour and servitude is propelled by the fact that the rights of the children can be violated without any protest or accountability. The rights of these children are violated not only with respect to working hours, work conditions, comforts and perks, but also with respect to the very fundamental issues of children's growth, development and freedom. They are not only kept captive but also deprived of their basic natural right to grow and develop — physically and mentally. The case of trafficked girl children is still more precarious. They are victims not only of rights violations, but also gender discrimination and a host of related social problems. These trafficked girls are subjected to excruciating torture — emotional, physical and sexual. Perversions and exploitations meted out to the trafficked girl children by multiple abusers often makes them highly susceptible to serious health hazards, including high risk of contracting HIV/AIDS at a very early age. The fact that a large number of them are still waiting for rescue shows the lack of concern by all concerned about their plight. The study, therefore, presents a strong case for giving topmost priority to the issues related to trafficked children.

This research has brought out the fact that poverty and illiteracy are the main elements constituting the substratum for trafficking. Herein operates the demand factor. This demand is fuelled by several other factors like the impunity with which the traffickers can operate, thanks to the distortions in law enforcement. The low risk enjoyed by the exploiters, coupled with the high profit in this world of crass commercialisation, ensures perpetuation of trafficking. Whereas the traffickers and his cohorts have no restriction on court jurisdictions or the boundaries between police stations, districts, states, and even nations in carrying out their 'trade', the enforcement agencies are bogged down by restrictions and limitations of all sorts, which are effectively capitalised by the traffickers. The response by the government agencies and even civil society has established that they have been able to address only the tip of the iceberg. The trends and dimensions of the problem, which emerge from this study has exposed the ultimate human rights violations that exist before, during and after trafficking, and has accordingly brought out certain suggestions and recommendations in addressing them.



Recommendations and Suggestions

26.1 Introduction

The Research on Trafficking in Women and Children has been multidimensional, addressing different aspects and dimensions of trafficking. The focus of the research has been on the process of trafficking rather than the purpose of trafficking. The study, carried out in 13 states by the concerned research teams and the National Study Team located at Delhi has brought out excellent initiatives by individuals and institutions across the country and elsewhere, which have started making desirable and positive impacts in addressing the problem. These good practices are indicators of what needs to be done in situations where things go wrong. This study has also taken up several issues which remained unacknowledged and has exposed many shortcomings, rights violations, and insensitivity in the response system. Since the research has collected voluminous data, and identified a spate of problems and challenges, and a host of good and bad practices, it is a Herculean task to compile and analyse them in a holistic manner. The suggestions and recommendations included in this chapter are not exhaustive, though efforts have been made to identify the important issues and list out the suggestions and recommendations that are required to address them. The readers have the added advantage of going back to the chapters in this report and identifying areas for further action, as per their priority, orientation and requirement. Many of the suggestions and recommendations given below are reflective of the action programmes that have been facilitated, promoted, organised and/or catalysed by the NHRC, the ISS, the National Study Team and the field researchers. In fact, this research and the related action programmes have created a lot of momentum in the anti-trafficking initiatives, which need to be sustained with vigour, speed and commitment.

For convenience and easy understanding of the suggestions and recommendations which came up during the study, they are presented in five categories, as below:

1. Cross-cutting issues
2. Prevention of trafficking
3. Protection of victims and survivors
4. Prosecution of exploiters and others
5. Changes proposed in ITPA

Despite the best efforts to avoid overlapping, the five-tier categorisation is not devoid of repetitions, because the issues involved are closely inter-linked. Though some recommendations may appear repetitive, the focus of the recommendations is different under different heads. Moreover, the ideal situation would be an integration of prevention, protection and prosecution, as discussed in Chapter

No. 24. The integration is essential in the given situation because each category has a direct bearing on the other. Therefore, any action on one front will provide the best results only when it is supplemented with corresponding action on other fronts.

26.2 Cross-cutting issues

26.2.1 Importance of Human Rights

To address trafficking, the first and foremost requirement is to recognise the human rights violations involved, which have been brought out in the study. The commonly prevalent paternalistic ‘law and order perspective’ and the predominantly moralistic ‘welfare perspective’ have to be substituted by a ‘human rights perspective’. This approach is holistic, participatory and rights-based, with an underlying commitment to ensure human dignity. Every action and initiative, whether it is a policy, programme or project, should be oriented towards the best interests of the trafficked victim/survivor and for the protection of a vulnerable prospective victim. Therefore, all such activities have to be built upon the basic substratum of human rights, which, in turn, will also be the yardstick for the efficacy or utility of the concerned initiative. The NHRC and state Human Rights Commissions could be the appropriate catalysts for bringing about this paradigm shift.

26.2.2 Understanding the concepts and issues

Research has shown that the concepts and issues of trafficking have often been surrounded by myths, e.g., trafficking is usually presumed to be for the purpose of commercial sexual exploitation. Often, it is considered to be coterminous with prostitution. This research has demystified these concepts and issues, and has also shown that there is a requirement for all concerned to understand the appropriate meaning and import of various related issues. Similarly, the law enforcement agencies, including the immigration authorities, need to be properly oriented to understand the linkages as well as the distinction between trafficking, migration and smuggling. All activities relating to prevention, protection and prosecution have to necessarily originate from a clear understanding of all such concepts and their linkages. There is a need to develop guidebooks, brochures or flyers, which would help, demystify the concepts and bring about clarity to all stakeholders. In this context the UNIFEM briefing kit (2003) is a useful source book.

26.2.3 Notifying the Advisory Body

Despite the provision u/s 13(b) ITPA for constituting an advisory body of NGOs, many states have not taken any initiative in this direction. Though the law does not deem it to be mandatory, considering the facts and circumstances clearly emerging from this study, partnership of civil society — represented by the advisory body of NGOs — with the law enforcement agencies, is not only an ideal mechanism, but also an essential requirement for addressing the issues relating to trafficking. Therefore, all state governments should consider constituting the advisory body consisting of NGOs as well as respected members of the public who are sensitive, committed and working against trafficking. The research experience shows that it would be better if the NGOs are notified on a District-basis or, at least, a regional basis, so that the services of the appropriate NGOs working in the field are co-opted.

26.2.4 Forming rules under ITPA

State governments should revise the rules issued long back under SITA (Suppression of Immoral Traffic Act, 1956) and issue a fresh set of rules under ITPA. These rules should also list out the procedure and protocols, which are to be followed in rescue and post-rescue operations, keeping the best interest of the survivors/victims. These rules and provisions should clear the concepts, especially the existing confusion between trafficking and commercial sexual exploitation, and bring about clarity of understanding from a human rights point of view. The points that emerged from this study can be effectively utilised for preparing these guidelines and rules.

26.2.5 Minimum standards

Governments should bring out state policies, including guidelines on the minimum standards of care, attention and service to be extended to the victims and survivors by all the service providers, including law enforcement officials, judicial officers, prosecutors, medical professionals, psycho-social professionals, counsellors, people manning after care homes, and all such stakeholders. The state policy should bring to focus the linkages between migration, HIV/AIDS and trafficking. The guidelines, which can be issued as information kits or handbooks, or as part of the rules to be issued under ITPA (as stated in the previous paragraph), have to be in conformity with the human rights of the survivor/victim. They should also specify the accountability of the agencies concerned in providing services. These guidelines should not be confined to law enforcement and justice delivery, but also extend to prescribing minimum standards with respect to prevention, rehabilitation, counselling, providing livelihood options, economic and social empowerment, etc. These are grey areas in which many stakeholders find it difficult to function effectively for want of appropriate orientation. For example, the girls rescued in 2002 in Delhi were from different states in India. The government officials of NCT Delhi did try their best to network with the officials of the concerned state governments. Though many states cooperated, some did not. However, after the High Court intervened, things moved in a positive direction. Perhaps appropriate guidelines on such issues would have made the situation easier and facilitated in the protection of rights of all concerned. Considering the fact that this is an area where the central government and all state governments are involved, it would be appropriate to prepare these guidelines of minimum standards of care under the aegis of NHRC and thereupon, the state governments could incorporate them in the rules to be issued under ITPA and the Government of India could incorporate them in the NPA.

26.2.6 Multidisciplinary approach in combating trafficking

The Constitution of India, under Article 23, explicitly prohibits trafficking for any type of exploitation, including commercial sexual exploitation, labour and servitude. Research has shown that issues relating to trafficking in women and children cut across departments, agencies and all such boundaries, but the response from governmental and other agencies has been sectarian, segmented and, usually, unidimensional. Anti-trafficking activities should, therefore, be integrated into polices, programmes and projects of all ministries and departments which have any bearing on the issues concerned with or related not only to trafficked persons but also to the persons who are vulnerable to trafficking. It calls for a multidisciplinary integrated approach by all the concerned government agencies.

26.2.7 National Nodal Agency

The research has brought out the wide gap between the various government agencies at the centre and in the states in addressing the problems related to trafficking. A national nodal agency to counter human trafficking needs to be set up, by integrating the anti-trafficking activities of the central government and state governments, especially involving the departments of women and child, labour, social justice, health, home, tourism, railways, information and broadcasting, law and justice, and agencies like NACO and CBI. An MOU among these agencies, perhaps taking cue from the Thailand MOU, may be required for effective coordination. Since an amendment of the ITPA is in the pipeline, this nodal agency could be built into the Act itself. Considering the fact that this involves the central government and all state governments, it would be appropriate if this is set up by DWCD under the aegis of the NHRC. The state governments, as advised by the NHRC during this research, have already earmarked two nodal officers in each state (one representing the police and the other representing the welfare/developmental departments). Integrating them into the proposed national nodal agency could institutionalise the functioning of these nodal officers from all states. The national agency could function as the special rapporteur-cum-coordinator of all activities related to anti-trafficking. Since this person can facilitate counter-trafficking activities across all states, the states would be willing to be associated.

26.2.8 NGO Coordination at the national level

At present, NGOs function not in unison, but disparately. There is a need for coordination among the NGOs within the states, across the states and across the borders. As of today, the trans-border networking of selected NGOs (for example, SANLAAP, SLARTC, etc. from India, BNWLA from Bangladesh and Maiti from Nepal) is functioning well. Similarly, NGO networks like ATSEC and NASCET have established effective linkages. However, it is appropriate and essential to set up a national integrated grid of the NGOs on anti-trafficking, which is linked with the NGO groups across the borders in Nepal and Bangladesh. This could perhaps be facilitated by an MOU similar to the one in Thailand.

26.2.9 GO-NGO partnership

Collaboration of NGOs and government agencies is an essential requirement in the anti-trafficking programmes and activities. The national nodal agency mentioned above could facilitate such collaboration. It should, however, be borne in mind that the government agencies cannot abdicate their responsibility and, therefore, the role of NGOs would be only complementary and not supplementary. However, in order to achieve best results from community participation, certain specific activities such as setting up rescue homes and counselling centres could be delegated to the NGOs. The Andhra Pradesh model of co-management of rescue homes and having coordination committees at the state and district levels is a good example. At many places, the police faces acute shortage of personnel, particularly women police, and resources to cater to such requirements. Therefore, despite court orders, repatriation gets unusually delayed. The Tamil Nadu practice of involving NGOs in the process of repatriation, by providing adequate resources to them, has been found to be effective. Similar examples could be thought of by other states. Notifying them, as stated earlier, in the advisory body u/s 13(3) b of ITPA could strengthen the partnership of NGOs. At the national level the NGO grid, discussed above, could be dovetailed to the National System

of Nodal Officers on Anti-Trafficking, which has been set up by the NHRC. The initiatives for integrating the national network of NGOs and nodal officers could be facilitated by the NHRC

26.2.10 Corporate Response

The research has shown that, of late, the social responsibility of the corporates has given a strong impetus to anti-trafficking activities. The illustrations presented in the study explain the scope and potential of the role of corporates not only in providing financial resources, but also reducing the vulnerabilities which lead to trafficking. Therefore, they have a large role to play in preventing trafficking. The partnership of corporates with NGOs can be initiated by either party or could be facilitated by the concerned government agencies. The large amounts which corporates have earmarked for meeting their social responsibility could be adequately channelised to the anti-trafficking sector.

26.2.11 Role of UN agencies and INGOs

Many UN agencies have anti-trafficking as part of their mandate, either fully or partly. The study has, however, shown that many projects and programmes are overlapping. Therefore, it would be in the fitness of things and in the best interests of the public that the various UN agencies avoid duplication of efforts and synergise their policies and programmes. The case of INGOs is also no different. If the concern is for maximum and effective utilisation of their resources, they need to network and ensure non-duplication of efforts and wastage of resources. Synergy and dialogue are called for in this sphere.

26.2.12 Commitment and accountability of development agencies

The study has shown that poverty and other delimiting factors cause vulnerability, leading to the trafficking of women and children. The disability factor, described in the chapter on psycho-social intervention, is an indication of the colossal loss to the society. Despite a plethora of developmental schemes and projects in operation by the Government of India and the state governments for helping the vulnerable groups of society, their poor implementation is the main reason for keeping these groups exposed to different types of exploitation, including trafficking. Proper implementation could have brought these vulnerable sections out of this trap. There is a need to bring in commitment and ensure accountability of these agencies. This calls for proper monitoring and evaluation of the impact of not only of the programmes but also of the policies, by utilising the appropriate process and impact indicators.

26.2.13 Right to development as a human rights issue

The study also shows complete ignorance of the concerned parties (victims, vulnerable sections, NGOs, civil society, etc.) to the various schemes of the government that could have been of benefit to the vulnerable sections of society who eventually get trafficked. Once these vulnerable groups are made aware of their rights to development and progress, dignity and individuality, traffickers will find it difficult to prey on them. Therefore, creating awareness of such schemes should not be considered merely a welfare activity but should be considered as human rights issue. The NHRC could, accordingly, advise the various ministries and agencies in the union government and state governments.

26.2.14 Mainstreaming anti-trafficking into the agenda of Professional bodies

Anti-trafficking and the human rights issues involved in the process should find a place in the agenda of professional bodies. The annual Conference of the Chiefs of Police in India organised by the MHA should have an exclusive slot for presentation and discussion of this subject. The same should be the case with the annual meetings held at the state police headquarters and the monthly meetings held by the district police chiefs. Similarly, meetings of the State Women's Commission, State Human Rights Commission and other such professional bodies should have definite focus on the issues related to trafficking. The NHRC could issue directions to the MHA and other agencies in this respect.

26.2.15 Integrating anti-trafficking issues in the training curriculum

Considering the multisectoral aspect of the issues, processes and responses to trafficking, the training schedules of administrative officials, police officers, prosecutors, judicial officers, welfare officers, correctional officers, etc. should include a module on anti-trafficking activities. It could also focus on drawing the required attention in addressing these issues and all related aspects of human rights arising therefrom. This calls for developing training modules and schedules which would be appropriate for the requirements of the concerned agency.

26.2.16 Bilateral trans-border cooperation

Traffickers and exploiters have no boundaries but the law enforcement officials and others are bound by limitations of jurisdiction. This has become a serious impediment to anti-trafficking programmes and activities. The SAARC Convention envisages setting up a task force for dealing with trans-border trafficking. Since the convention has not been ratified by all State parties (as of January 2004), the implementation has not commenced. Trans-border cooperation requirements cannot be geographically confined to the bordering districts. However, the ad hoc task forces or cross-border committees set up at the initiative of the local administration or the law enforcement agencies manning the borders, are operational in many places along the borders. To start with such informal networks, which include government officials and NGOs of both sides, could be institutionalised so that they could effectively carry out anti-trafficking activities.

26.2.17 Regional Initiatives

Since the research has brought out the problems of trans-border trafficking, proper law enforcement as well as care and protection of women and children need concerted action. However, the problems are common to most of the countries in the region, and so, it would be better to have regional initiatives in this direction for better results. A regional database of traffickers and exploiters is called for. Similarly, sharing of good practice models and important judgements of the courts in the region could be considered. Regional victim-witness protection protocols could be developed and circulated to all concerned for guidance. A regional Childlines could be set up to link all Childlines in the countries concerned so that trans-border issues of missing and trafficked children could be effectively attended to. These regional initiatives would be meaningful if they are taken up by the MEA, supported by UN bodies like UNIFEM and UNICEF.

26.2.18 Human trafficking web portal

Advancements in ICT should be utilised for developing an appropriate portal. This requires involvement of the concerned ministries/departments in the Government of India and could be facilitated by UN agencies. The task could be promoted by the NHRC so that the human rights aspects are given proper attention. It could be set up under one of the existing government agencies like the NCRB. The portal should have sites on missing persons, intelligence and alert notice on suspected traffickers, and fact sheets of research, surveys, conferences and workshops being held by various agencies. The portal should have data on resource persons, anti-trafficking networks and NGOs, who could be consulted and contacted by any person requiring their help. The data could also include the details of agencies and donors who would like to render support to the various activities. The sites have to be interactive so that they can function as help desk and clearing house.

26.2.19 Differential approach in dealing with trafficking in children

The research has shown the high level of vulnerability of children especially girl children. Therefore there is a need to develop and put to practice a distinctly different approach for children, as separate from that of women, in all aspects of preventing and combating trafficking.

26.3 Prevention of Trafficking

26.3.1 Vulnerability mapping of the source areas

This is an essential requirement for prevention of trafficking. The study has identified the various source areas in the country. It has also shown how the source areas shift from one place to another and even from one state to another. Therefore, no area can be permanently branded as the exclusive source area. It needs careful understanding by the various stakeholders to identify the source area, as any vulnerable area could develop into a source area. District officials, along with NGOs working in the field, are the appropriate agencies to take on such micro studies. The mapping has to be done keeping all the parameters and dimensions in view and not only from the law and order perspective. It should be participatory, involving the community, the survivor and the victim. Since panchayati raj institutions (PRIs) have a major role to play, their services should be utilised. The initiatives of Tamil Nadu government in involving PRIs could be thought of as a model.

The situation in the northeastern part of the country demands special attention. The reasons have been explained in Chapter 25. Trafficking of women and children in this region cuts across the different states and extends beyond national boundaries, involving Bangladesh, Myanmar, etc., but since the present study covered only Meghalaya and Assam, it is essential that micro studies be carried out exclusively in this region to understand the dimensions of trafficking specific to the region, and take appropriate steps to deal with the situation. The study should specifically focus on the trafficking that takes place through More in Manipur, and Pangsa and Dimapur in Nagaland. Simultaneously, efforts need to be made to address the extreme vulnerability situations that the women and children in this area are subjected to, especially resulting from the ethnic clashes and conflicts which have affected this area for a long time.

26.3.2 Vulnerability mapping of the demand areas

Since trafficking is an organised crime, the exploiters are, without doubt, criminals, and action has to be taken accordingly. This includes traffickers, transporters, financiers, abettors, conspirators and all those who are involved, by their acts of omission and commission, which lead to exploitation. The group also includes the clients who abuse and exploit women and children. The study has shown that the majority of them look for sex with children and, therefore, such clients have to be dealt with stringently. The burgeoning demand for child sex, both brothel-based and non brothel-based has to be aborted ruthlessly. Since child sex amounts to rape even with consent (vide s.375 IPC), the clients need to be booked under substantive law too. At the same time, the study has shown that there are some clients, especially teenagers, who come to brothels for sex mostly out of curiosity or lack of guidance. These clients could be dealt with by counselling and education. They should be made aware of women's rights, human rights and child rights. Such programmes for action can be planned only after understanding the demand scenario, which needs to be mapped in detail by involving the clientele. Since this study has brought out different patterns in different states, it would be appropriate that such micro-level mapping is carried out by the district administration, as mentioned above, so that necessary steps can be locally initiated, by involving all the stakeholders.

26.3.3 Addressing the vulnerabilities

The most important issue in prevention is to address the vulnerabilities of women and children. Economic and social empowerment are the cornerstones for prevention of trafficking. The different policies, programmes and projects of the government with respect to the various departments need to be dovetailed in such a way that they necessarily have an anti-trafficking component, which would be integrated into the larger plan of action by the concerned government department. Self Help Groups (SHG) and PRIs can be effectively utilised for this. The Tamil Nadu example shows that PRIs can be very effective in the empowerment of women and children at the grassroots. The role of corporates has been discussed earlier. They have an important role to play in prevention of trafficking by addressing the vulnerable sections of society. Since the study shows that the majority of the existing intervention programmes are focused on the supply side, there is a need to reorient the focus to the demand side too. The study has shown that trafficking has caused an exodus-like situation of women and children from the economically/socially oppressed sections of society and those affected by natural/man-made calamities. When such circumstances prevail, the girl child and women become highly vulnerable. In such situations it has become a common feature to convert the girl child, who is considered a liability, into an asset by selling her or abetting in trafficking her. Therefore, preventive strategies need to focus on such vulnerabilities. Developmental programmes should specifically address social and economic empowerment of these vulnerable sections. There is a need for significant inputs through education, public awareness and community involvement.

26.3.4 Public awareness campaigns

Lack of awareness of human rights of women and children is the springboard from which the exploiters gain impetus. Once the vulnerable sections are adequately aware of their rights, they themselves will feel strengthened. Though the public relations department of the government and

certain NGOs carry out such programmes, they are microscopic, considering the scale of the problems concerned. The research has shown that there is a 'conspiracy of silence' by all concerned, which does not exclude family, community, religious institutions, political parties and, at times, even CBOs, NGOs. There is a need to have extensive and sustained awareness programmes focused on rights of individuals. Such programmes should be sustained too. It would be a good strategy to empower them by encouraging leaders from among them, who would be able to garner adequate public support for the anti-trafficking initiatives. Moreover such awareness campaigns could be target-oriented, with specific attention on the most vulnerable sections of society.

26.3.5 Sensitisation of adolescents

This research has shown that a large number of the victims as well as clients are teenagers or adolescents, especially school and college students. There is a need to address the issue of sexuality within this group and sensitise them about the human rights of women and children. Appropriate NGOs could be asked by the educational institutions to carry out such target-oriented advocacy in schools, colleges, etc.

26.3.6 Role of Family

The study has shown that certain families, due to several reasons, are directly or indirectly involved in the trafficking process. It could be their ignorance, lack of livelihood options arising out of poverty, prevailing cultural traditions, or commercial motives. There are plenty of instances of family members getting lured by traffickers, falling prey to their evil designs and, thereupon, allowing their wards to be trafficked. All such acts of omission and commission have to be addressed in the appropriate manner. The situations vary from place to place and, therefore, intervention programmes have to be focused on the assessment of these realities. The mapping exercise stated earlier could be utilised for this assessment. Moreover any preventive strategy should take the family into consideration, as the role of the family has been found crucial.

26.3.7 Social culture

This research has brought to light the fact that prevention of trafficking is possible only if the community is fully involved. Trafficking has deep roots in the social ethos of the society and, therefore, cannot be handled by law alone. The larger issues of lack of livelihood options, gender discrimination and deprivation of opportunities have to be kept in mind. Therefore, any preventive strategy should focus on eradication of poverty, illiteracy, lack of awareness of rights and livelihood options, as well as on issues of social and economic empowerment. The lack of options provides a fertile ground for the exploiters to enhance their commercial motivation and grow rich faster. Therefore, the basic question is to uphold community values and create a culture against exploitation of women and children. Community should become a guarantor of human rights. The prevailing 'culture of silence' of the community has to be transformed into 'community involvement'. In this context, besides the role of family discussed earlier, there is an important role to be played by all stakeholders, viz., the schools, the panchayats, other democratic institutions, NGOs, CBOs, religious teachers, mediapersons and all members of the community. We need to build up a community culture to ensure that trafficking is not just condemned, but not tolerated at all.

26.3.8 Community policing

Several initiatives have been taken by many police officers across the country by involving NGOs to act as bridges between the police and the public. Such initiatives of community policing are essential for combating trafficking. This not only brings in the involvement of the community, but also facilitates the functioning of the police. Community cooperation is essential for getting independent witnesses for rescue operations. Rescued persons can be lodged in the ‘homes’ run by NGOs. Certain innovative examples of community–police partnership do exist, as depicted in some case studies in the second volume of this report. The cross-border committees in certain districts on the Indo-Nepal border are examples. The JIT programme, set up by the UN agencies, is another example. However, such initiatives have to spread to other places and the existing ones need to be institutionalised. In order to prevent cross-border trafficking, law enforcement agencies like BSF and SSB could look at developing police–public networks, especially in the vulnerable areas, and utilise them for acting as watchdogs and informants on traffickers and exploiters and thus, help in the prevention of trafficking.

26.3.9 Combating sex tourism

Law enforcement agencies and civil society need to take special efforts in this direction. Urgent steps have to be taken by the government to arrest the menace of sex tourism. It cannot be hidden under the carpet any longer. Coordination among the state police agencies and central law enforcement agencies, including immigration authorities, as well as other related departments like tourism and urban development, etc. has to be brought out in an institutionalised manner. The provisions of the Goa Children’s Act, 2003 could be a model for other states to bring in such provisions and ensure their implementation. There is a need for extra-territorial legislation on the subject. Moreover, preventive steps should include wide dissemination of the legal provisions and preventive strategies, by involving tourism departments, corporates, hoteliers, tour operators, and other stakeholders. Tourism promotion cannot be at the expense of women and children. Protection of child rights and women’s rights should form the core of tourism promotion initiatives, policies and programmes.

26.3.10 Addressing culturally sanctioned practices

Since several cultural practices provide the substratum for trafficking and commercial sexual exploitation of women and children, it is essential to initiate special efforts to address these issues in places where such practices exist. While the Devadasi (Prohibition of Dedication) Act of Karnataka addresses the issue per se, the Goa Children’s Act, 2003 addresses the issue of trafficking linked to culturally sanctioned practices. Effective implementation of these social legislations calls for synergy between law enforcement agencies, other governmental institutions like NCW, and civil society. NGOs have a large role to play in building up public awareness and breaking the silence of the community. There is a need to promote zero tolerance to this kind of exploitation in such communities. At the same time, the rehabilitation of women and girls who have been trafficked and exploited needs to be given special attention. Rehabilitation efforts may go against the cultural norms in existence in the community and, therefore, can be successful only if they are properly monitored, as is seen in the Delhi case study where the Delhi High Court intervention was instrumental in helping the rehabilitation of Bedia girls of Rajasthan.

26.3.11 Intervention to prevent trans-border trafficking

The SEVA model of setting up a Rights Awareness Centre at the Indo-Nepal border has been successful in preventing trafficking under the garb of migration. While not interfering with migration, the strategy of making the migrants aware of their human rights has succeeded in preventing trafficking of girl children. Such models could be replicated in other areas on the border by involving the NGOs which are working on issues related to cross-border trafficking.

26.3.12 Role of Media

The media has a large role to play in mobilising public support and involvement for preventing and combating trafficking. Due to its outreach and its ability to mould public opinion, it is a powerful tool of social change. Therefore, there is a need for involving the media in a sustained manner. Investigative journalism on trafficking needs to be promoted. However, media publicity should take into consideration the rights-approach and ensure that there is no violation of the rights of the victims and survivors. And so, there is a need to develop minimum standards for the media. The NHRC may consider facilitating appropriate agencies to bring out guidelines in this regard. Moreover, there is a need for linkage of mediapersons across the borders so that they can work on a common platform, especially with respect to prevention of trafficking. Multilateral agencies could help in establishing and facilitating this linkage.

26.4 Protection of victims and survivors

26.4.1 Urgency of rescue operations

The study has pointed towards the urgency and essentiality of carrying out rescue operations. The large majority of survivors and victims are eager to be rescued and rehabilitated. During the field work, it has come to notice that there are more than 500 children languishing in brothels, as stated by the brothel keepers themselves. Moreover, a vast majority of the interviewed victims in CSE in the brothels have expressly stated their eagerness to be rescued and rehabilitated. No doubt the non-rescue of these trafficked persons, more so of children, compounds the human rights violations. Therefore the urgency to rescue and rehabilitate them.

26.4.2 Handbook on dos and don'ts

In order to ensure that the police officials at the grassroots level are aware of the dos and don'ts, especially from the human rights perspective, in dealing with matters relating to trafficking, and to bring in accountability, it is essential that they are provided with guidelines on the dos and don'ts that are to be followed before, during and after rescue. This should have a checklist of the care and attention they should provide during the various activities. The checklist will also help to ensure that the rights of the victims are not violated. Perhaps a guidebook covering these aspects could be prepared under the aegis of the NHRC, so that it acquires greater credibility. South Asian Professionals against Trafficking (SAPAT), a forum facilitated by UNIFEM, has a plan to prepare such a handbook.

26.4.3 Minimum standards during rescue and post-rescue activities

The research has brought out violations of the victims and survivors before trafficking, during trafficking, after trafficking, and even after rescue. Such violations occur because the activities by

governmental and non-governmental agencies are not always guided by specific yardsticks conforming to human rights. All efforts have to be made to ensure that human rights are not violated in any manner. The voice of the victims and survivors have to be given primacy. There is a need for appropriate psycho-social inputs in getting the informed consent of the rescued victim for any future course of action on her behalf. There is thus a need to develop minimum standards of care and protection for all activities during and after rescue. Considering the fact that this is one of the important matters of human rights affecting a large community across the country, it would be appropriate if the minimum standards and guidelines are developed under the aegis of the NHRC. Since the issues concerned cut across the entire region, regional protocols could be developed by involving the various countries in the region. Asia Pacific Forum of Human Rights agencies and the bilateral linkage of Human Rights organisations can be considered as a medium to facilitate the development of such trans-border protocols.

26.4.4 Segregation of victims from exploiters

This research shows that victims and exploiters are ‘rounded off’ together by the police (sometimes along with NGOs) and thereafter, taken to the police station and kept together during the registration of FIR, and during interview and other processes of investigation. This gives ample opportunity to the exploiters to terrorise the victims, and prevent them from speaking out and exposing the exploitation. Therefore, utmost care has to be given by police agencies and others to ensure that the rights of the victims are protected. They need to be isolated from the abusers, exploiters and their representatives.

26.4.5 Legal representation

The Supreme Court of India, in *Delhi Domestic Working Women’s Forum vs Union of India* [1995 (1) SCC 14], has pointed out the need for legal representation for rape victims. The victims of CSE are, no doubt, victims of rape. Therefore, the legal representation mentioned in the order of the Apex court becomes applicable to them also. The services of the Free Legal Aid Authority in the districts could be utilised for this purpose.

26.4.6 Medical care and attention for the rescued persons

Police agencies have reported difficulties in providing medical attention to the rescued survivors/victims. Shortage of staff, especially women staff, lack of resources and medicines, and lack of sensitivity among the staff, are vital issues that need to be immediately attended to. (Discrepancies related to age verification have been discussed separately). These problems exacerbate the violation of rights of the survivors. Therefore, adequate steps have to be initiated by the health department to deal with these problems on priority basis and with utmost sensitivity. This also calls for sensitisation of the medical professionals on the related issues.

26.4.7 Psycho-social intervention

The trafficked person, as explained in the chapter on psycho-social issues, is under severe emotional strain. The traumatised victim requires counselling. Trained counsellors are essential in such situations. It would be a good idea to provide such personnel at every police station by networking with the welfare department and other agencies like the Central Social Welfare Board (CSWB). The police department could set up Family Counselling Centres (FCC), with trained counsellors

in police stations. The CSWB should extend the facility of FCC to all police stations and enlarge their scope to counsel the trafficked victims. These counsellors should be given thorough, professional training before they embark upon counselling. Training programmes for counsellors, like the one organised by SARTHAK, an NGO in Delhi, could be effectively utilised.

26.4.8 Linkage of homes with the police and NGOs

The study shows that lack of linkage of the police with the authorities of 'homes' usually causes severe inconvenience to the latter. In one instance, officials of a rescue home in Delhi were unprepared to receive large number of rescued persons without adequate notice, especially because it was late at night. Consequently, there were several complaints of violation of rights of the trafficked victims. In order to avoid such situations, the police agencies should notify all concerned in advance, preferably immediately after rescue, about the future programme and likely time of arrival at the 'home' so that these homes can make necessary arrangements. Keeping in view the best interests of the survivors, there is a need for institutionalising police linkage with homes and laying down protocols for such transfers.

26.4.9 Inadequacy in the existing homes

The research has brought out the fact that there is acute shortage of manpower, infrastructure and resources in most of the existing homes. These need to be replenished and augmented, depending on the requirement. The superintendents should be given powers to cope with emergencies, especially when large numbers of rescued persons are brought to these homes without advance notice. Some police officials have even stated that they refrain from carrying out rescue operations for want of adequate rescue homes where the survivors could be lodged. This highlights the need for setting up such homes wherever required. Homes set up by NGOs could be recognised and more NGOs could be facilitated to set up similar homes.

26.4.10 Shortage of CWCs

There is an acute shortage of Child Welfare Committees (under the JJ Act) which can take charge of the trafficked children. Since CWCs are the competent bodies to take care of the interests of children trafficked or likely to be trafficked, they should be available at places where vulnerability exists. Their offices need to be linked to Childline and other such helplines so that assistance is rendered without delay. Instances are aplenty where, for want of CWCs, the rescued children have been produced before the judicial magistrate and have been deprived of the rights and privileges due to them under the JJ Act. Therefore, CWCs should be set up in all districts in India.

26.4.11 Rehabilitative mechanisms

Rehabilitative measures should be oriented to the best interests of the trafficked victim/survivor. The NPA of DWCD has made provisions on rehabilitation. However, this study shows that a uniform policy of rehabilitation will not suffice. Persons who are subjected to commercial sexual exploitation and are in need of rehabilitation can be categorised into three groups. The first group includes newly trafficked women and children who are to be rescued without any delay and should be rehabilitated on priority. The second category includes elderly persons who have been subjected to exploitation for many years and have been rendered jobless and penniless, and are mostly sick or infirm. They have no livelihood options before them. The third category includes other women,

mostly middle aged, who are trapped in the brothels because of lack of appropriate and sustainable rehabilitative mechanisms. The strategy for rehabilitating each of these categories has to be different and should not only take into account their best interests, but also have their informed consent.

Rehabilitation should be based on the rights approach rather than the narrow welfare-approach. It should not be considered as an act of welfare or extending largesse, but should be seen as an act to protect and ensure human rights. Moreover, decision-making should be participatory, keeping in view the best interests of the survivor. Livelihood options have to be based on marketable skills and knowledge. Rehabilitative institutions should have a holistic approach — with trauma counselling, psychosocial intervention and health care for the victims, as well as provision for imparting appropriate skills, knowledge and resources for a sustainable livelihood. Moreover, rehabilitation programmes have to take into consideration the legal requirements of the criminal cases, if any pending, so that the latter do not become impediments in proper rehabilitation. It should also be borne in mind that rehabilitative processes are applicable to both rescued and non-rescued persons. In order to make sure that the victims who are yet to be rescued do have access to the rehabilitation programmes and processes, it is essential to provide helplines and other help services, along with adequate public awareness programmes. Also, rehabilitation programmes have to be made sustainable. Micro credit and other facilities should be provided. The local administration should have monitoring mechanisms to ensure that the rehabilitated person is not re-trafficked. The discussion in Chapter 25 has brought out the need for a holistic and integrated rehabilitation scheme for the survivors and victims of trafficking, with adequate provisions for addressing prevention of trafficking. The government should also bring out a clear policy on the social security of the survivors, keeping in view the points stated above.

26.4.12 Shortage of police personnel

The study has shown the inadequacy of human resources, especially women police, as well as infrastructural resources with the police agencies in almost all the states, which are impediments in undertaking rehabilitative initiatives. It would be advisable to have adequate number of women police officials in all police stations. Since the police station is the first rung of the government machinery that is called upon to ensure human rights of the survivors, it is essential that the police stations should be adequately equipped to deal with the situation. Augmenting the human resource and material resource of the police stations will be in the best interest of preventing trafficking and other crimes.

26.4.13 Anonymity of the rescued person

All efforts should be made to ensure that anonymity is maintained with respect to the identity of the trafficked person. This is an important aspect of protection of human rights. The provisions of 228A IPC and 22 JJ Act have to be complied with and any violator should be made accountable.

26.5 Prosecution of Exploiters and Others

26.5.1 Registration of cases

Police officials themselves have reported about under-reporting or non-reporting of crimes related to trafficking. This is a serious lapse in the existing system of law enforcement. Unless all crimes of trafficking are reported to the police, legal action cannot be initiated against traffickers and

exploiters. This is possible only with greater police-public cooperation, involvement of civil society, increased public awareness and, above all, sensitivity and accountability among the officials concerned.

26.5.2 Misuse of Section 8 ITPA

The research has brought out several distortions in law enforcement. On the one hand, there is non-utilisation of sections of ITPA against traffickers and exploiters, and on the other hand, there is grave misuse of Section 8 ITPA, wherein victims are arrested, prosecuted and even convicted on the charge of soliciting. The legal concept of *mens rea* has to be investigated and the person should not be chargesheeted or convicted if *mens rea* is lacking. A person who is made to solicit under coercion, duress, threat, etc., cannot be charged with the offence of soliciting, as there is no *mens rea*. A victim of trafficking should not be arrested at all. This calls for sensitivity and accountability of all concerned. Even if the person is wrongly charged, she should not be convicted. If the investigation is perfunctory, the court can call for further investigation. Similar aspects of protecting the human rights of the victims have to be brought home by appropriately training and sensitising police officers, prosecutors, and judicial officers.

26.5.3 Justice delivery

Several distortions in justice delivery have been brought out by this study. Most of the persons convicted are victims who are charged with the offence of soliciting. Instances are many where the trial processes have contributed to the revictimisation of the victim. The delay in trial, the inability to produce witnesses by the prosecution, repeated requirements of appearance of the victim in the courts, etc., adds to her problems. Often sentencing practices show lot of discretion and does not indicate any specific yardstick. Many times compensation is not awarded to the victim even after conviction of the offender. At times convictions are not followed up by closure of brothel, externment proceedings etc. Redressal of the grievances of the victims calls for effective implementation of all the provisions of law keeping in view the best interest of the victim. The judicial intervention by the High Court of Delhi shows that the justice delivery process can be oriented to the best interests of the victim if the concerned authorities take appropriate initiatives. Moreover there are several judicial pronouncements by the Supreme Court of India and High Courts, upholding women's rights and child rights. All these have to be put to practice. This calls for sensitisation of judicial officers, prosecutors, medical experts and lawyers.

26.5.4 Human rights perspective in law enforcement

The study has highlighted that in the existing situation, it is the trafficked women and children who are being victimised by arrests and conviction. The judicial intervention of the Delhi High Court has amply demonstrated how it is possible to bring about a paradigm shift from punishing the victims to punishing the exploiters. Trafficked victims should not be exploited any further. Radical changes in the existing law enforcement scenario are needed to ensure this. It calls for (a) declaring trafficking offences as 'grave crimes' or 'special report' crimes, which are supervised by the officer of the rank of SP/DCP and above, and investigations are carried out properly, (b) sensitisation of the police officers and prosecutors, and (c) fixing accountability of the officers concerned for acts of omission and commission. Activities and initiatives that uphold the rights of the women and children should be publicly commended. All efforts are to be made to ensure that the law enforcement

machinery functions within the paradigm of human rights. This necessitates appropriate circulars and directives by the government and police chiefs. The review of literature shows that such circulars are available in Bihar and Tamil Nadu. Since district police, railway police and special outfits like anti-vice squad, CID, CBI, etc., have an important role to play in dealing with offences related to trafficking, their training in this area should be given priority.

26.5.5 Conjunction of JJ Act, IPC and other laws with ITPA

The present legislations, especially ITPA and JJ Act, have a lot of strength and scope for dealing with offenders and providing redressal to the victims. However, many of the sections are not being used, e.g., when the rescued victim appears to be under 18 years, she is entitled to treatment as a “child in need of care and protection” under the JJ Act. Despite this, there are instances where the JJ Act is not invoked and the victims have not only been charged but also convicted u/s 8 ITPA. Similarly, there are instances where, despite the fact that the victims were under 16 years of age and has been subjected to sexual assault, Section 376 IPC was not invoked. Even after conviction, the brothels, where the exploitation had taken place, were functioning and only in very few cases were they closed down. There is a need to orient the police officers and prosecutors to invoke these sections of law, and file reports accordingly. There is a need to sensitise and orient the judicial officers for ensuring justice delivery to the victims by invoking all the relevant laws and rulings. As a corollary, there is an urgent need for implementation of the JJ Act, 2000. Many states are yet to start the process but this needs to be expedited.

26.5.6 Misuse of local laws and special laws

The study shows that many victims are harassed by action against them under 110 Mumbai Police Act, 95 Delhi Police Act, 145 Railways Act, etc. There is a need to carry out a social audit of the actions taken under these and other similar laws by the concerned police agencies to see whether they have protected or violated the rights of women and children who are victims of trafficking. The law enforcement officials and magistrates need to be sensitised accordingly. The state police chiefs and state governments should carry out social audit and ensure protection of human rights. The NHRC could direct all concerned for ensuring compliance. State human rights commissions, wherever they exist, need to look into this. It needs to be ensured that human rights violations are not allowed to continue.

26.5.7 Stringent action against exploiters

There is no doubt that law enforcement has to be ruthless against traffickers and exploiters. While there is an emerging trend of punishing brothel owners and associated exploiters, there are very few instances of traffickers being identified and brought to book. Investigation has to go beyond the brothel, which is usually perceived as the scene of crime. It has to reach the source of trafficking, the trafficking routes, the transit points, all persons involved in these processes and also cover the crime syndicates of exploiters, transporters, financiers and all other accomplices, abettors, etc. This calls for multi-disciplinary and in-depth investigations which can bring out the organised linkages as well as the illegal assets acquired through the crime. Many case studies have presented examples of unbelievable assets amassed by traffickers. There is a need for proper investigation to establish the ownership of such assets and thereafter, take legal steps for forfeiting and confiscating them.

26.5.8 Closure of brothel and eviction

The power to close brothels and evict offenders u/s 18 ITPA can be an effective tool in dealing with the exploiters. The prosecution should move the court for initiating such action, in the event of the court convicting the exploiters. Even before conviction, the executive magistrate can initiate such action by issuing notice. The ITPA also provides for surveillance of the convicted person. These provisions have been sparingly used. There is a need for sensitising the officials concerned and making them accountable. Moreover, in some places, like Mumbai city, this power has not been conferred on the district level officials. It would be better if such powers could be delegated to DCPs.

26.5.9 Organised crime approach

This study has shown that trafficking involves a multiplicity of well-organised exploiters. The manifestations of trafficking present all parameters required for an organised crime. It is a chain of offences, involving multiple abuses and violations, and a host of offenders at various levels. Data also provides adequate instances of this organised crime being trans-national. Therefore, special provisions of law should be brought in, wherever appropriate, to deal with these organised criminals. The law enforcement officials should consider invoking the provisions of the special legislations on organised crimes, wherever applicable. Many state governments have already enacted special laws on organised crimes. Trafficking offences should be brought under the ambit of such special laws.

26.5.10 National database and data surveillance

As mentioned in the previous chapter, there is a need for effective monitoring of the data on cases of trafficking. The supervisory officers should carry out regular and in-depth study of the data, understand the trends and take appropriate steps to ensure that victims are not arrested or harassed and that their rights are fully protected. Guidelines for monitoring the trafficking cases should be developed. It should include collation of data of the review period separately under different sections of ITPA (Sections 3 to 9), related sections of IPC and Local Acts, as well as the preventive sections of CrPC. The data should provide the details of cases registered, chargesheeted and convicted. The details of arrest and conviction should be separately indicated for males and females as well as for adults and children. The data should also show the number of rescued persons (with sex and age disaggregation) and the details of persons repatriated/rehabilitated. Data surveillance with such details will expose the violation of rights that take place in law enforcement and, therefore, will facilitate in reorienting law enforcement, keeping in mind the best interests of the victims. Similarly, the data being collected and published by the National Crime Records Bureau (in its annual publication *Crime in India*) should also reflect the data on trafficking in women and children, with sex and age disaggregation as above. It should also have details of arrests and convictions, specifically stated under the various sections of ITPA.

26.5.11 National system of intelligence dissemination on traffickers and exploiters

The research has exposed a serious vacuum in the law enforcement scenario in the absence of a national system of data collection and information on traffickers and other exploiters. Trafficking has emerged as a serious organised crime cutting across districts, states and nations. Hence, effective law enforcement essentially calls for sharing of intelligence and data by all concerned.

The shackles of boundaries that tie down the law enforcement agencies are being effectively capitalised by the exploiters. The study has also shown that certain NGOs working in this field have large databases, which could be effectively tapped by the police. However, there is no national criminal intelligence organisation which can collate the data, build up the database and disseminate it to all concerned. This has to be done by an appropriate law enforcement agency. Delhi High Court, acting on a public petition, had directed CBI to start a cell on criminal records of abductors and kidnappers. Recently, DWCD has authorised CBI to investigate crimes under ITPA. These developments could also be utilised as catalysts for setting up a national database on traffickers in the CBI. The national system of nodal officers needs to be linked to this intelligence storehouse in CBI. These linkages may call for active involvement of the MHA and facilitation by the NHRC.

26.5.12 Central Anti-Trafficking Establishment

As per Section 13(4) ITPA, the Government of India (DWCD) has notified all officers of the rank of Inspector and above of CBI as CTPO. However, for want of jurisdiction u/s 5/6 of the DSPE Act, CBI cannot *suo moto* take up crimes of trafficking for investigation, even if they have international ramifications. The state police agencies will not have the wherewithal to carry out such inter-state/international investigations. Therefore, there is a need to set up a National Task Force, duly empowered, to take up investigation of such crimes. It is important to note here that the role of CBI as the nodal agency has been appreciated by the Supreme Court of India in *Gaurav Jain vs. Union of India* (1998 4 SCC 270), where the Supreme Court held, 'The ground realities should be tapped with meaningful action imperatives, apart from the administrative action which aims at arresting immoral traffic of women under the ITP Act through inter-state or Interpol arrangements and the nodal agency like the CBI is charged to investigate and prevent such crimes.' CBI having been notified by DWCD, it would be preferable to have the CTPO establishment working under the Director, CBI. They should be given contiguous powers of investigation in all states, at par with the NCB, which can take up any case of the NDPS Act in any state. The discretion of taking over the cases should be left to the Director, CBI, who will take decisions keeping in view the multi-state or international ramifications of the cases concerned. This calls for setting up a special cell in the CBI, by involving experienced persons, experts and officials who are not only aware of the issues concerned but are also sensitised to the rights of women and children. The officials in CTPO need to be specially trained to handle trafficking offences. It needs to be added that the national nodal agency and national rapporteur mentioned earlier should coordinate with the central anti-trafficking establishment so that there is synergy in functioning. This will avoid duplication of efforts and wastage of resources.

26.5.13 Federal crime

Trafficking in women and children is a crime which is committed without any restriction of boundaries. However, the government agencies are restricted in their response by boundaries of police station, district, state, country, etc. These geographical restrictions, coupled with the prevalent mindset, are serious impediments in preventing trafficking as well as in protecting the rights of trafficked women and children. Therefore, trafficking offences have to be made a federal crime as is the case with narcotic offences, over which the state police, CBI and Narcotics Control Bureau have contiguous jurisdiction. Unless it is declared a federal offence where CBI has *suo moto*

authority to intervene, CBI will not be able to take over even international trafficking crimes till such time as they are specifically notified by the concerned state government and the Union Government under Sections 6 and 5, respectively, of the DSPE Act.

26.5.14 Age verification

This is an important issue in law enforcement. The serious anomalies in the existing systems of age verification (CS-MH-18) have been brought out in the case study from Maharashtra. The suggestions made in this case study are worth pursuing, as they are in the best interests of the victims. Presumption of age, at first sight, should be drawn in favour of the survivor. The interview of the survivor needs to be carried out by trained persons who can help the survivor to determine her exact age. In all-borderline cases a CWC representative should be consulted by police officials before taking a decision as to whether the person is a child or adult.

26.5.15 Victim assistance programmes

Redressal of the grievances of the victim should be the topmost agenda in law enforcement and justice delivery. While changes in law are being proposed to incorporate specific provisions on the subject, even within the existing legislation, there is scope for extending assistance to the victims. The provision for ensuring anonymity has already been stated. Similarly, Section 327 CrPC provides for in-camera trial with respect to rape and related offences. Also, Section 357 CrPC provides for compensation. These provisions should be invoked in appropriate cases to ensure the rights of victims. Moreover victim assistance programmes, covering all human rights principles have to be incorporated in the law and practice.

26.5.16 Criminal Injuries Compensation Board

The Supreme Court of India in *Delhi Domestic Working Women's Forum vs Union of India* has advised the setting up of this Board to provide assistance to victims. Considering the fact that most of the trafficked victims, after rescue, are penniless, it is essential that they are provided with minimum resources for sustaining themselves. The compensation to be imposed on the accused u/s 357 CrPC can come into effect only after conviction and not otherwise. Therefore, there is a need for setting up a board with adequate funds to provide for post-rescue assistance, without waiting for closure of the judicial process of trial. The Tamil Nadu government has already set up a Social Defence Fund for giving financial assistance to rescued victims. Andhra Pradesh government has a scheme of extending financial help to all victims immediately after rescue. These could be considered as models for other states too.

26.5.17 Video conferencing

One of the important aspects of justice delivery is ensuring the protection of the rights of the victims during the trial process. It has come to light in many places that the victims are called to the court for their evidence long after repatriation. There are instances in Delhi where the victims rescued from Delhi brothels were rehabilitated in Bangladesh, but were brought back to Delhi eight years later and made to depose in the court. Often, the victims are reluctant to make statements in the court in the presence of the accused, because they do not like to revisit the trauma and relive the exploitation. In such situations, video conferencing can be an effective tool. The chapter on judicial response mentions the order of the High Court of Delhi on video conferencing, which can,

if implemented properly, be a great boon to a large number of young girls who are rescued from one place but rehabilitated in their hometowns.

26.5.18 Providing interpreters

In the case of trans-border trafficking and inter-state trafficking, the investigators and trial courts are handicapped when the victim speaks a different language. Ad hoc arrangements may not be in the best interests of the victim. There are instances in Delhi where the interpreter was found to be misleading the court and speaking in favour of the trafficker. The court could not proceed for want of an objective and neutral interpreter. Here, NGO intervention can redeem the situation. Therefore, there is a need for competent interpreters in such cases. The presiding officers of the courts concerned may ask the district administration to maintain a list of proficient interpreters, in languages spoken by the victims. The state governments need to take appropriate steps in this regard.

26.5.19 Nationality of illegal immigrants

The study has brought out the serious issue of nationality of the women and children trafficked from Bangladesh to India. As regards citizens of Nepal, the issue of nationality has not been a problem so far. However, there are instances where trafficked Bangladeshi girls have been convicted u/s 14 Foreigner's Act, on the charge of being illegal immigrants. The question arises as to how they could be considered to be illegal immigrants when they had been trafficked by lure, deceit or coercion by the traffickers. There is a need to provide appropriate status to these victims till such time as they are required to stay in the country for purposes of the trial, so that they are not prosecuted for violating the provisions of the Passport Act and the Foreigners Act. Distinct policy guidelines by the government on migration, trafficking and nationality are required in this context. There is a need for attention by MEA, MHA and Ministry of Law and Justice.

26.5.20 District-level monitoring committee

Since anti-trafficking activities have to be based on realities at the ground level, it is advisable to constitute district-level monitoring committees on anti-trafficking. The Tamil Nadu example could be considered as a model. In Tamil Nadu there is further decentralisation with village level watchdog committees, involving PRIS. These committees can be more effective if they include NGOs and other professionals (counsellors, psychiatrists, etc.) working in the field.

26.5.21 Special Police Officers under JJ Act

As per the Juvenile Justice Act, 2000, special police officers are to be posted at all police stations. There should be a special cell at the district level. In many states, such police officers have not been notified. The law also prescribes that these police officers should be specially trained. Considering the fact that a large number of trafficked persons are children — both boys and girls — it is essential that the systems envisaged under the JJ Act are brought into existence without delay. Professional bodies, including NGOs who have expertise on the subject, could be utilised for training the police officers.

26.5.22 Special police officers under ITPA

The research has brought out the fact that there is acute shortage of notified special police officers in police stations for implementing the law. There is a definite requirement for augmenting the

strength of police officers. Ideal situation would be to have adequate strength of notified women and men police officers, specially trained, in all police stations. Section 13(2A) authorises District Magistrates to confer upon any retired police or military officer (not below the rank of Inspector and Commissioned Officer respectively) all or any of the powers under ITPA. This provision has not been utilised. It empowers the district administration to identify competent personnel, especially women, train them and utilise their services effectively in dealing with trafficking.

26.5.23 Strengthening the prosecution systems

Despite the fact that prosecutors play an important role in the justice delivery mechanisms, the prosecution wing remains neglected. There is acute shortage of resources, including law books and copies of relevant judgments by the Supreme Court and High Courts. This needs to be attended to. There are no training programmes for prosecutors, except in a few states. Prosecutors need to be trained and sensitised regarding the human rights of women and children. The prosecution should also be oriented to take up the cases in the best interests of the victim — ensuring victim-friendly procedures and moving the courts for appropriate relief and compensation. Though the law does not provide for independent private counsels for victims as their role is taken over by the state prosecutor, the case study of SLARTC, Kolkata, presents an innovative approach — of private lawyers carrying out prosecution work in trafficking cases.

26.5.24 Coordinating law enforcement on missing persons

As of today, the system of monitoring activities to locate the missing persons is haphazard and ad hoc. The chapter on missing persons and trafficking highlights the issue of missing persons and provides the linkages between missing and trafficked persons. This distressing scenario calls for immediate action. There is a need for reorganising the National Missing Persons Bureau at the NCRB, Delhi, as a coordinating agency, linking it up with the missing persons bureaus in the states, and with Childline and other helplines in the states. The management of the information system needs to be overhauled. In addition, the available manpower has to be augmented with professionally trained and qualified persons. The database built up for this research from the states could be taken over by the NCRB and thereafter, updated regularly. Since this is a serious violation of rights, the issue of missing persons needs to be given importance and priority in law enforcement. Any effort to address the issue of missing persons will be successful only if it is done in an integrated manner, involving all agencies concerned. There is a need for cooperation of Ministry of Home Affairs, Ministry of Social Justice and Empowerment, Department of Women and Child Development, Ministry of Information and Broadcasting, Ministry of Surface Transport, Department of Education and other agencies like CBI, RPF, state police, GRP, NCRB, as well as Children's Networks, Child India Foundation (CIF) and other voluntary agencies in the field.

Efforts need to be made to ensure that children do not go missing. Proper registration of birth, appropriate identity systems for individuals even at the infant stage, and involving community in not only reporting about the missing persons but also in carrying out verifications and recovery of the missing children, are essential. PRIs have an important role in this regard.

26.5.25 Contingency expenditure

It has come to light that in many states, police officials face acute shortage of communication facilities and other infrastructure, especially in police stations. A Delhi case study has shown how,

when a rescue operation was carried out, the police station did not have adequate resources even for extending minimum facilities to the rescued victims. When this was brought to the notice of the High Court of Delhi, the court ordered the Government of India (DWCD) to provide a contingency grant to the Commissioner of Police, Delhi. This was fully utilised by the latter. Governments have to earmark adequate resources for the concerned police agencies for meeting such contingencies.

26.5.26 Training

The study presents serious gaps with respect to the training of police officials. Only 17 per cent of the 852 police officials who were interviewed had received any refresher training after their basic training which they received during induction into the service. Only 6.6 per cent of them had been exposed to some training relating to anti-trafficking. The police, being a professional organisation, cannot deliver the goods without appropriate and regular training courses for upgradation of their skills and knowledge, and orientation of attitudes. Perhaps lack of training is one of the major causes for the negative image of the police. The government should take initiative in earmarking adequate budget for the same and ensure timely training and professionalisation of police officials. This neglected area deserves utmost attention by all concerned.

Gender sensitisation of the law enforcement officials is an urgent requirement in the given context. The sensitisation process, oriented towards bringing in accountability, should cover all officials of all ranks, from top to bottom. This should be done across the board and should extend to state police, CBI, Railway Police, RPF, immigration officials, as well as those officials who are concerned with the issue and are working with BSF, SSB, customs, health department, NACO, etc.

Appropriate training modules need to be prepared by involving professionals and experts in the field. These modules should incorporate the principles of human rights of women and children, professional techniques of investigation, and scientific tools of carrying out investigation and dealing with human beings. It would be ideal to involve not only professional agencies but also NGOs working on the anti-trafficking front in formulating training modules and carrying out training programmes. It is also essential that proper post-training evaluation is carried out to understand the effects of training and to upgrade/change the modules and programmes accordingly.

26.5.27 Special courts

The ITPA provides for establishment of special courts not only by the state governments but also by the central government. However, the latter has never been invoked and the former has been minimally implemented. The concerned government departments should take initiatives in setting up special courts, and preferably exclusive courts, to deal with the trial of offences under ITPA, so that justice can be delivered expeditiously.

26.5.28 Role of DWCD in monitoring

ITPA is a social legislation. Since it comes under the purview of DWCD, there is a need to monitor the implementation of this legislation by the latter. It is an irony that DWCD is not even a party to the several fora where such crimes are discussed, as for example, the annual conference of the police chiefs of the states, organised by the MHA. The violation of women's rights and child rights has to be prevented and set right. This calls for an active involvement of DWCD not only in monitoring of the facts and figures regarding the implementation of ITPA and other similar

legislations, but also in developing a working partnership between law enforcement agencies, welfare and developmental departments, NGOs etc.

26.6 Suggested changes in ITPA

The Immoral Traffic (Prevention) Act, 1956 (ITPA) was initially known as the Suppression of Immoral Traffic Act, 1956 (SITA). It underwent certain changes in 1978. However, taking into consideration international and national developments, the necessity of shifting the focus of the law from suppression to prevention was felt. Accordingly, the legislation underwent major changes in the title and content, giving rise to ITPA, 1956. During this research, several efforts were made to have a practical understanding and a social audit of this legislation. While interviewing police officials, survivors, exploiters, etc., their opinion on the issue was sought. A focus group discussion (FGD) was arranged with judicial officers serving in the district courts. This FGD was made possible by the NHRC. In addition, the NST participated in several training programmes of judicial officers held in different parts of the country. The interactive sessions threw up several points on law and law enforcement. Thereafter, FGDs were held at ISS with lawyers from Delhi and Mumbai who are specifically working on ITPA. All the above-mentioned activities facilitated the detailed understanding of the provision and implementation of ITPA. In addition, the literature on the subject was also reviewed. The National Law School University, Bangalore, had prepared two sets of alternative draft legislations. The analytical articles and critical comments by eminent jurists in published materials were studied. The report of the Lawyers Collective, based on a field study conducted by them in 2003, was also reviewed. The judgments by the Supreme Court of India and various High Courts and certain trial courts on the subject as well as the recent legislation by the Government of Goa (Goa Children's Act, 2003) were also studied. Discussions were held with eminent jurists and experts. Accordingly, the points that emerge with respect to amendments and changes of ITPA have been collated and are placed below:

26.6.1 Comprehensive code on trafficking

The Constitution of India, under Article 23, prohibits trafficking in human beings. This includes trafficking for all purposes. The United Nation's Convention on trans-national organised crime, to which India is a signatory, also speaks about trafficking for all types of exploitation. Therefore, it would be appropriate that the existing law is replaced by a comprehensive legislation, covering all forms of trafficking. The bottom line of the proposed legislation should be on the process of trafficking, and not the purpose of trafficking. In fact, the purpose could be any under the two broad categories: (a) for commercial sexual exploitation, which includes exploitation in brothels and non-brothel-based situations, paedophilia, pornography, cyber pornography, sex tourism or sexual exploitation taking place under the façade of massage parlours, beauty parlours, beer bars, escort services, etc. (b) other types of exploitation, including camel jockeying, begging, forced delinquency, organ transplant by force or deceit or lure, false marriages, false adoptions as well as trafficking for labour in the field of industry, entertainment, domestic environment, etc. or any other exploitative situation. Therefore, the law has to be comprehensive enough to address all issues of trafficking. A similarity can be drawn from the Goa Children's Act, 2003. A code incorporating the substantive and procedural laws would be ideal.

26.6.2 Definition of trafficking

It is advisable to provide a legal definition of trafficking. The Goa Children's Act, 2003 could be considered as an example. However, in defining 'trafficking', the following points should be explicit:

- (a) That consent is immaterial for any person who is under 18 years.
- (b) That with respect to persons who are 18 years and above, consent should mean 'informed consent under no compulsion whatsoever'.
- (c) Trafficking, by definition, has certain essential ingredients. The first aspect is the displacement of a person from one community but need not essentially mean physical movement from one place to another. Trafficking could be within the community too. For example if the daughter of a woman subjected to commercial sexual exploitation is lured or coerced by the brothel owner to join her brothel as a victim of CSE, this also should be considered as trafficking, as the child is displaced from the community of the mother to the community of the brothel.

The second aspect of the definition should be its emphasis on exploitation — which could be physical, sexual or emotional.

The third aspect of the definition should be its focus on the commodification of the trafficked person and the commercialisation of the activity by anybody. It should be all-encompassing to include all types of violation of human rights and dignity and should include even customary activities which are exploitative, e.g., 'dedicating a child', and similar customs prevalent in certain places. All such activities of trafficking should be covered by the Act.

- (d) At times, it is possible that definitions can become too restrictive and, therefore, counter-productive. In such a situation, as an alternative, the difficulty can be solved by introducing a section giving legislative guidelines on what is intended to be achieved by the key words used in the statute and how the interpretation should go in favour of the victims when there are ambiguities.

26.6.3 Redefinition of brothel

Considering the fact that commercial sexual exploitation of women and children has moved out of traditionally known brothels to beauty parlours, massage parlours, beer bars and other such places, it is essential to cover all such places under the ambit of the law.

26.6.4 Definition of child

A child should be redefined, as in the JJ Act, 2000, to include all persons who have not attained 18 years of age, and this definition should apply in all matters relating to children in all legal matters. It requires appropriate amendments in all concerned laws. Simultaneously, ITPA should provide for separate treatment (care and attention) of child victims and child offenders, in tune with the JJ Act, 2000.

26.6.5 Section 2(f)

This section of ITPA provides definitions of prostitution and prostitute. The definition should be amended to include both males and females.

26.6.6 Section 2(g)

This section of ITPA defines protective homes and other homes. These definitions must be in harmony with the definition of homes in the JJ Act, 2000. Secondly, the definition of corrective homes needs to be changed. If Section 2(b) of ITPA is read with 2(g) ITPA, the corrective home defined in 2(b) appears to include jails/prisons. The concept of corrective home is different from incarceration or punitive detention centres. The term needs to be redefined to include the social philosophy of the Act. As Justice V.R. Krishna Iyer says, there must be “a dynamic set of definitions dealing with correctional, curative, protective and salvatory institutions. There must be stress in preliminary classification, categorisation, psychological diagnosis and observation before appropriate assignment to institutions. Lugging together indiscriminately all kinds of persons who are arrested or convicted (or even rescued) into one large warehouse without individuation or personalised identification or diagnostic distinction is institutional nescience.” (Krishna, V.K. Iyer, 1988).

26.6.7 Sections 3, 4, 5, 6 and 9 of ITPA

These sections should be made sessions triable with a minimum punishment of five years (wherever it is not provided for) and the fine amount should be increased to a minimum of Rs. 25,000.

26.6.8 Section 4

This section dealing with punishment for living on the earnings from prostitution should have a proviso to ensure the welfare of the children of the person subjected to commercial sexual exploitation, so that they are not victimised due to the fact that they are looked after by the mother from her earnings in the brothel.

26.6.9 Section 5

Dealing with trafficking, this section of ITPA should be made more exhaustive, comprehensive and explicit to bring in all types of trafficking, and all associates, accomplices, financiers, transporters, facilitators, promoters and all other exploiters within the ambit of the law. Section 5.1 (b) speaks about the intent of the person. This should be replaced with ‘intent or knowledge’, so that all these exploiters are brought to book.

26.6.10 Section 7 ITPA: Punishment

Under this section two categories of persons are liable: (a) any person who carries on prostitution and (b) the person with whom such prostitution is carried on. Therefore, part (b) is the section that becomes applicable to the ‘customers’ or ‘clientele’. A fact that is borne out of the research is that trafficking cannot be prevented unless deterrent action is taken against those who ‘demand’ the services. Therefore, the punishment to the ‘customers/clientele’ has to be deterrent. Section 7(1A) prescribes a minimum of seven years imprisonment and fine only if the victim is a child, and in other cases, as per Section 7(1)(b), the punishment for the ‘customer’ is only three months imprisonment and no fine at all. This needs to be changed. There should be provision for stringent punishment and a mandatory fine on the ‘customer’. Moreover, the law should state that the amount taken as fine should go to the victim. However, the study has shown that many teenagers and children below 18 years are also part of the clientele. They probably venture into brothels out

of curiosity or lack of proper guidance and control. Such persons need to be counselled, rather than punished. This calls for integrating the provisions of the JJ Act with the ITPA.

26.6.11 Section 7 ITPA: Enlarging the scope

This section deals with two types of persons, as stated in the previous paragraph. The scope of the section should be broadened to include a third category of persons, viz., “and any person who encourages, facilitates, abets, connives, orders, tolerates or perpetuates commercial sexual exploitation” (by any act of omission or commission). This additional clause will help in bringing in ‘strict liability’ not only against those who mastermind trafficking, but also bring in accountability among the law enforcement officials.

26.6.12 Section 8 ITPA

This section of the law which has been overwhelmingly used by all concerned for arrest and conviction of trafficked women and children on the charge of ‘soliciting’. Therefore, this section needs to be provided with additional safeguards in the form of a proviso to ensure that trafficked victims of CSE are not arrested, prosecuted or convicted. There should be one proviso which expressly states that a person under 18 years will not be liable at all under this section. A second proviso, in the form of a saving clause to safeguard the interests of trafficked women, should state that an adult woman would become liable only if it is proved beyond doubt that she was soliciting voluntarily and without any coercion, threat, deceit, force, compulsion or intimidation. Accordingly, the *mens rea* should be explicitly brought out in the proviso of Section 8 ITPA.

Section 8 has a proviso, authorising a different type of punishment for men accused of the offence. Many law enforcement officials have stated that a plain reading of the section gives an impression that this provision has a strong gender bias — it gives lesser punishment to men. This has to be set right in explicit terms, so that there is no discriminatory treatment of women.

26.6.13 Notification of the Special Police Officer

Section 13 (1) and 13(4) ITPA should have a proviso that the officer notified as Central Trafficking Police Officer (CTPO) should be specially trained on women’s and children’s rights, human rights and the principles of victimology. There should be mandatory training for the SPOs and their supervisory ranks before they are put on the job. Every unit dealing with ITPA should have a minimum of two SPOs, with at least 50 per cent being women police officials.

26.6.14 Section 13(3)(b)

This section should be amended, making it mandatory to notify the non-official advisory body. Moreover the Advisory Body should be applicable to Section 13(1) and Section 13(4) ITPA. The NGOs who are committed to anti-trafficking work should be incorporated into this body and 50 per cent of the members should be women. The body should also include a lawyer specialised in children’s/women’s rights, a child psychiatrist and/or a child counsel, trained in the subject. If such specialised persons are not available, the district authority should be made responsible for identifying appropriate persons and getting them training in counselling activities. Considering the fact that the notification of the advisory body could be an instrument of community participation in law enforcement, the Act should be amended in such a way that the District Magistrate and/or the police chief of the district could be authorised to notify the advisory body. Similarly, the CTPO

should have the benefit of an advisory body. This body should also be made mandatory. Since the CBI has been notified as CTPO, the Director CBI, in consultation with the NCW Chairperson, could be authorised to notify appropriate NGOs in this body. This study has shown that best results are achieved only when there is an effective partnership between the police and NGOs. Therefore, all rescue operations, especially u/s 15 and 16 ITPA, should necessarily involve NGOs or social activists, duly notified u/s 13(3)(b) ITPA.

26.6.15 Section 15(4)

It authorises the special police officer to remove all persons found in brothels, etc. and other places where commercial sexual exploitation is carried out. There should be a proviso added to this section as below:

The police officer should ensure that while doing so, the rights of the persons being removed, including those of their children or wards, if any, are protected against any violation whatsoever. After removal, the police officer should ensure that the rescued persons and their children/wards, if any, are given appropriate security and shelter so that the rights of these persons are protected and are not violated by the exploiters or other accused or anybody else.

26.6.16 Section 15(5A)

This provides for mandatory medical examination of the rescued person for ascertaining, *inter alia*, the presence of any sexually transmitted diseases. Considering the fact that the person has a right to decide whether he/she should be subjected to HIV/AIDS test, which has been ratified by recent Supreme Court rulings, this provision appears to be counter to the provisions u/s 15 (5A). Therefore, considering the human rights perspective, there is a need to make appropriate changes in this section.

26.6.17 Time-frame for medical examination and reports

In section 15(5A), which deals with medical examination of all rescued persons for the determination of age, injury, sexual abuse and HIV/AIDS, a proviso could be added that it will be incumbent upon the doctor(s) to carry out all tests without any loss of time and to hand over the medical report to the investigating police officer within three days of medical examination. The members of the advisory body under Section 13(3)(b) and the person whose medical examination was done, or anybody acting on behalf of the person, should have a right to know the contents of the medical report and if there is any dispute, the investigating officer should immediately approach the civil surgeon or anybody acting on his behalf, get a medical board constituted and get the person medically examined at the earliest. These aspects need to be incorporated in the law.

26.6.18 Pre-emptive Custody

A subsection should be added to Section 15 ITPA to provide for rescue and rehabilitation of all women and children who are vulnerable (JJ Act provides the same only for children under 18 years of age). Justice V R Krishna Iyer says, “Many girls who have not yet slipped in the circle of vice but are perilously hovering around it and are gravitating towards the flesh business, may have to be kept sequestered and conscientised, studied psychiatrically and given personalised attention. Pre-emptive semi-custody with facilities for economic self-reliance and moral normalisation will

be possible only if some kind of institution designed for this purpose is provided statutorily” (Krishna V.K. Iyer, 1988). There should be a specific provision to authorise privately run, government-run or recognised institutions to take up this task.

26.6.19 Section 15(5)

This provision deals with producing a rescued victim before the appropriate magistrate. Since children under 18 years of age are to be produced before the Child Welfare Committee, as provided in the JJ Act, 2000, there should be a provision of presumption of age in favour of the person in this section — that any person who is or is likely to be a child, as per the *prima facie* opinion of the police officer or the NGO (whichever is in favour of the child), should be dealt with under the JJ Act.

26.6.20 Section 17 (3)

This authorises the magistrate to pass an order for the safe custody of the rescued person. The following words may be added to this section, “in a recognised rehabilitative institution.”

26.6.21 The Sunset clause

There should be a ‘sunset’ clause — that the period of stay in the safe custody and other homes should be for a minimum period, to be decided by the magistrate concerned, keeping in mind the best interests of the person. The magistrate should review the decision at regular intervals of not more than 15 days.

26.6.22 Section 17(3)

There are three provisos under this section in the existing law. The second proviso says that no person shall be kept in custody for a period exceeding three weeks. This should be changed to “at least four months” to bring it at par with the JJ Act and with a further proviso that the decision of the magistrate, keeping in view the best interests of the victim, should be final.

26.6.23 Section 17(5)

This says that a magistrate may summon a panel of five persons. Here the word “may” should be substituted by the word “shall”. Mandatory involvement of civil society would be essential for after-care activities.

26.6.24 Section 18

This has five sub-sections. A sixth sub-section may be added bringing in a provision for attachment/seizure/confiscation/sale of all assets of the traffickers and other exploiters, movable and immovable, wherever they are, if acquired through any criminal act defined in ITPA. The investigating officer should be empowered to do this, at the stage of investigation itself, after obtaining orders of the concerned magistrate in whose court the FIR is pending.

26.6.25 Section 19

It relates to the application by a person seeking permission for being kept in a protective home. This section may be amended to authorise NGOs, or an advocate or any person working for the cause of victims of exploitation, to file such an application.

26.6.26 Section 21

The state governments are authorised under this section to set up protective homes. The mandate for setting up such homes may also be extended to “the appropriate authority” constituted under the JJ Act, 2000.

Moreover in this section, after the word “establish”, the following words may also be added: “or recognize”. Wherever the government is unable to accomplish the task, recognition could be granted to appropriate agencies to do the needful.

26.6.27 Section 22 (A), Section 22 (AA) and 22 (B)

These may be amended to raise the level of the courts dealing with ITPA to the court of additional sessions judge. The schedules attached to ITPA should also be changed accordingly. Appointment of special judicial officers could be considered. These could be exclusive courts dealing with ITPA and all related offences.

26.6.28 Developing a code

The Act authorises the central and state governments to set up special courts under Section 22AA. However, it does not speak about procedures. Victim-friendly procedures have to be made part of the law, by developing it into a code, as stated earlier. It would be advisable that the code takes into account all the relevant points discussed in this chapter.

26.6.29 Extraterritorial legislation

Trafficking in women and children is a crime which often transcends international boundaries calling for universal jurisdiction and, therefore, it cannot be inconsistent with the condition of jurisdictional limitations arising out of the nationality of the offender. In accordance with the provisions of the UN Trafficking Protocol as well as the optional protocol to the CRC, there is a need for extraterritorial legislation. An offence under this Act should have a universal jurisdiction. A crime by anybody in India should be made triable in the country he/she belongs to, subject to the doctrine of dual criminality. Similarly, any crime under this law, if committed by an Indian national anywhere in the world, will be deemed to be an offence under this law and should be tried by any court in India (which is otherwise authorised to try an offence under this Act).

26.6.30 Victim Assistance Programmes

The law should have specific Victim Assistance Programmes. The principles of criminal justice begin with the victims and survivors. In the present system, the emphasis and orientation is only on the prosecution of the accused and not on justice delivery to the victims or her family members. Victims are considered only as witnesses and nothing more. There is no specific attention to the victim’s welfare, remedies, redressal, security and rights. This calls for a paradigm shift — to a human rights approach. The recent US legislation on the subject of victim assistance (Victims of Trafficking and Violence Protection Act of 2000) is an example. A similar provision is also available in the recently enacted Pakistani law on the subject (Section 6, Prevention and Control of Human Trafficking Ordinance, 2002). Every effort should be made to prevent further victimisation of the victim as well as to protect her human rights. The report of the Expert Committee on Custodial Justice to women prisoners, constituted by the DWCD in 1986–87, has also brought out

several proposals on the treatment of women and girls in the criminal proceedings. This report also needs to be considered while framing victim assistance programmes.

26.6.31 Anonymity of the victim

In order to protect the identity of the victim, publicity and photographs should be banned under the law. Provision of anonymity prescribed under 228A IPC to rape victims should be extended to victims of trafficking.

26.6.32 In-camera trial

All cases of trafficking should mandatorily be in-camera trials. Section 327 of the CrPC which provides for in-camera trials for rape cases should be extended to cases under ITPA. This saves the victim from publicity, from intimidation and thereby, protects her rights. In *State of Punjab vs Gurmit Singh* (1996 2 SCC 384), the Supreme Court has held that trials for rape cases ought to be held in-camera, as a rule, and open trials can only be the exception.

26.6.33 Counsellors

There is need of a legal provision providing for one or two counsellors to assist the victim during the entire proceedings. If the victim cannot afford to bear the expense and no agency comes forward to help her, the court may order the district administration to bear the cost in this regard. Similarly, the procedures for ensuring proper care and reception of the victims, especially in the post-rescue situations, need to be specifically brought into the law.

26.6.34 Recall of the rehabilitated victim

Once the victim is rehabilitated, it is not in her interest to recall her to the court of law for any purpose including evidence, as she is compelled to relive the trauma and indignity. Therefore, it would be better to take into consideration the statement given by her before repatriation and act accordingly. If, however, her recall is necessitated, it should be done in such a way that it causes least harm to her. Dislocating her from the rehabilitated ambience usually causes serious problems. Therefore, if her statement is to be recorded, or evidence taken, it should be done in commission or through video conferencing at an appropriate place which would create least disturbance and discomfort to the person concerned. The Supreme Court has held in *State of Maharashtra vs Praful Desai* (2003 4 SCC 601) that the recording of evidence by way of video conferencing might be done in cases where the attendance of the witness cannot be ensured without delay, expense and inconvenience. It was also held by the apex court that recording of evidence by video conferencing was a 'procedure established by law' under Article 21 of the Constitution and did not violate the rights of the accused. The court observed that although the rights of the accused must be safeguarded, they should not be overemphasised to the extent of forgetting that the victim also has rights. Therefore, the ITPA should make it mandatory to provide video conferencing facility at the place where the victim would find it comfortable. The victim's best interests should be the deciding factor in choosing the place and time of video recording/conferencing. The recent order of the Delhi High Court, which has been discussed in Chapter 19, could be taken as a model.

26.6.35 Victim's legal representation in the criminal justice process

The direction of the Supreme Court in *Delhi Domestic Working Women's Forum vs Union of India* (1995 1 SCC 14, 18-21) with respect to rape victims needs to be extended to trafficked victims

— they should also be given the facility for legal representation from the very beginning itself. In order to secure continuity of legal assistance, the services of the same lawyer should be extended till the conclusion of the entire process and he should be allowed to collaborate with the prosecutor. Moreover, the victim should have the option of choosing her own advocate. This might be a radical change in the existing situation and may amount to supplementing the existing system of prosecution. However, the experiment has proved to be workable, as a case study from West Bengal has shown. (for details, refer case study of SLARTC in Volume II of the report).

26.6.36 Compensation

The law should make specific provisions for compensation to the victim. Section 357 CrPC allows for limited compensation to victims, to be recovered from the convicted offender. In cases of custodial rape, by invoking the obligation of the state to protect its citizens, the Supreme Court has directed the state to pay compensation [*P. Rathinam vs State of Gujarat*, 1994 SCC (Cri) 1163, *Arvinder Singh Bagga vs. State of U.P.* 1994 6 SCC 565]. The Supreme Court has also directed the setting up of a Criminal Injuries Compensation Board in *Delhi Domestic Working Women's Forum vs Union of India* (1995 1 SCC 14). The High Courts have inherent powers under Section 482 CrPC to make such orders as necessary to secure justice. The compensation should include not only monetary expenses incurred, but also exemplary compensation for the harm done, as well as compensation in the form of health care, education facilities, job opportunities, etc. The US law on victim protection referred to earlier also have provisions of compensation.

26.6.37 Providing safe asylum, if the victim is a foreign national

The law should have special provisions for giving temporary residential permits to trafficked victims/survivors till their presence is required to complete the judicial proceedings and till they are properly repatriated to their native countries. The recent US law provides for such temporary nationality. Article 15 of UDHR says that no person shall be arbitrarily deprived of his or her nationality. The second volume of this report has a case study which shows how a trafficked victim was charged with offences under the Foreigners Act (refer CS-DL-33). In such situations, once it is confirmed that the victim has been trafficked to India across borders, she/he should not be held to be an illegal immigrant. Temporary residential permits should be provided in such cases.

26.6.38 Timeframe for justice delivery

As per the existing procedural law (Section 167 CrPC), there is a restriction on the time that the police can avail for investigation after the arrest of the person. Similar timeframe should be set for the trial of the cases in the courts of law also, without any prejudice in the delivery of justice to the victim. The available literature shows that a similar provision is available in Bangladesh for ensuring time-bound judicial trial of trafficking cases, and that this arrangement is working quite well, especially with regard to expediting justice delivery.

26.6.39 Punishments

There is a need to enhance the punishments for traffickers and other exploiters. The provisions have to be made more stringent. Minimum punishment should be prescribed for all penal sections. Enhanced punishment is called for when the victim is a child.

26.6.40 National Nodal Agency to monitor human trafficking

The rationale for setting up a National Nodal Agency to counter trafficking has been discussed earlier. It would be appropriate if the provision is incorporated in the law itself by providing a separate section/subsection in ITPA.

26.6.41 Rehabilitation

Rehabilitation is the creative essence of the preventive process and essential to the healing process. Therefore, there should be one exclusive chapter in the ITPA on correctional justice and rehabilitation, dealing with the ‘drills, process, medical treatment, monitoring, follow-up action, and other de-stressing and mainstreaming techniques’. Social activists and NGOs should be statutorily encouraged to involve themselves in rehabilitation.

26.6.42 Prevention

This should be the *summum bonum* in a social legislation like ITPA. Justice Iyer says, “Today we should not put all our eggs in the Macaulay basket, but in the Mahatma pharmacopoeia.” Accordingly, there should be a separate chapter in the ITPA on Prevention, specifically bringing out the human rights perspective required in the policies, programmes and implementation. The chapter should spell out the procedures and role of agencies — governmental and non-governmental — in this regard. Preventive strategies should be oriented not only to the source of supply, but also to the demand site as well as trafficking routes and transit points. The present legislation (ITPA), which is more focused on the crime-criminal perspective, needs to be given a human rights perspective and make it fully oriented towards prevention.

26.6.43 Provision for the handicapped

There should be a specific provision in the law for offences against women and children who are handicapped. During this research, it was found that children are maimed or disfigured and trafficked for activities like begging. Mentally challenged girls are easy targets for exploitation. The law should not only provide stringent punishment for the violators, but also shift the onus of defense on the accused.

26.6.44 Guidelines

The law should also mandate that the government brings out specific guidelines regarding tourism, hoteliering, and other similar businesses as well as protocols to certain cyber sex, so as to ensure that women and children are not subjected to commercial sexual exploitation and sex tourism. The focus should be on involving the community in implementing the rights of women and children.

26.6.45 Preamble

The preamble to the ITPA should incorporate in itself the philosophy, purpose and orientation of upholding the rights of women and children. There should be a specific section in the Act containing a statement of principles, which must emphasise the social philosophy and orientation of the law, with specific focuss on women’s rights and child rights.

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Areas of specialisation: Integrated studies, research, co ordination, documentation, research and training

Institute for Socio-Economic Development

Mr. Balaji Pandey
 28, Dharma Vihar, Bhubaneswar – 751 030
Telephone: 0674-2350302 *Fax:* 2350312
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Institute of Development Studies

Dr. Shobhita Rajgopal
 8-B, Jhalana Institutional Area, Jaipur – 302 004, Rajasthan
Telephone: 0141-705726/706457 *Fax:* 0141-705348
Email: shobhita@idsj.org
Areas of specialisation: Research, advocacy and documentation

Integrated Rural Development Services (IRDS)

Mr. Sukumar David
 32, Railway Colony, Secunderabad – 500 026, Andhra Pradesh
Telephone: 040-27653160(O) 040-27719863 (R)
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Areas of specialisation: Intervention programmes and social research

International Justice Mission

Mr. Greg Malstead / Mr Ashley Varghese
 P.O. Box 8468, Mandapeshwar P.O., Mumbai – 400 103
Mobile: 91-9820613241 *Email:* Avarghese@ijm.org
Areas of specialisation: Rescue; repatriation of victims; prosecution of offenders; networking; training and advocacy

Jabala Action Research Organisation

Baitali Ganguly
 221/6B, Rash Behari Avenue, Kolkata – 700019
Telephone: (033) 24602229
E-mail: jabala@vsnl.net
Areas of specialisation: Rescue, rehabilitation, advocacy and public awareness campaigns

Jagori

C-54, Top Floor, South Extension-Part II, New Delhi – 110 049
Telephone: 91-11-625 7015 *Fax:* 91-11-625 3629
Email: jagori@del3.vsnl.net.in
Areas of specialisation: Advocacy, training, documentation and campaigns

Jan Jagran Sansthan

Mr. Y. K. Gautam
 Mohalla – Kagzi, Bihar Sharif, Nalanda – 803 101, Bihar
Telephone: 0612 - 23261
Areas of specialisation: Awareness campaign and health issues of women in prostitution, especially on safe sex measures; Public awareness and networking programmes on anti trafficking

Jan Ugahi

Mr. Greg D'Coasta
 Vikrant, V14, Malbhat, Margao, Goa
Telephone: 2737167
Areas of specialisation: Campaign against sex tourism and pedophilia, rehabilitation and empowerment.

Janhit Kala Sansthan

Dr. N.A. Khan
 G-3, Ashoka Place, Exhibition Road, Patna
Telephone: 0612-2225112 *Mobile:* 0612-3119843
Email: janhit_2000@yahoo.com
Areas of specialisation: Prevention of AIDS among and rehabilitation of mobile CSWs

Janhit Kala Sansthan

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 G-3, Ashok Place, Exhibition Road, Patna-1, Bihar & Jharkhand State
Telephone: 0612-225112, *Fax:* 0612-229145
Email: Janhit-2000@rediffmail
Areas of specialisation: HIV/AIDS, advocacy, empowerment, networking

Joint Women's Programme

Dr. Jyotsna Chatterji

14 Jangpura B, Mathura Road, New Delhi – 110 014

Telephone: 24319821 / 24325064 / 24325529 Fax: 91-11-24313660 / 24313681

Areas of specialisation: Prevention, empowerment, networking, study and publications

Joint Women's Programme

No. 73, Millers Road, Benson Town, Bangalore – 560 046

Telephone: 080-3330335

Areas of specialisation: Counseling, follow-up with police, awareness for social empowerment

Karunalaya Social Service Society

Mr. Paul Sunder Singh

Surya Narayana Road, Desai Nagar, New Washermenpet, Chennai – 600 081

Telephone: 044 – 2597 1214/2597 6574 Fax: 044 – 2597 1214

Email: karunalaya@hotmail.com, karunalaya@vsnl.net

Areas of specialisation: Rescue and rehabilitation of street children, child labours and neglected youth

Lawyer's Collective

Ms. Indira Jaising

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Telephone: 4313904/4312923 Fax: 4313904/4321101

Email: indira@iasdl01.vsnl.net.in, wri@justice.com

Areas of specialisation: Legal assistance, research, intervention, advocacy

Lokvikas Samajik Sanstha

Sarus Potdar

56-67, Old Municipal School, Phule Nagar, Peth Road, Pachavati, Nashik – 422 003

Telephone: 0253-2518419 / 2512301

Email: sarus19@indiatimes.com Website: www.lokvikas.org

Areas of specialisation: Working on HIV/AIDS and trafficking

Mahila Atyachar Virodhi Jan Andolan (MAVJA)

Ms. Kavita Srivastava

76, Shanti Niketan Colony, Kisan Marg, Jaipur – 302 015

Telephone: 0141 – 2706 483

Areas of specialisation: Counseling, networking, medical aid, training police, judiciary etc.

Mahila Dakshata Samiti

66/A, Sanjaynagar Main Road, Geddalahalli, Bangalore

Telephone: 080-3512543

Areas of specialisation: Counseling, follow-up with the police, legal aid & referral

Mahila Sahaya Vani (MSV)

Ms. Hema Despande

O/o Commissioner of Police, Bangalore City, Karnataka

Telephone: 1091/2943225

Areas of specialisation: Counseling and rescue from exploitation and abuse at domestic front

Mahila Salah Evam Suraksha Kendra

Ms. Nisha Siddhu

Mahila Thana-II (South) Premises, D 601, Somya Marg, Gandhi Nagar, Jaipur

Telephone: 2710 232

Areas of specialisation: Counseling, legal aid, medical assistance, networking with police, short homes and rehabilitation

Maiti Nepal

Ms. Anuradha Koirala

Pingalsthan, Maiti Marg, Gaushala, P.O.Box-9599, Kathmandu, Nepal

Telephone: 492904/494816 Fax: 489978

Email: maiti@ccsl.com.np Website: www.maitinepal.org

Areas of specialisation: Intervention, rehabilitation, protection, advocacy, empowerment, networking, awareness generation

Makala Sahaya Vani (MSV)

Ms. Brinda

O/o Commissioner of Police, Bangalore City, Karnataka

Telephone: 080 2943224530593 & 1098

Areas of specialisation: Rescue of children from exploitation and abuse

Manav Sheva Samiti

Ms. Veena Kumari

Ratu, Madhubani, Bihar-847211

Telephone: 0612-283208

Email: Manav@rediffmail.com

Areas of specialisation: Child labour

Mar Chaphrang Development Society

Drop-in Centre

Mr. Terence Sawian

Mar Chaphrang Development Society, Mission Compound, Jowai, Jaintia Hills District

Telephone: 03652-24277(R)/03652-23459

Areas of specialisation: Drop-in center for people involved with substance abuse and afflicted with HIV/AIDS; training; capacity building

Mobile Theatre, Patna

Ashok Aditya

Rajendra Nagar, Patna – 800 016, Bihar

Telephone: 0612-2660068, Fax: 0612-2669090

Areas of specialisation: Creating awareness camps for trafficking and HIV/AIDS

Naari Adhikar Raksha Samannay Samiti (State Level)

Ms. Queen Sharma

S.K. Barua Road, Rukmini Nagar, Dispur, Guwahat, District – Kamrup, Assam – 781 006

Telephone: 0361-2265134

Areas of specialisation: To ensure social equality, gender justice and equal rights to society; training to counter violence

Nari Adhikar Raksha Samannay Samiti (NARSS)

Ms. Geeta Mukherjee

Das Salibari Road, Karimganj, Assam

Areas of specialisation: Creating social awareness on various issues; networks with various regional and state level organizations; development of women

Nari Chetana Samiti (NCS)

Ms. Sudha Mittal

B-226, Janta Colony, Jaipur

Telephone: 2603294

Areas of specialisation: Awareness campaigns, campaign against HIV/AIDS, prevent next generation trafficking, counseling and legal aid

National Network Against Girl Trafficking (NNAGT)

Dr. Madhavi Singh

Prayar Marg, Bhimsengola P.O.Box-15142, KPPC 285 Kathmandu, Nepal

Telephone: 494734, Fax: 495261

Email: Nnagt@wlink.com.np Website: www.nnagt.org.np

Areas of specialisation: Networking, documentation, publication, advocacy

Nav Bharat Jagriti Kendra

Er. Satish Girija

At: Bahera, P.O.: Brindavan

Via: Chouparan, District: Hazaribag, Jharkhand – 825 406

Telephone: 06546 – 63332 Fax: 06546-63332

Email: dnb_nbkhzb@sancharnet.in, nbjkco1@rediffmail.com

Areas of specialisation: Research, advocacy, training

Naz Foundation (India) Trust

Ms. Anjali Gopalan

D-45, Gulmohar Park, New Delhi – 110 049

Telephone: 6851970/71/6567049/6563929

Email: nazindia@bol.net.in

Areas of specialisation: Training provides a forum for the dissemination of knowledge on HIV/AIDS and creates a space for the discussion of topics like sex, sexuality and sexual health

Nehru Yuva Kendra Sangathan

Ms. Farzana Begam

Uttar Thakurbari Road, Kishnaganj, Bihar – 855107

Telephone: 06456-22100

Areas of specialisation: Intervention, advocacy, networking and empowerment

Nepal Nazareth Society

Sr. Teresa

Navjoti Women's Training and Rehabilitation Center, Baluwatar, Post Box. No. 3675, Kathmandu

Telephone: 41965

Email: navjyoti@nvj.wlink.com.np

Areas of specialisation: Networking, counseling and empowerment

North East Network (NEN)

Ms. Monisha Behal

J.N. Borooah Lane, Jorpukehuri, Guwahati, Assam – 781 001

Telephone: 0361-2603833, Fax: 2631582

Areas of specialisation: Gender justice, equality and respect for human right across all sections; research and documentation; Network of organizations; referral services to women facing violence.

Odanadi

Mr. Stanley/Mr. Parashuram

Odanadi Seva Samsthe, SRS Colony, Hootagally Village, Belawadi Post, Mysore – 570 023, Karnataka

Telephone: 0821-402155

Website: www.odanadi.org/ www.geocities.com

Areas of specialisation: Rescue, rehabilitation and reintegration of trafficked persons; intervention and prosecution of traffickers and exploiters

Patna Zila Gramin Vikas Samiti

Umesh Kumar

Triveni Niwas, Brahmarshi Colony, P.O. Masaurhi, Dist. Patna, Bihar – 804 452

Telephone: 0612 2434955

Areas of specialisation: Elimination of child labour and trafficking

Pragati Evam Prerana Sansthan

Dr. Dinesh Narayan Sharma

House No. 2/310, Housing Board Colony, Bari Road, Dholpur (Rajasthan)

Telephone: 05642-255370

Areas of specialisation: Working with Bedia community and prevention of HIV/AIDS

Prajwala

Dr. Sunita Krishnan

20-4-34, III Floor, Behind Charminar Bus Stand, Hyderabad – 500 002, Andhra Pradesh

Telephone: 040-55704048 Fax: 0091-40-24410813

Email: sunitha_2002@yahoo.com

Areas of specialisation: Rescue, reintegration, counseling, empowerment programmes and prevention

Prayas

Mr. Rajib K. Haldar

59, Tughlakabad Institutional Area, New Delhi – 110 062

Telephone: 26089544 / 505 / 26078103

Email: prayas@ndf.vsnl.net.in

Areas of specialisation: Rescue and Rehabilitation, counselling and empowerment; advocacy and networking

Prayas Bharti Trust

Ms. Suman Lal

Boring Road, Patna, Bihar

Areas of specialisation: Advocacy, networking, rescue and rehabilitation, repatriation, empowerment

Prerana

Ms Priti Patkar / Mr. Pravin Patkar

7th Lane, Kamathipura Municipal School, Shuklaji Street, Kamathipura, Mumbai-400 008

Telephone: 00-91-22-3007266/3053166

Email: pppatkar@viasbm01.vsnl.net.in Website: www.prerana.org

Areas of specialisation: Networking, advocacy and intervention programmes on prevention, protection and prosecution; undertaking studies and bringing out publications

Rescue Foundation

Mr. Balkrishna Acharya

Bungalow Plot No. 62, Behind Charkop Telephone Exchange, Sector 7, Charkop, Kandivali (West), Mumbai

Telephone: 28681176 Fax: 28690241 Mobile: 9820210705

Emails: maitimumbai@vsnl.net, admin@rescuefoundation.net Website: www.rescuefoundation.net

Areas of specialisation: Rescue, counseling, legal aid for women and children trafficked from Nepal

SAARTHAK

Dr. Achal Bhagat

24, Hauz Khas Village, New Delhi – 110 016

Telephone: 26853846 Fax: 26180335

Email: saarthakmembers@yahoo.co.in

Areas of specialisation: Provides training in psychotherapeutic skills especially cognitive behaviour therapy, family therapy and group therapy; advocacy campaign for the human rights of people in mental hospitals and also provides HIV counseling

Sadou Assam Pragatisheel Nari Sangstha

Ms. Anju Borkotoki

Milan Nagar, S-Lane, P.O. C.R. Building, Dibrugarh, Assam – 786 003

Telephone: 0373-2317643

Areas of specialisation: Networking, issue's of women's rights, awareness and legal aid

SAHARA

Mr. Neville Selhore/ Ms. Elizabeth Selhore

E-453, Greater Kailash II, New Delhi

Telephone: 6219147, 68909499.6134735

Areas of specialisation: Takes care of HIV positive people in a focused, concentrated, efficient manner without losing any feel; awareness programme, school programme, slum programme and income generation projects.

Sakhi

Ms. Suman Singh

Arpana Bank Colony Phase II, Ramjaipal Road, P.O. Danapure Road, New Bailey Road, Patna – 801 503, Bihar

Telephone: 9835086349

Email: sakhipatna@rediffmail.com

Areas of specialisation: Advocacy, prevention of trafficking and research; empowerment at the grass roots

Salaam Baalak Trust

Ms. Praveen Nair/Dr. Bitra George/Ms. Kanak Mittal

2nd Floor, DDA Community Centre, Gali Chandiwali, Paar Ganj, Main Market, New Delhi-110001

Telephone: 3583117/18

Email: salaambt@vsnl.net.in

Areas of specialisation: Works for street and working children in and around New Delhi Railway Station; provides shelters to the children; counselling; provides formal and non-formal education; runs childline service children in distress

Sancharika Samuha

Ms. Bandana Rana

Jawalakhel, GPO Box-13293, Kathmandu, Nepal

Telephone: 538549/546715, Fax: 547291

Email: sancharika@wlink.com.np Website: www.mahilaweb.com

Areas of specialisation: Media monitoring and networking

Sangath Family Guidance and Child Development Centre

Dr. Nandita D'Souza

Family Guidance and Child Development Centre, Behind Electricity Department, Porvorim,
Bardez – Goa

Telephone: 2414916

Email: sangath@sancharnet.in

Areas of specialisation: Counseling and care of vulnerable children

Sanlaap

Dr. Indrani Sinha

38 B, Mahanirban Road, Kolkata –700029

Telephone: 033-24649596, 27021113, Fax: 033-24654578

E-mail: sanlaap@giascl01.vsnl.net.in

Areas of specialisation: Prevention, protection and prosecution; transborder and national network on anti trafficking

Sathi

Pramod Kulkarni

Near Royal Motor Service, Statistical Office, Railway Goods-Shed Area, I.B. Road, Raichur, Karnataka

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Email: sprerana@sancharnet.in

Areas of specialisation: Counselling, Rehabilitation and Prevention

Satividhi

Mr. Sumesh Singh

404, Jagat Trade Centre, Fraser Road, Patna, Bihar

Telephone: 644281/644936(0), Mobile: 9875035116 Tele Fax: 203201

Website: gatividhi.org

Areas of specialisation: Public awareness, intervention and advocacy

Save Our Sisters

(Save the Children India)

Ms. Vipula Kadri

429 Arun Chambers, 4th Floor, Tardeo, Mumbai – 400 034

Telephone: 462 7151/462 7152

Email: vkadri@bol.net.in Website: www.savethechildrenindia.org

Areas of specialisation: Combating commercial sexual exploitation in children; prevention; advocacy

SEVA-ACPCT

Mr. Jatashankar

LIG-1/198, Vikas Nagar, Post – FCI Factory, Distt: Gorakhpur – 273007, Uttar Pradesh

Telephone: 0551-261396/261397/261398 Fax: 0551- 261396

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Areas of specialisation: Research, empowerment, campaign, advocacy and training

Shakti Samuha

Ms. Pooja Mizar

Chabahil, P.O.Box-19488, Kathmandu, Nepal

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Areas of specialisation: Empowerment, networking, prevention and protection

Shakti Shalini

Ms. Satyarani Chaddha/Ms. Sudha Tiwari

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Telephone: 431 2483, 431 0741

Areas of specialisation: Running short stay home and crisis intervention center

Shakti Stambh

Ms. Lad Kumari Jain

B – 182-A, Nandkishore Pareek Marg, Babu Nagar, Jaipur

Telephone: 2700 332

Email: ruwa_ruwa@usa.net

Areas of specialisation: Rehabilitation of women in distress, legal aid and empowerment

Shakti Vahini

Shri Ravi Kant / Shri Rishi Kant

307, Indraprastha Colony, Sector 30-33, Faridabad, Haryana, India

Telephone: 0129-2254964, 2258665 Mobile: 9810483620/9811572438 Fax: 0129-2258665

Email: shaktivahini@yahoo.co.in

Areas of specialisation: Legal advocacy, sensitization, rescue, rehabilitation and media advocacy

Shakti Vardhani

Ms. Sudha

Holding No – 188, Ground Floor, West Baily Road, Danapur, Patna, Bihar – 801503

Telephone: 0612-423144

Areas of specialisation: Networking, intervention and advocacy

Sharan

Mr. Luke Samson

C-43, Niti Bagh, New Delhi – 110 049

Telephone: 8642322/8642311

Email: sharanindia@vsnl.com

Areas of specialisation: It specializes in two key areas – micro finance and aids

Shtrii Shakti

Ms. Indira Shrestha

Kamaladi, G.P.Box-4277, Kathmandu, Nepal

Telephone: 247072, Fax: 222115

Email: shtriishakti@s2.wlink.com.np

Areas of specialisation: Research, training, publication and advocacy

Smridhi

Ms. Harjeet Kaur

Gram Niyojan Kendra, New Bhangaro Colony, Roopbas, Bharatpur (Rajasthan)

Telephone: 05645 – 243936

Areas of specialisation: Empowerment, prevention of trafficking, working with Bedia community

Snehalaya

Fr. Dominic Perunnerparampil

Don Bosco, Panbazar, Guwahati, Assam – 781001

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Email: snehalaya@satyam.net.in

Areas of specialisation: Provides shelter to homeless children, empowerment, rehabilitation

Social Work Academy for Research and Action, Jaipur (SWARAJ)

Mr. Sharad Joshi

159- 160 Siatapura Industrial and Institutional Area, Tonk Road, Jaipur

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Areas of specialisation: Empowerment especially micro credit programmes and family counseling centers

Society for Community Organisation Trust (SOCO)

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Telephone: 0452 – 2583962, Fax: 0452 – 2580922

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Areas of specialisation: Training programmes, legal aid, campaign and rehabilitation of bonded labours especially children

Society for Development Research and Training (SFDRT)

Ms. Shyamala Ashok

34, Chetty Street, Pondichery – 605 003

Telephone: 0413-349284/220058

Email: sfdrt@satyam.net.in

Areas of specialisation: Training, advocacy, intervention, rescue and rehabilitation

Socio-legal Aid Research and Training Center (SLARTC)

Manabendra Mondal

P 112, Lake Terrace, Kolkata – 700029

Telephone: 91-33 24665659, Fax: 91-33-24665659

E-mail: slartc@cal.vsnl.net.in

Areas of specialisation: Research and training, prosecution of offenders and exploiters, advocacy and networking

South Asia Human Rights Documentation Centre

Ravi Nair

B-6/6, Safdrajung Enclave Extension, New Delhi – 110 029

Telephone: 011-26192717, 26192706, 26191120 Fax: 91-11-26191120

Email: rnair@aphrn.org

Areas of specialisation: Documentation, research and advocacy

South India AIDS Action Programme (SIAAP)

Ms. Shyamala Natraj

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Telephone: 044 – 2441 6185/2441 1606 Fax: 044 – 2445 3332

Email: siaap@eth.net, siaap@satyam.net.in

Areas of specialisation: Training, counseling, advocacy, Networking especially on HIV/AIDS and sexuality

South India Cell for Human Rights Education and Monitoring (SICHREM)

Mr. Mathews Philip

Anjanappa Complex, 35, Hennur Road, Lingarajapuram, Bangalore, Karnataka – 560 084

Telefax: 080-5473922, Mobile: 98450 01338

Email: sichrem@satyam.net.in

Areas of specialisation: Intervention on child labour, documentation, research and training

STOP

Dr. Roma Debabrata

A-47, Chittaranjan Park, Basement, New Delhi – 110 019

Telephone: 91-11-26425811/26425812 Fax: 91-11-26425812/26425811

Email: romadeba@vsnl.com

Areas of specialisation: Rescue and rehabilitation of trafficked women and children; advocacy, intervention and networking on anti-trafficking

Stree Aadhar Kendra

Dr. Neelam Gorhe

House No. 145/1, Sr. No.14, Ganesh Nagar, Vadgaon Dhayari, Pune – 411 041

Telephone: 020-4394104 Fax: 020-4394103

Email: grnearth@vsnl.com

Areas of specialisation: Empowerment, research, networking, resource center for NGOs

Swanchetan

Dr. Rajat Mitra

D1/1017 Vasant Kunj, New Delhi – 110 070

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Areas of specialisation: Psychosocial intervention and empowerment

Swawlamban Siksha Kendra

Dr. Santi Ojha

M-2/80. Shri. Krishnapuri, Patna, Bihar

Telephone: 0612-204128

Areas of specialisation: Women's rights, advocacy

United Development Initiatives for Programmed Actions (Uddipan)

Md. Emranul Huq Chowdhury

9/25, Sir Syed Road, Mohammadpur, Dhaka, Bangladesh – 1207

Telephone: 8115459, Mobile: 017-564826 Fax: 88-02-9121538

Email: udpn@dhaka.agni.com

Areas of specialisation: Intervention, advocacy, empowerment, trans border networking

Vimochana

No. 26, 17th Main, H.A.L II Stage, Bangalore – 560 008

Telephone: 080-5269307

Areas of specialisation: Counseling, follow-up with the police; legal referral and aid

Vimochana Devadasi Punarvasthi Sangha (VSPS)

Mr. B.L. Patil

Mhahmane opp Government Hospital, Athani District, Belgaum, Karnataka

Telephone: 08289-252353

Email: Vimochanaatn@rediffmail.com Website: www.vimochanaathani.org

Areas of specialisation: Rescue and facilitate rehabilitation of Devadasi women and their children

Vimochana Devadasi Punarvasthi Sangha

Athani – 591304, District – Belgaum, Karnataka

Telephone: 08289-52353/51043

Areas of specialisation: Rehabilitation of Devadasis through skill training for income generation; Awareness among the women to wean them away from the Devadasi practice.

Vishakha: Group for Women's Education and Research

Ms. Lata Bharat

69/44 Veer Tejaji Road, Manarovar, Jaipur – 302 020

Telephone: 2784156

Email: Vishakha@datainfosys.net

Areas of specialisation: Documentation; networking; counseling

Vividha: Women's Documentation and Resource Centre

Ms. Mamta Jaitly

335, Mahaveer Nagar II, Maharani Farm, Durgapura, Jaipur – 302 018

Telephone: 2762932

Areas of specialisation: Documentation, networking and counseling

Women Development Centre

Mr. Paramhans Prasad Singh

Ram Bagh Chowk, Muzaffarabad, Muzaffarpur-842001

Telephone: 288430(R), 263707(PP) (O)

Areas of specialisation: Counseling, advocacy and intervention

Women's Institute for Social Education (WISE)

Ms. Vipula Kadri

Room No. 304, 3rd Floor, Arun Chambers, Next to AC Market, TARDEO, Mumbai – 400 034

Telephone: 56627151 Fax: 56627152

Email: vkadri@vsnl.net

Areas of specialisation: Research, networking, empowerment, intervention programmes focused on women's issues

Women's Interlink Foundation

Ms. Aloka Mitra

21/1 Old Ballygunge 2nd Lane, Kolkata – 700 019

Telephone: (033) 2281-5507/08 Fax No: 2474-8490

Areas of specialisation: Networking and advocacy

Women's Rehabilitation Center (WOREC)

Dr. Renu Rajbhandari

Gaurighat, P.O.Box- 13233, Kathmandu

Telephone: 494815/476073, Fax: 471104

Email: worec@wlink.com.np Website: www.worecnepal.org

Areas of specialisation: Documentation, research, empowerment, rehabilitation, networking

World Vision of India East Khasi Hills ASP

Chonchon Linthui

Mawkhar Main Road, Shillong – 793 001

Telephone: 0364-2547823

Areas of specialisation: Networking, empowerment programmes, public campaign



Bibliography

Books and Reports

- 'A situational Analysis on Trafficking & Prostitution: Dinbazar (Jalpaiguri) and ChagraBandha (KochBihar)'. 2003. *A Sanlaap Initiative: Supported by Gana Unnayan Parishad, Human Development Centre.*
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- _____. 1996. Red light traffic: The trade in Nepali girls. *Kathmandu: ABC Nepal.*
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List of abbreviations used

ADB	Asian Development Bank
AIR	All India Reporter (of judgements of Supreme Court and High Courts)
ARTWAC	Action Research on Trafficking in Women and Children (this study itself)
ARZ	Anyaya Rahit Zindagi (an NGO based in Goa)
ASI	Assistant Sub Inspector of Police
ASP	Additional/Assistant Superintendent of Police
ATSEC	Action against Trafficking and Sexual Exploitation of Children (a regional NGO network)
Aus AID	Australian Agency for International Development
BD	Bangladesh
NP	Nepal
Bh	Bihar
BNWLA	Bangladesh National Women Lawyers Association (An NGO based in Dhaka, Bangladesh)
CARA	Central Adoption Resource Agency
CBI	Central Bureau of Investigation, Government of India
CBM	Confidence Building Measures
CBO	Community Based Organisation
CCEVT	Condensed Course for Education and Vocational Training
CID	Criminal Investigation Department (of the state government)
CIF	Child India Foundation (an NGO network)
CIS	Commonwealth of Independent States
CPCL	Campaign against Child Labour (an NGO network)
CPCT	Campaign against Child Trafficking (an NGO network)
CPO	Central Police Organisation (of the Government of India)
CRC	Child Rights Convention (of the UN)
CrI	Criminal
CrPC	Criminal Procedure Code
CS	Case Study
CSE	Commercial Sexual Exploitation
CSW	Commercial Sex Worker
CSWB	Central Social Welfare Board (of the Government of India)
DCP	Deputy Commissioner of Police
DIG	Deputy Inspector General of Police
DL	Delhi
DSP	Deputy Superintendent of Police
DWCD	Department of Women and Child Development, Government of India
ECOSOC	Economic and Social Council (of the UN)
ECPAT	End Child Prostitution and Trafficking (an international NGO)
Ev Act	Evidence Act
FACSE	Forum Against Child Sexual Exploitation (an NGO based in Mumbai)
FBI	Federal Bureau of Investigation (of USA)
FGD	Focus Group Discussion
FGD	Focused Group Discussion
FIR	First Information Report (of a crime lodged in a police station)
FWPR	Female Work Participation Rate
GA	Goa
GB Road	Garstin Bastion Road (now known as Shraddhanand Marg) in Delhi
GD	General Diary (maintained in a police station)
GDP	Gross Domestic Product
GNP	Gross National Product
GONGOCORPS	Government, Non-Governmental Organisations and Corporates (a proposed consortium)
GPAT	Global Programme Against Trafficking
HAQ Centre	An NGO based in Delhi

HIV/AIDS	Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome)
HTCA	Human Trafficking (Control) Act, 1986 (of Nepal)
ICCW	Indian Council for Child Welfare
ICDS	Integrated Child Development Scheme
IG	Inspector General of Police
IJM	International Justice Mission (an NGO based in Mumbai)
ILO	International Labour Organisation
INGO	International Non Governmental Organisation
INGON	Impulse NGO Network (an NGO network based in Shillong)
INTERPOL	International Police Organisation
IOM	International Organisation of Migration
IPC	Indian Penal Code, 1860
IPC	Indian Penal Code, 1860
IPEC	International Programme for the Elimination of Child Labour (an initiative of ILO)
IPS	Indian Police Service
IRDP	Integrated Rural Development Scheme
IRDS	Institute of Rural Development Service (an NGO based in Hyderabad)
ISS	Institute of Social Sciences
ITPA	Immoral Traffic (Prevention) Act, 1956
JJ Act	Juvenile Justice Act, 2000
JWP	Joint Women's Programme (an NGO based in Delhi)
KL	Kerala
KR	Karnataka
Mh	Maharashtra
MHA	Ministry of Home Affairs
MHRD	Ministry of Human Resource Development (Government of India)
MOU	Memorandum of Understanding
MPB	Missing Persons Bureau
NACO	National AIDS Control Organisation
NCLP	National Child Labour Project
NCMC	National Centre for Missing Children (an NGO based in Indore)
NCRB	National Crime Records Bureau
NCT	National Capital Territory of Delhi
NCW	National Commission for Women
NE	North-East (Assam and Meghalaya were covered in this study)
NFHS	National Female Health Survey
NGO	Non Governmental Organisation
NHRC	National Human Rights Commission
NIPCCD	National Institute of Public Cooperation and Child Development
NPA	National Plan of Action (of the Government of India to fight trafficking and commercial sexual exploitation)
NSSO	National Sample Survey Organisation
NST	National Study Team constituted for this Research
OHCHR	Office of the High Commissioner for Human Rights
PB	Punjab
PIL	Public Interest Litigation
PLA	Participatory Learning and Action (a tool of Social Science Research)
Rt	Rajasthan
SAARC	South Asia Association of Regional Countries
SAFAHT	South Asia Forum Against Human Trafficking (a regional NGO network)
SAKHI	An NGO based in Patna
SAPAT	South Asia Professionals Against Trafficking (a regional network of professionals)
SARI/Q	South Asia Regional Initiative – Women's and Children's Equity Programme (an NGO based in Delhi)
SC	Supreme Court (of India)
SCC	Supreme Court Case (a case decided by the Apex Court)
SEP	Socio-Economic Programme
SEVA	Manav Seva Sansthan (an NGO based in Gorakhpur)
SHO	Station House Officer (of a police station)
SI	Sub Inspector of Police

SITA	Suppression of Immoral Traffic Act, 1951
SLARTC	Socio-legal Aid Research and Training Centre (an NGO based in Kolkata)
SOS	Save our Sisters (an NGO based in Mumbai)
SP	Superintendent of Police
SPO	Special Police Officer
SPSS	Statistical Package for Social Sciences
STD	Sexually Transmitted Disease
STEP	Support for Training and Employment Programme (of the Government of India)
STOP	Stop Trafficking and Oppression of Persons (an NGO based in Delhi)
TB	Tuberculosis
TIP	Trafficking In Persons
TIT	Trial Initiative against Trafficking
TN	Tamil Nadu
u/s	Under Section
UDCR	Universal Declaration of Child Rights, 1989
UN	United Nations
UNDCP	United Nations International Drug Control Programme
UNDP	United Nations Development Programme
UNDRW	United Nations Fund for Development of Rural Women
UNESCAP	United Nations Economic and Social Council for Asia and Pacific
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNICJRI	United Nations Inter-Regional Crime and Justice Research Institute
UNODC	United Nations Office on Drugs and Crime
UP	Uttar Pradesh
USAID	United States Agency for International Development
UT	Union Territory
UTI	Urinary Tract Infection
Vs	Versus
WB	West Bengal
WHO	World Health Organisation
WISE	Women's Institute for Social Education (an NGO based in Mumbai)
WP	Writ Petition (filed in the Supreme Court of India or the High Courts in India)