Standing Order No. 08/2016

Trafficking in Women and Children for Commercial Sexual Exploitation

Introduction

Trafficking of women and children is one of the grave organized crimes, extending beyond boundaries and jurisdictions. Combating and preventing human trafficking requires holistic approach by all stakeholders and integrated actions on prosecution, prevention and protection. Successful conviction of offenders, redressal of grievances of victims and consequent prevention of crimes of human trafficking is possible when the first responders i.e. the police agencies perform their tasks diligently. The task includes collection of intelligence about crimes, registering crimes in the police station, prompt action in investigation and prosecution and also ensuring all legal and administrative follow-up measures. Police plays a vital role in prevention of trafficking in women and children for commercial sexual exploitation in cooperation with the other stakeholders.

In order to control the offences relating to immoral trafficking all SDPOs/Dy.SP-Crime/SHOs will ensure that effective steps be taken to prevent trafficking of women and children for commercial sexual exploitation.

Steps for Prevention:

- Keeping vigil at hotels, bus stops, railway stations dharmshalas, placement agencies and other vulnerable places.
- Prevention through co-ordination and cooperation with other agencies including NGOs.
- Keeping vigil and monitoring the movements of strangers in the area.
- Ensure that effective patrolling is carried out, by looking out for suspicious movements of victims at such places hotels, bus stops, railway stations etc.

Anti Human Trafficking Unit

The Chandigarh Police has set up an Anti Human Trafficking Unit vide order No. 10086-10106/UT/E-1 on 28.3.2011. DySP Women and Child Support Unit shall closely supervise the functioning of AHTU. The SSP/Operations, Chandigarh Police shall act as Nodal Officer of Anti Human trafficking Unit. He will coordinate with the Director Social Welfare, Health Department, Judiciary, concerned government departments, Advisory Committee, All SDPOs/DySP-Crime and other stakeholders to deal with such cases. He will also review the functioning of Anti Human Trafficking Unit.

The Anti Human Trafficking Unit is responsible for:

- AHTU as a Nodal Office to coordinate and enhance cooperation between law enforcement agencies, concerned departments and NGO who have the expertise and capacity to assist the trafficked victims by institutionalizing their cooperation.
- Upload the day to day information regarding missing Children on the national portal www. Trackthemissingchild.gov.in for collection/sharing of information with other agencies.
- Organise awareness programmes in the vulnerable areas to educate the general public about the problem of trafficking in women and children for commercial sexual exploitation and forced labour.
• Organise sensitisation programmes/workshops for police officials on Gender Sensitization and Anti Human trafficking and update police officers/officials about new laws/amendments etc.

**Standard Operating Procedures (SOP) on investigating crimes of trafficking in women and children for Commercial Sexual Exploitation.**

The SOP is designed to help the investigator in carrying out a professional investigation.

**Victim of trafficking for Commercial Sexual Exploitation (CSE):**

• Any trafficked person.
• Persons above the age of 18 who through force or threat of force, coercion, abuse of power, etc. were/are required to perform sexual acts without their consent, by any person(s).
• “Children” who have not completed the age of 16 years and “minors” who have completed the age of 16 years but have not completed the age of 18 years, who are found in places of CSE [u/s 2 (aa) and (cb) ITPA].
• Any child likely to be trafficked is a “child in need of care and protection” under S. 2 (d) of the JJ Act and is therefore, a victim who should be rescued.
• Anybody who has been recruited, harboured, transported, detained, obtained or procured for CSE.
• Any person who has been detained in a brothel, with or without consent [S. 6 (1) (a) ITPA].
• Any person who has been detained in any premises with the intent of CSE [S. 6 (1) (b) ITPA].
• Any person found in a brothel, or any place of CSE, whose jewellery, wearing apparel, money, property, etc. has been withheld [S. 6 (3) (a) ITPA].
• Any person who has been seduced for prostitution by any person having custody/charge/care of/or a position of authority over that person [S. 9 ITPA].
• A person whose trafficking has been attempted by someone [S. 5 ITPA].

**Advisory Body:**

The Chandigarh Administration, UT vide notification No. SW3/SIT/2016/3332 Dated 1.4.2016 under section 13(3)(b) of ITPA, 1956 has constituted a Non-official Advisory Bodies to be associated with Special Police Officers for advising on question of general importance, regarding the working of ITPA. The terms of Advisory Bodies for a period of two years unless it is dissolved earlier. The Secretary Social Welfare will hold meetings with the members of Advisory Bodies at regular frequency along with Special Police Officers. SDPOs, DSP/ Crime, DSP/Opr., DSP/W&CSU, all SHOs, Inspectors and Incharge Crime Branch as Special Police Officer shall associate the Advisory Bodies.

**Authorized Police Officers:**

All SDPOs, DySP/Crime, DSP Operations, DSP/W&CSU, all SHOs of Chandigarh Police are authorized to rescue the victim & investigate crimes under ITPA, 1956.
Rescue before Registration of FIR:-

As an FIR is not a pre requisite for rescue, whenever the police receives information regarding victims/activities relating to Commercial Sexual Exploitation or trafficking, the rescue should be carried out immediately. Section 15 and 16 of ITPA authorize rescue of victims/search of premises where Commercial Sexual Exploitation is perpetrated.

Steps for Rescue Operation:-

- Enter source information in the General Diary of the Police Station in such a way that anonymity of the source/victim/location is not compromised.
- Obtain a search warrant from the jurisdictional Magistrate u/s 166 CrPC or u/s 15/16 ITPA.
- Draw a sketch map of the area which can be used for briefing and assigning specific duties like cordonning, guarding entry and exit points, locating hide-outs, identifying a safe place to keep rescued persons to both officials and witnesses involved in the rescue. This includes duties till the rescue operation is completed, etc.
- Ensure adequate composition of the rescue team:-
  - The team should have two women officials of any rank (S. 15 (6 A) ITPA).
  - If rescued persons are to be interviewed, it shall be done by woman police officers, if no woman police officer is available, the interview should be done only in the presence of a lady member of a recognized Welfare institution/organization NGO (S. 15 (6 A) ITPA).
  - Secure the help of NGOs to act as panchas/mediators/witnesses. Rescue activities require two witnesses, one of them shall be a woman (S.15 (2) ITPA).
  - The team should have at least one police officer who is legally empowered to conduct a rescue as per the provisions of ITPA.
- Arrange materials and equipment required for documentation/evidence collection, adequate number of vehicles for rescued persons.
- Inform appropriate authorities regarding the proposed activities, keeping in mind the need for confidentiality.
- Conduct the rescue promptly and inform rescued persons about the authority and purpose of the search and rescue. Assure them of the care and attention they will get.
- Identify children (those below 18) among the rescued, as they have to be produced before Child Welfare Committee (CWC).
- Arrest the offenders if they are present.
- Collect documents and exhibits from the place of rescue.
- If the rescued persons have children with them, ensure they are also rescued.
- If the rescued persons belong to a foreign country or another state(s), inform the Police Nodal Officer of the concerned country/states.
- Ensure photography/videography both inside/outside and close-up photographs of the scene of crime with date and place etc. are taken.
- Get some pictures of the witnesses while recording the scene.
- Treat the victim-survivor as a person with dignity and ensure that they are safe and not harmed further. Provide for their immediate needs of food, shelter, clothing and any medical complaints.
- Immediate medical relief/legal counselling be provided to the victims.
- In a pre- FIR rescue situation, the police officer could make his own notes about all relevant aspects.
- Avoid publicity of the victims so that anonymity is maintained.

**Registering FIR**

**Where to register the FIR**

Trafficking is an organized crime and a continuing offence. The provisions of IPC with reference to offences of abduction/kidnapping provide for registration of FIR at any place from the source to the destination area. Similarly, as provided u/s. 5 (3) ITPA, the FIR could be registered at the place of demand/destination area (mostly the place of rescue), or the place of transit, or at the place where the person was trafficked from (source area).

**Anybody can be a complainant including:**

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

**Drafting the FIR**

Appropriate sections of ITPA 1956, IPC and other relevant legislations to be used in the FIR. Care should be taken to avoid misuse of section 8 ITPA to prevent victimization of victim’s. A police officer who knows the victims language may record the FIR. If this is not possible, seek assistance from an NGO/Translator to draft FIR in the victim’s language.

Record statements whenever the victim is willing and prepared to speak and do not put pressure on the victim to give details of the sexual trauma/violence that she may have faced.

**Medical Examination of the Victim:**

IO should ensure that appropriate medical care be extended to the victim immediately after rescue and without delay.

The medical Examination of the victim should be got conducted by a registered medical practitioner to detect injuries resulting from sexual abuse or the presence of sexually transmitted diseases. Informed consent of the victim is mandatory before a medical examination.

A lady police official should escort victim. If possible, the medical examination should be conducted by a female doctor u/s. 53(2) Cr.P.C. If no female doctor is available, the medical examination should be
conducted in the presence of a female medical attendant, or a female representative of an NGO.

**Rescue after registration of FIR**

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

The IO needs to record the events in the Case Diary.

Statements are to be recorded u/s. 161 Cr. PC.

All Memos should bear the FIR number and date.

Copies of the Memos have to be given to the court and also to be sent to supervisory officers.

If copies are to be given to CWC, adequate number of copies to be made accordingly.

**Investigation:**

**Collection of ‘Material Objects/evidence’ (MO) from the scene of crime:-**

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

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

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

**Interrogation and arrest of the suspects/accused**

In Human trafficking crimes, the interrogator needs to focus on all aspects of the trafficking process and all activities of the offenders to uncover the entire organized linkage of trafficking (source, transit, destination, modus-operandi, means of transportation, communication-channels, financial transactions etc.).

Being an organized crime, the arrest of the accused should take place at an appropriate time without delay after complying all the provisions of law.

A notified Special Police Officer is fully empowered to arrest without warrant u/s 14(1) ITPA.

The SPO can authorise and order any police officer for arrest u/s 14(ii)14(iii) of ITPA.

If a woman offender is to be arrested -the provisions of s. 46 (4) Cr. PC must be complied with.

**Recording statement u/s. 164 Cr. PC**

The decision to record the statement u/ s. 164 Cr. PC is to be taken as early as possible depending on the victim's knowledge of the crime and readiness to speak.

**Age assessment:**

The IO must try and obtain the date of birth certificate, school certificate, ration card, or any other relevant document or statement which would be useful to determine the victim's age.

In case of doubt or dispute with respect to the age of the victim, the IO must refer the case to a Medical Board.
Production of the rescued person before the Magistrate/CWC.

The adult victims be produced before a Judicial Magistrate ar. child victims before CWC (under JJ Act).

The rescued victims should never be:

SENT BACK TO THE BROTHEL
DETAINED IN THE POLICE STATION
EXPOSED TO SITUATIONS OF FURTHER RISK

Shelter Homes/CWC:

IO should make interim arrangements to send the victim to a place of safety such as a Shelter Home (Government/NGO run/CWC/drop-in-centre, etc). Avoid detaining the victim in the PS or other police outfits.

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

The authorized police officers must initiate reports for Eviction of offenders and closure of brothels/place of exploitation under section U/s 18 of ITPA and send it to the DM/SDM for orders.

Charge Sheet:

After completing the investigation IO should prepare the Charge Sheet against the accused by mentioning therein all the evidences/expert reports/statement of witnesses etc. to secure conviction in the crime.

The SOP issued vide F. No. 15011/20/2012-ATC/CF-Govt. Of India/ Bharat Sarkar, Ministry of Home Affairs/Central State Commission New Delhi dated 12th August 2013 shall also be followed strictly.

Note:- All the provisions of relevant laws and amendments, judgements and directions issued by Hon’ble Courts and Advisories issued by MHA and other agencies shall be strictly complied with while dealing with cases of Trafficking in Women and Children for commercial exploitation.

All SDPO and DySP Crime shall ensure strict compliance of all the directions mentioned in this Order.

Inspector General of Police,
UT, Chandigarh.

No. 34-28-1/UT/E-6, Dated Chandigarh the: - 11 - 5 - 2016

Copy to:

2. The Director, Health Services, Chandigarh Administration, Chandigarh.
3. The Director Social Welfare Department, Chandigarh Administration, Chandigarh.
4. The Chairperson, State Legal Authority, UT, Chandigarh.
5. All DSPs.
6. All SHOs.
7. Rd to W/I GP, So to W/I GP.
8. T/C Computer Cell
9. T-4