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**MANUAL FOR INTERVENTION BY CHILDLINE IN SITUATIONS
OF COMMERCIAL SEXUAL EXPLOITATION & TRAFFICKING OF
CHILDREN**

CHILDLINE MANUAL ON ANTI TRAFFICKING INTERVENTION

Prepared for CHILDLINE

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PART I
INTRODUCTION

Trafficking of persons for commercial sexual exploitation is globally an organized crime with an annual turnover of over 7 billion U.S. \$ victimizing between 7,00,000 to 20,00,000 persons every year. Children constitute a very high proportion among the victims. Although accurate statistics is not collected it is guessed that in India alone their number ranges between 10 to 15 lacs. The age at which children are trafficked and inducted into flesh trade is fast falling. Most children victimized in commercial sexual exploitation & trafficking (CSE&T) belong to the developing countries.

Economic liberalization resulting from globalization, breakdown of local self sufficiency, disintegration of family, community and other support systems have boosted easy availability of children, non availability of any alterative protective mechanism, indifference of the adult society, lack of strong political and administrative will to prevent child exploitation, poor or little implementation of the anti trafficking and anti exploitation legislation have made exploitation risk free ensuring free supply of children for such exploitative trade. Fear of HIV/AIDS, rise in international sex tourism, spread of internet based child pornography, large scale labour migration, combined with uncorrected proliferation of several myths have fanned and fuelled the demand for children as victims in the flesh markets.

The ultimate exploitation of children and the extreme violence through CSE&T are rising everyday at an alarming rate. The physical, psychological, economic damage caused to the victim being not only irreversible but with the advent of HIV almost fatal preventive intervention has become very crucial. Allowing children to live in the hell of the flesh trade is to denounce our claim to civility and to deny them their most important right the right to live. Unconditional, comprehensive and effective social intervention is urgently required. Faced with a growing organized crime all those who consider themselves socially responsible have few options but to network and make a united impact on this challenge.

CHILDLINE can play a very effective role in providing protection to the real and potential victims of CSE&T, and ensure their rights. This manual is an attempt to contribute to such efforts of CHILDLINE.

1. WHAT IS TRAFFICKING?

One way to understand trafficking is to understand how it has been defined. Another way is to look at the essential elements that make it an objectionable act.

It is largely a movement of a person from his original setting into something that is exploitative in nature. The movement is in the form of buying, selling, mortgaging, pledging, hiring in or renting out, leasing in or out, harbouring, etc. Often this movement is physical. The shift is not by the consent of the person. It is a result of inappropriate means such as deception, lure, fraud, compulsion, kidnapping, cheating, force, by taking undue advantage of the person's helplessness, by extracting consent by paying money, by taking undue advantage of the persons who is under one's authority, etc.

The current definition of trafficking incorporated in the Optional Protocol to the U. N. Convention Against Trans National Organized Crime 2000 is as follows;"

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

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

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

d) *"Child" shall mean any person under eighteen years of age.*

The latest U.N. definition of Trafficking can be clearly divided into three parts: The Act, the Means, and the Purpose

The Act:

The recruitment, transportation, transfer, harbouring or receipt of persons,

The Means:

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

The Purpose:

Exploitation: Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

2. WHAT IS THE PURPOSE OF TRAFFICKING?

The ultimate purpose of trafficking is the profit for the trafficker. Children are trafficked for commercial sexual exploitation, pornography, bonded labour, slavery, and sometimes to make them work as camel jockeys etc. Commercial Sexual Exploitation is one of the most common destinations of trafficking of children.

4. WHAT IS SEXUAL EXPLOITATION?

If A with a view to derive sexual satisfaction for himself uses B against the consent of B or if A in order to make profits makes B available to C, D, E or any other persons so that they can derive sexual satisfaction from B against the consent of B then A is said to have sexually exploited B. i.e. sexual exploitation is the use of another person against the consent of that person for one's own sexual satisfaction or for the sexual satisfaction of yet another person for one's own profit or benefits.

5. WHAT IS COMMERCIAL SEXUAL EXPLOITATION (CSE)?

Commercial Sexual Exploitation is Sexual Exploitation carried out as a commercial activity. It need not be carried out for a long time in order to qualify itself as commercial. One single instance is enough to term it as commercial sexual exploitation.

Commercial Sexual Exploitation (CSE) traditionally and conventionally but inaccurately referred to as prostitution is the act which is,

- carried out singularly or in an organized manner,
- of sexual exploitation of a person,
- by an exploiter
- for the profit of the exploiter,
- by way of forcibly accessing the sexuality of the victim
- to any customer who wishes to pay for it.

This definition does not convey the reality accurately but wrongly projects the woman as an independent actor acting on her own accord, for her own profits.

The definition does not take note of the criminal organization of the flesh trade and the role of procurers, traffickers, managers, brothel keepers, pimps and financiers.

The term Commercial Sexual Exploitation (CSE) covers the reality far more accurately than any other term, which has been used to refer to the phenomenon under discussion.

6. *WHAT IS CHILD PROSTITUTION?*

Child prostitution is a term, although unpleasant, commonly used to refer to a phenomenon where children are used as victims in the crime of commercial sexual exploitation.

Child Prostitute is yet another wrong and unpleasant term. A child cannot be a prostitute. Often we come across children who are inducted initiated into this practice by others. That does not make them child prostitutes. They are the victims of commercial sexual exploitation.

Terms refer to phenomenon. Once terms get wide acceptance the phenomenon also starts getting some kind of acceptance. Legitimizing the usage of wrong terms is the first step in legitimizing a wrong practice. We must not legitimize wrong phenomenon

7 *IS CSE OF CHILDREN REAL?*

Yes! The CSE of children is real and is rising alarmingly everywhere in the world.

8. *WHAT IS SEX TOURISM?*

Sex tourism is tourism undertaken with a view to engage in commercial sexual exploitation or one that results in commercial sexual exploitation of persons in the countries visited by tourists. A number of men from USA, Canada, Western Europe, Australia and other developed Pacific countries have been found to be visiting the tourism destinations of the developing countries in order to have sex with girl children as well as boys. They are called Sex Tourists. A number of Indian tourists visit various tourism destinations within India and exploit children sexually. Some Indian tourists also visit other countries in the world and sexually exploit children

9. ARE SEX TOURISTS MEN ALONE?

No!. Although men form a very large majority of sex tourists it has been seen that many women tourists from the above-mentioned countries also indulge in sex tourism. There are women tourists who sexually exploit young boys as well as girls. They do have sex with the boys and girls though not always and not in every case. Sometimes they may be engaged in taking photographs of the boys and girls in nude or in sexual positions.

10. ARE ONLY GIRLS SOUGHT AS SEX OBJECTS IN CSE& SEX TOURISM?

No!. In fact, of late there has been a rising incidence of sexual exploitation of boys by the sex tourists. Although one does not know the reasons behind this shift it is possible that mere search for novelty could be one important factor behind it. Besides female sex tourists often seek young boys as sex objects.

11 DO SEX TOURISTS ONLY HAVE SEX WITH CHILDREN OR DO THEY ALSO TAKE PHOTOGRAPHS?

Sex tourists have sex with children. They also take photographs of children by engaging the children in sexual acts, positions or just in nude. They make pornographic material on children. Taking photographs in this manner is also sexual exploitation and children must be protected against it.

12 IS SEX TOURISM MERELY A TYPE OF EXPLOITATION OR IS IT ALSO A PUNISHABLE CRIME?

Sex tourism is not merely a form of exploitation. In several countries in recent years laws have been passed to declare sex tourism i.e. tourism with a view to have sex with the children of that country as a punishable crime. There is no such legislation in India. Tourists who indulge in sex

with children can be punished in our country as per the provisions of law. In some cases they can also be tried in their own country as per the laws of that country.

13 WHAT IS CHILD PORNOGRAPHY?

Pornography deals with the consumption of a whole range of visual, audio, or audio-visual impressions created and encoded in physical or electronic forms which record children, their bodies, their sexual parts, in such manner as to lead to sexual arousal in a person who is exposed to it. Photographs, videotapes, films, and magazines of children in sexual poses and sexual acts make up the multimillion-dollar global world of child pornography.

14 WHY IS CHILD PORNOGRAPHY PRODUCED?

Child pornography is created, collected, and used by child sexual exploiters mainly for their sexual arousal and gratification. Child pornography is now a huge trade with enormous profits and hence many people make and circulate child pornographic material.

15. HOW IS CHILD PORNOGRAPHY RELATED TO CHILD SEXUAL EXPLOITATION AND TRAFFICKING?

Pornography has been an integral part of the sex trade. Although in the past pornographic material largely used to be made by picturizing young women in sexual acts these days children are being exploited on a large scale for making of pornographic material. For all this children are procured, lured, trafficked, put into exploitative conditions and kept there, for recording them as engaged in sexual acts. Those who consume child pornographic material often set out to get child victims to satisfy their sexual desire thereby creating and fuelling the demand for children as victims in the flesh market. Use of child pornography tends to generate a social view that sex with children is normal.

16 WHAT IS PROSTITUTION?

Prostitution conventionally implies a woman selling her bodily sex to a man in return of money. The woman is generally believed to be morally a loose woman, fallen and unreliable.

The 1956 Suppression of Immoral Traffic Act (SITA) defined prostitution as:

“act of a female offering her body for promiscuous sexual intercourse for hire, whether in money or in kind, whether offered immediately or otherwise, and the expression ‘prostitution’ shall be construed accordingly.”

SITA focuses on the female as the doer of prostitution, a subject of the act rather than perceiving her as the object of someone else's exploitative action

The 1986 revision of the anti-trafficking legislation the Prevention of Immoral Traffic Act defined prostitution as “the sexual exploitation or abuse of persons for commercial purposes.”

The focus has shifted. There is a drastic change in definition. It reflects the change in the way of looking at the woman who was earlier blamed for the practice.

17 WHAT IS TEMPLE PROSTITUTION? IS IT LEGAL?

Many parts of India practice the system of dedicating persons to the service of Gods, Goddesses, Deities, or Temples. They are considered as married to the Gods.

In actual practice, the priests of the temple right down to all those who had power over public life used these persons to satisfy their own sexual desire. Several myths are created and maintained as sacred in order to ensure the frictionless continuance of these customs.

Davadasi, Venkatsani, Vaghya - Murali etc. are some of the forms of temple prostitution in Western India. The local names and particular rituals may change but the basic system is the same. Law has banned all such forms of dedicating any person to any God, Goddess, Deity, or Temple and hence they all are illegal.

18 DOES CSE TAKE PLACE IN THE NAME OF FOLK ARTS?

Sometimes CSE is practiced and nurtured behind a façade of folk arts and folk traditions. Women of certain low strata and traditionally subservient communities have been condemned into CSE by some patrons who often belong to the dominant social strata, politically powerful rural elite categories. They have co-opted the leaders of the subjugated communities in order to perpetuate the CSE of their community girls and women in the name of folk arts and folk traditions.

19 WHAT IS SEX TRADE?

Sex trade is a lucrative business these days. There are financiers who finance it. There are procurers who get the persons - either children or women- who are sold for purposes of sex to customers. There are advertisements for such practices. There are customers who buy the sex. There are pimps who bring the customers to the victim and facilitate the fixing of the price, there are places where the sex objects are stored, there are showrooms where they are displayed. The sex objects are sorted, graded and ported as per their quality, and are sold in different markets at different prices from 'street market' to the 'upmarket'. This business turns out to be most profitable. All these factors establish that it is a trade.

20 IS THE SEX SECTOR AN OFFICIAL SECTOR IN OUR ECONOMY?

No! Sex sector, which is just another term for flesh trade, is not considered as an official sector in the economy of our country. There is an overwhelming consensus on the principle that human body or life is not a commodity to be traded against anything in return. This entire idea is regarded as incompatible with basic human dignity.

The sex trade is not legally recognized anywhere in India.

Prostitution is recognized in some countries. But in those countries it is presumed that it is a voluntary action on the part of the person selling his or her bodily sex. Sale of human beings is against the Declaration of Human Rights and the universally accepted principle of basic human dignity.

21 WHAT ARE SOME OF THE MYTHS SURROUNDING CSE&T?

(A) PROSTITUTION IS A SAFETY VALVE

This is a common myth. It defends the malpractice of organized commercial sexual exploitation by stating that male sexuality is uncontrollable and must find a release through sexual intercourse with a female. If this release is not provided from time to time then the accumulated pressures manifest themselves in a variety of ways all of them being destructive to society. Organized commercial sexual exploitation erroneously called prostitution, is believed to provide the required safety valve for the timely release of the pressure.

(B) PROSTITUTION IS A SOCIAL NEED

This is just another variant of the above-mentioned myth. Organized commercial sexual exploitation is sought to be defended and maintained under the pretext that it is a social need. The more pertinent objection to such a position is that some one or some group of innocent people cannot be sacrificed merely to meet the need of some other people in a society. This injustice becomes all the more objectionable when females of a particular disadvantaged, deprived, illiterate, unexposed, uneducated, poverty stricken, disaster stricken, martially deserted are targeted to be sacrificed repeatedly.

(C) THERE WILL BE HAVOC IF PROSTITUTION IS BANNED

A baseless threat has been inculcated and made popular by the vested interests, namely that, banning prostitution will result in havoc in the society. When asked to explain the nature of the havoc further they state that if prostitution is banned then the unsatisfied male sexuality will go berserk and there will be rapes of "decent" women in broad day light in a plaza of the city.

(D) ADULTS HAVING SEX WITH CHILDREN IS NORMAL OR CULTURALLY ACCEPTABLE

Sex tourists have tried to spread a myth that in certain cultures (often the destination areas of their tourism) adults indulging in sex with children is normal. They do this in order to eliminate any element of guilt of having sexually exploited the children of other cultures and to reduce the fear and likely guilt in the minds of others who intend to sexually exploit children belonging to other countries.

(E) SEX WITH CHILD IS A "CURE" for STDs and HIV

This is a completely irrational though dangerous myth. It has no scientific or clinical basis. It is propagated by child sex offenders to seek social sympathy.

(F) SEX WITH A CHILD IS "SAFE SEX"

As explained above, sex exploiters seeking to transfer their infection to others attempt to have a direct 'contact' to make that 'transfer' possible. A condom is seen as a barrier in such transfer. Such people seeking irresponsible commercial sex who do not like to use condom have conveniently reinterpreted the messages of "safe sex is sex with use of condom" into ' safe sex is sex with children."

22 UNDER WHAT CIRCUMSTANCES AND WHERE DOES TRAFFICKING TAKE PLACE?

Trafficking occurs in the framework of **demand** and **supply**.

SUPPLY:

Trafficking takes place wherever there is a supply of potential victims such as vulnerable helpless, gullible, supportless children, minor girls and young women. The following are some of the common areas and situations: (This is by no means an exhaustive list of the areas or situations in which trafficking takes place).

Areas:

Areas affected by famines and droughts,

Areas hit by natural disasters such as cyclones, floods, earthquakes,

Areas affected by economic disasters such as project displacement, industrial depression, loss of livelihood, close down of traditional sources of livelihood, loss of access to common property resources, etc.

Areas affected by civic & political unrest and instability such as riots, wars etc.

Situations:

Orphaning

Family disintegration (broken families)

Community disintegration (broken communities)

Loss of head of household

Marital desertion

Early widowhood

Neglected childhood

Succumbing to offers of career in films and other glamorous sectors

Victimization through sexual assault and subsequent social ostracism

Personal tragedies

Drug addiction

DEMAND:

Trafficking takes place wherever there is a demand for victims of commercial sex.

Trafficking takes place wherever the state, its enforcement agencies and the civil society are negligent. If they decide to stop it they can effectively stop it. Once the demand and supply factors flourish, the turnover and profits also flourish and it becomes easier for the traffickers to bribe the enforcement into turning a Nelson's eye to the incidence of human trafficking

23 IS TRAFFICKING ALWAYS ACROSS A NATIONAL BORDER?

No ! Trafficking need not always be a cross a national border.

Trafficking often takes place within a state or from one state to another in a given country. In India trafficking is largely intra country.

Girls are trafficked from Nepal and Bangladesh to India.

Girls from Bangladesh are trafficked from Bangladesh to Pakistan and often they are transited through India. Some of the old trade routes to Pakistan passing through Rajasthan are, it is alleged, used for this purpose.

24. WHAT IF WE COME ACROSS A TRAFFICKED GIRL CHILD WHO APPEARS TO BE FROM NEPAL OR ANY OTHER FOREIGN COUNTRY?

Every child who is in need of help must be helped regardless of the nationality. What assistance we can offer to children from different nationalities will differ e.g. if one came across a girl who is from Nepal, it would be advisable to produce such a child before the CWC under the J.J. Act. Even if the child is from Bangladesh the same procedure must be followed. In the case of a trafficked child regardless of her nationality it is important to register an FIR at a police station. The child must be produced before the CWC for that area as no child is a criminal and should not be regarded or treated as a criminal. A trafficked child is a victim child and is in need of protection, care and support.

25 IS PHYSICAL SHIFT OF THE VICTIM A MUST IN TRAFFICKING?

Although trafficking involves physical movement of the victim from his/her own socio-economic set up through a process of collective uprootment or individual shift it is not always necessary that a victim must be moved physically for that act to be considered as an act of trafficking.

Second generation trafficking (meaning induction of the children of victims of CSE&T into flesh trade) does not involve the physical movement of the victim but it is a kind of trafficking nevertheless.

26 WHO ARE THE VICTIMS?

Traditionally young helpless women have been the single largest majority among the victims of trafficking. Usually young women who have been deserted by their husbands, young widows, women from the lowest socio-economic sections, agriculturally and industrially depressed areas, illiterate, uneducated, unorganized, resourceless women who have been affected by economic disaster, communal riots, project displacement, personal tragedies, the captive victims of evil social customs etc. have been the victims of trafficking. In the last few decades there has been a steep and alarming rise in the number of children and minor girls as well as boys who are increasingly becoming victims of trafficking.

This does not mean that all the children with the above background are victims of trafficking. Trafficking is a result of some of the above mentioned 'Pre disposing factors' and the other 'precipitating factors'.

Children from the background mentioned above are far more prone to getting trafficked as they benefit from few protection and support systems.

27 HOW DOES TRAFFICKING FOR CSE TAKE PLACE?

There are procurers who locate the areas, situations and events where vulnerable potential victims can be spotted. The procurers take charge of the victims by unfair means such as promise of a job, shelter, relief, career, marriage etc. Sometimes procurers also use coercive tactics.

The procurers bring the victims in contact with other agents who shift the victims to the places of CSE. At these places the traffickers dispose off the victims to the agents of flesh trade. Often there is overlapping of roles with one criminal performing several roles. The victim more often than not travels with the trafficker / procurer by trusting him/her. As she is unsuspecting, the question of attempting to escape does not arise.

28 WHO ARE THE TRAFFICKERS?

Traffickers are a variety of people. They pose as lovers, employment agents, job recruiters, agents of film and modeling agencies. It is not uncommon that the traffickers are people living in the same areas from where the victims have been procured.

It would be a mistake to look for traffickers in any particular socio economic stratum, religion, race, caste, creed, or profession. A trafficker could be from any of these backgrounds.

It is impossible to give any indicators for easy identification of a trafficker either by their physical appearance, obvious behaviour or language. What characterizes them is their ultimate intention of exploiting the victim

28 DO VICTIMS KNOW THAT THEY ARE BEING TRAFFICKED?

Often victims do not know that they are being trafficked. The victims are often under the wrong impression that they are going to a place where they will be getting a job, a wage employment, a career in films or modeling, or getting married to their lover. They very often remain under the impression that the trafficker is their well wisher. It is quite late by the time they get to know that they have been deceived and are landing up into something they had not agreed to or expected initially.

29 WHAT ARE SUSPECT TRAFFICKING SITUATIONS?

Technically a suspect trafficking situation is a situation which gives you the impression that there is something fishy and unusual happening which is likely to result into trafficking of a person. There may not be a concrete reason or an objective prima-facie ground to call it a trafficking situation.

Several factors become relevant while concluding that a situation is a suspect trafficking situation.

The following situations could be suspect situations:

- A pair of a teen aged girl and a little older boy undertaking a long journey on their own.
- The overall backwardness of the girl being escorted by a man who is not her father, brother, or close family member.
- Discrepancies in the ethnic, linguistic and such other characters of a girl and her escort.

- The general personal appearance and behaviour of a lady who is escorting a single or a group of very young girls. Discrepancy in their economic standards and personal appearance.
- A lonely girl undertaking a long journey not aware of any details of the place she is expected to report to but travelling in order to get married to her boyfriend or to get a job etc.
- Young children and minor girls receiving apparently unwarranted gifts and gifts and favours disproportionate to the apparent occasion from strangers, foreigners, tourists, etc. Habitual child sex offenders, sex tourists, and procurers to lure the victims and win their confidence use such tactics. These may be termed as early steps in trafficking and CSE.
- Victims of disasters who also appear as potential victims of CSE&T being escorted to other destinations with promise of shelter, job, relief, welfare, institutions etc.

REMEMBER: It is difficult to give out any sure indicators. Only on probing further can one get more reasons than one to suspect a given situation.

In all such situations it is important that you interact, share this piece of information, consult other team members and agencies working in the field of CSE&T

Intervening in a suspect trafficking situation is a delicate affair. At no stage it should cause undue harassment to innocent citizens. It should not violate their right to privacy and free movement. It should not create additional danger to the life and safety of a victim or potential victim.

It is very important that our intervention efforts should not discourage or come in the way of mobility of young girls and women since such restrictions will ultimately adversely affect their social mobility and freedom. Our message and our efforts should be such that young girls and women must be able to take their social flights and enjoy their mobility but will be adequately equipped to identify the dangers in their way and be provided with adequate protection from outside .

30 WILL THE VICTIMS COOPERATE IF YOU INTERVENE IN A SUSPECT TRAFFICKING SITUATION?

Most often they will not! This is the crux of the problem. Often the victims trust the traffickers. They are genuinely under the impression that the trafficker represents their best interest. When the trafficker is a lover who promises marriage there is all the more reason for the victim girl not to trust others but to trust him blindly.

Some victims are clearly coerced into accompanying the traffickers. They may know that they are being cheated and still they may not cooperate with you. This may be because the trafficker may have threatened the victim, her near and dear ones and hence the victim might not be free to cooperate.

There is one more possibility. The victim may not cooperate for fear of legal consequences under the impression that he/she is indulging in something illegal which if exposed will invite arrest and punishment. For example in cases of cross border trafficking the victim is often aware that he/she is breaking the law related to migration and hence can be arrested if exposed. Although the person is not aware of the real intentions of the traffickers and does not have the slightest idea that she is being trafficked for the flesh trade she still feels that she must follow the instructions of the traffickers as he is helping her to migrate illegally into another country where she is likely to get a job or make a career.

Since the victim is unsuspecting in a situation of early intervention the victim might in fact defend the trafficker against the intervening agent (e.g. CHILDLINE representative) thinking that the intervention is unwarranted and is detrimental to their original plan (such as getting a job in films, getting married to the trafficker etc.)

31 CAN ADULTS BE TRAFFICKED? ARE ADULTS TRAFFICKED?

Any one can be trafficked. A trafficked victim need not always be a child. Adults too are trafficked although the proportion of minors and children among the trafficked victims is overwhelmingly large.

32 CAN A “PROSTITUTE” BE TRAFFICKED?

Generally it is believed that a prostitute cannot be trafficked. That is quite incorrect. Anyone can be trafficked. Whoever is moved against one's free will, with improper means for the purposes of exploitation is a victim of trafficking. A victim of Commercial Sexual Exploitation is quite vulnerable to being **re-trafficked**. Such **re trafficking** occurs quite often. The fact that the person has been a victim of trafficking once before, does not make it any less injurious or violent in any manner if it happens the second time around

33 SHOULD A PROSTITUTE WOMEN BE ALLOWED TO HAVE A CHILD AT ALL?

Why not? Like every other person even a prostitute must have the right to have a child. The provision in the Juvenile Justice Act 1986 considers a child living with a prostitute as a neglected child and empowers the state to take charge of that child. This way the law denies a prostitute a right over her child. This is not a very positive situation.

However one must verify the facts of the child being in any kind of physical or moral danger before taking recourse to such legal provisions and before attempting to deprive the child of his/her mother.

Several voluntary sector agencies that have worked with the children of VOCSET have discovered that VOCSET mothers themselves want to delink their children from the anti-social and undesirable influence of the flesh trade. Active involvement of VOCSET has always shown positive results in offering protection to the child.

34. SHOULDN'T THE CHILDREN OF PROSTITUTES BE SEPARATED FROM THEM, AS SUCH CHILDREN ARE QUITE VULNERABLE TO BEING TRAFFICKED OR SEXUALLY EXPLOITED?

No. A decision must be made only after taking several relevant factors into consideration. Taking several factors into consideration must make the decision. Often these mothers are keen on giving a dignified future to their children and are looking for options to keep their children in some safe place away from the undesirable influences of the redlight area or the flesh trade. Such sentiments must be respected and such mothers must be encouraged to participate in making plans for their children and the decision making for the same. It is not a good idea to alienate such mothers. Such children must be protected against the dangers present in their

environment. It is necessary to insulate them against such exploitative forces but it may not be advisable always to de link the child from his or her mother.

35 IS THERE ANY LAW AGAINST PLEDGING OF CHILDREN?

It is not uncommon to come across cases where people take debt / loan from someone and pledge some valuable possessions such as gold, silver or even brass vessels to the moneylenders. Many times those who lend money are not necessarily professional moneylenders. It was a wide practice in the past in rural areas to pledge bodily labour against the loan or advance. We do come across cases where parents take loan from someone and in turn pledge the labour of their children. This is banned by law. The Pledging of Child (Labour) Act 1933 penalizes pledging of a child.

36 ARE SOME PARENTS INVOLVED IN TRAFFICKING OF THEIR CHILDREN?

This could be true. An unfortunate and shocking experience mainly in the developing countries has been that some parents are sometimes actively involved in facilitating the trafficking of their own children. This also means that at times children in difficult circumstances need protection from their own parents. There are several factors which can explain why this happens but that does not alter the harshness and gross inappropriateness of this reality.

37 IS IT ALWAYS SAFE AND CORRECT TO HAND OVER THE CUSTODY OF A RESCUED CHILD TO ITS PARENTS

As we have seen above some times parents and guardians are themselves engaged in pledging or trafficking of their children / wards and therefore while repatriating a rescued child to the parents or legal guardians one has to take extreme caution, carry out proper home study, undertake thorough verification of the authenticity as well as the suitability of the parents and relocate the child to the parents/ guardians not without a system of close follow up for some time immediately following the repatriation.

37 WHAT DO WE DO WHEN WE GET TO KNOW THAT PARENTS ARE INVOLVED IN TRAFFICKING?

We have to protect such children from their parents.

38: WHAT PROBLEM IS ONE LIKELY TO FACE WHILE TRYING TO PROTECT CHILDREN TRAFFICKED BY PARENTS ?

One is likely to face enormous pressures from the parents. A low level of social awareness on the part of the police, the members of the Juvenile Welfare System and others concerned with the case may also result in reinforcement of such pressures. These pressures are borne out of the belief / trust that parents cannot be involved in a crime against their children and/or that the parents are justified in whatever they do to their children and that it is entirely their personal affair. This is incorrect. In all such circumstances the child's interests must be regarded as foremost.

38 CAN WE / SHOULD WE CONDUCT RAIDS OURSELVES?

No!. Under the law the police is equipped and authorized to carry out searches in places and situations where Commercial Sexual Exploitation & Trafficking takes place or is suspected to be taking place.

Such situations are full of risks including physical dangers. The police is equipped on the basis of its physical fitness to handle criminals. The police is also given immunities against legal actions for actions taken under the law in order to carry out its official duty. The Voluntary sector or its representatives are not given any of such protections under the law. It is not therefore advisable to carry out the searches ourselves. It is a correct approach to make the police carry out its assigned tasks correctly as per the provisions of the law. Remember CSE&T is an organized crime. By conducting searches (raids) yourself you could jeopardize the life and safety of the victim too.

In fact under the anti trafficking legislation (The PITA) the police can ask a member of a welfare organization to accompany the search team and it is obligatory on the part of the representative to give adequate reasons for refusing to accompany the search team.

39. SOMETIMES WE OBSERVE THAT SOME ORGANIZATIONS ENGAGED IN THE WORK OF RESCUING TRAFFICKED CHILDREN USE OTHER RESCUED CHILDREN FOR THE RESCUE OPERATION. IS IT CORRECT?

No child should be "used" for rescue work. A rescue operation is often a physically dangerous activity and it is incorrect to expose any child to such dangers. Using a rescued child for any

such purpose is a grossly incorrect action. Rescued children more particularly need extra protection and care and exposing them to such dangerous situation is a very serious violation of a child's rights, of the law of the land as well as that of the professional ethics.

If a child who is "used" for the rescue operation of any other trafficked child, happens to be a rescued child who is in the custody of a fit person or fit institution or any other legally constituted body (e.g. CWC or Observation Home) that is legally competent to take custody of a rescued child then it is a serious violation of not only the child's rights and the law of the land but also a gross violation by that person or authority of its mandate. If the bodies engaged in such practices are unaware of the inappropriateness of their actions then they must be made aware of the same. If such malpractices continue then the matter must be immediately brought to the notice of the higher authority, or a court of law and must be stopped forthwith.

Sometimes some well meaning organizations in order to have more children rescued try to get crucial information from the rescued children themselves. A lot of discretion must be used even in such cases particularly to ensure that thereby the child is not reduced to an informant, not put into any danger, her post rescue and rehabilitative benefits are not made conditional to her supplying such information, and the child back home does not become target of the traffickers for having supplied the information.

Similarly carefully gathering useful information from a rescued child so that some more children can be rescued is one thing and taking a rescued child out of a protective custody unaccompanied or accompanied with security arrangements for yet another rescue operation is a totally different matter and inappropriate too.

40 SHOULD RESCUE OPERATIONS BE PHASED OUT IN SMALL NUMBERS? IF NOT WHY?

No! Staying in a CSE&T situation a victim is subjected to some of the worst crimes-repeated sexual assaults and rapes wherein there are strong possibilities that a deadly infection like HIV could be passed on to the child. The effects of being in CSE&T on the body and mind of a child are extra ordinarily devastating, irreversible and at times fatal. Being placed in such situations is an outright violation of the victim's fundamental rights given by the Indian Constitution and various International Conventions. In the case of children, the question of staying at such places voluntarily simply does not arise as they are below the age of consent. The administrative, technical and resource-based excuses for not being able to conduct searches, rescue children and keep them in safe places are lame excuses which simply cannot be accepted.

Denying or delaying rescue is the same as allowing the victim to suffer repeated rapes every day and night.

41 DO ADULT VOCSET (VICTIMS OF COMMERCIAL SEXUAL EXPLOITATION & TRAFFICKING) WOMEN NEED TO BE RESCUED?

Yes! Every victim of crime living in captivity needs to be rescued. Rescue is the right of every person in captivity. It is merely an expression of the fundamental right to freedom and to life without exploitation.

Rescue is an unconditional right of a victim living in captivity, and in situations of exploitation.

42 ONCE RESCUED WHERE MUST THE CHILD BE KEPT AND WHAT MUST BE DONE NEXT?

A rescued child must be produced before the respective Child Welfare Committee constituted under the Juvenile Justice Act. The CWC can keep the child in an Observation Home for some time or move the child to a Juvenile Home or some such institution. This is a temporary arrangement. Upon receiving the report of a Probation Officer the CWC can hand over the child to its legal guardians in an institution for residential care or in the custody of a person procedurally declared as "a fit person" to look after that child.

When we say 'rescued' we mean rescued from a situation of CSE&T. In such cases the child must not be released by you or by the police (who have rescued the child under the Anti trafficking legislation) directly even to its parents or legal guardians.

Justice to the child cannot be complete if the guilty are not punished. Very often for a variety of reasons a case of a child rescued from a situation of CSE&T is sought to be entirely treated under the Juvenile Justice Act by the police. One must ensure that a criminal complaint (an FIR) under the anti trafficking legislation, the Indian Penal Code as well as the other relevant legislations is registered at the police station against the accused and the matter is not allowed to be merely covered under the Juvenile Justice Act .

43 WHAT ARE THE PROCEDURES TO BE FOLLOWED AFTER THE RESCUE?

After being rescued the child has to be produced before the Child Welfare Committee set up under the Juvenile Justice Act 2001 for the follow up. The child must be sent for medical examination to examine if the child has been sexually exploited among other things. The law should clearly place the responsibility on the CWC to file an FIR in case the juvenile is found to have been sexually exploited.

44 CAN THE RESCUE HOME / OBSERVATION HOME REFUSE TO TAKE THE CHILD ON ANY ACCOUNT? PARTICULARLY STATING IT HAS NO VACANCY / PLACE?

No! A rescue home has to accept the rescued victim, it cannot say no.

Legally a Rescue Home or Observation Home cannot deny admission to a rescued child on grounds of not having adequate space or vacancy. Being a representative of the state for a given area it has the responsibility to make the arrangement but it must not deny admission. Because of the lack of knowledge of the provisions of the law and or lack of accountability or as a result of certain faulty established practices at these Homes one is given such a response by the authority. Nevertheless it is an incorrect response and one must get in touch with the higher authorities.

45 WHAT IS PREVENTION OF TRAFFICKING?

Ideally all such social situations which predispose children as potential victims of trafficking such as natural disasters, economic disasters, migration for survival, ethnic/ communal riots should never take place. A limited preventive intervention against trafficking perhaps is too small to prevent such situations from taking place. Such situations often work as predisposing as well as precipitating factors for trafficking. They do create vulnerabilities. But they do not and need not always result in actual trafficking.

Several social arrangements, structures, precautionary measures, vigilance mechanisms, early intervention strategies, can and do stand as insulation or protective barriers between the potential vulnerable victim and the trafficker.

46 WHAT IS A BROTHEL?

The Immoral Traffic Prevention Act 1986 defines a brothel as follows:

(a) "Brothel" includes 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.

47 CAN A VEHICLE BE CONSIDERED AS A BROTHEL?

Yes ! If it 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.

48 CAN A PRIVATE HOUSE BE CONSIDERED A BROTHEL?

Yes ! If it is used for the purposes of sexual exploitation or abuse] for the gain of another person or for the mutual gain of two or more prostitutes then it can be considered as a brothel.

The 1986 law PITA defines a brothel as follows:

"Brothel" includes 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.

These days a façade of massage parlours, beauty parlours is used to carry out prostitution. Dance bars and beer bars are used for the purpose of prostitution. They can be treated as brothels as per law.

49 WHO IS A CHILD IN MORAL DANGER? IS IT LEGALLY DEFINED? OR IS IT UNDERSTOOD BY COMMON SENSE?

A child in moral danger is not legally defined. The meaning can be construed from the definitions of neglected child given in juvenile justice legislations (e.g. Juvenile Justice Act 2000). A neglected child could also be a child in moral danger.

A child in moral danger is a child who is without cover of the obvious protective mechanisms one sees in day-to-day life such as a custodian like a family, a community, a school, a legally authorized guardian or escort, a state agency etc. This absence exposes the child to a variety of dangers physical as well as moral. Such a child could be easily lured, misguided, forced, cheated into accompanying someone or work for someone or live with someone who could sell the child, pawn or pledge him or rent him out to someone for some exploitative purpose, without anyone noticing it.

Sadly enough a child could be in moral danger while being in the custody of the parents, legal custodians, legal escorts, teachers, neighbours, or community representatives or while living in the custody of the state. What is crucial here is the exposure of the child to morally degrading, corrupting situations or agents or the access of the latter to the child.

50 WHAT IS POST RESCUE OPERATION (PRO)?

Post Rescue Operation is everything that needs to be done for the rescued victim as required by law, rules and regulations set up under the law, actions considered beneficial and essential for the victim by various helping professionals.

E.g. the rescued child has to be first and foremost treated as a victim and not as a criminal. He or she has to be physically removed from a dangerous, traumatizing situation of captivity and exploitation to a safer place that is free from that or similar dangers and possibilities of exploitation. There is a need to see that all the belongings of the rescued child are restored to the child.

The family, social, and community background of the child should be identified and studied as they are presumably the primary support systems of the child.

The rescued child needs to be provided with every possible input such as shelter, nutrition, clothing, medical help, psychiatric help and counseling, recreation, sense of security etc. The child has to be integrated into some kind of immediate recovery system whereby the child can start living without being under the obvious operation / influence of the exploitative forces.

The indispensable legal procedures with respect to the child must be completed expeditiously and with great sensitivity and care.

The whole process involves acquiring help of other voluntary sector organizations, networks, community-based organizations, professionals, state agencies etc. to accomplish all that is stated above.

51 WHAT USUALLY HAPPENS IN PRO?

In the case of a rescued child victim rescued from CSE&T situation the following things are most likely to happen:

- a) the child would never know the real purpose of rescue
- b) he/she may get further traumatized because of rough handling of the entire rescue activity
- c) he/she could seek help and protection from the agents of CSE&T being in a confused and frightened state
- d) he/she may not cooperate with the representatives of the state and voluntary sector
- e) the agents of flesh trade may endlessly bribe the various authorities involved in the process in order to get the child back
- f) the police personnel will try to settle the matter at the place of the search (red light area, brothel or some such place from where the child is rescued) itself. They will try to portray the child as an adult thereby letting the child to go away from that place. The police could take all of them into custody — the accused, the offenders as well as the victims including the child, treating all of them alike. The police could give full scope to the agents of flesh trade to intimidate, influence, lure, misguide or tutor the child to act, make statements, depose etc. in a particular manner which objectively speaking, is certainly not in the interests of the child but is borne out of the need to protect the agents of flesh trade from possible legal consequences. The police could try to make the entire crime and the criminals invisible by allowing the adult women to get away and handing over the minor children to be handled by the Juvenile Welfare Board as mere neglected children.

52 WHAT HAPPENS AFTER A RAID?

After the search the police are likely to come across the following:

Person/s considered as the victim/s of the crime

Person/s who has/ have committed and abated the main and allied crime/s called the accused and the abettor/s

Persons who have witnessed the crime

Material which can be useful in establishing the crime such as the evidence

The police is expected to carry out a *panchnama* at the scene of the crime

After that the police is expected to bring the victim, the accused and the evidence to the police station and register an FIR

In the case where the victim of the crime is a child (i.e. a person below the age of 18 years) it is the duty of the police to produce the child before the CWC.

In case the child is the victim of sexual exploitation, trafficking, commercial sexual exploitation or found to be a neglected child as per the definition given in the Juvenile Justice Act 2000 then the child is produced before the CWC. If it is not possible to produce the child before the CWC immediately or on the same day then the child is placed in the Observation home and then produced before the CWC without any delay.

If the victim is a major then the victim of crime is allowed to go if he or she desires so.

If the crime is under the PITA Act 1986 then the victim even though a major has to be produced before the magistrate and is generally to be given reformation treatment and rehabilitation benefits. The decision is taken by the Judge. The Judge may send the adult victims to a Protective Home.

If the offender is a child (or minor) then he/she is produced before the Juvenile Magistrate as a child in conflict with law. The child is not to be considered as a criminal and is not to be punished.

The child is sent for reformation/correction to a reformatory or correctional institution. The child may be given to the parents or legal custodians depending upon the suitability of the situation but it is expected that the interest of the child is to be taken into consideration more than any other consideration.

The Juvenile Magistrate or the CWC as the case may be are expected to issue orders to carry out the age verification test to ascertain the age of the juvenile produced before them. Once the fact of the juvenile is ascertained then the rescued persons are expected to be given the required help to recover from the trauma of the crime. The Juvenile Magistrate /CWC are expected to take the help of the probation officer and get a report on the situation of the juvenile and also suggestions for the future rehabilitation of the juvenile.

53 WHAT IF THE RESCUED JUVENILE IS SEXUALLY EXPLOITED?

Actually speaking the CWC should order to conduct a medical examination of the juvenile including ascertainment of sexual offences against the juvenile. If the medical examination establishes that the juvenile has been sexually exploited then a crime should be registered against a known or unknown (or both) accused. Even if the medical examination does not establish any particular evidence of sexual exploitation but the juvenile reports of sexual exploitation then the Juvenile Magistrate should order a police investigation by registering a crime and the CWC should on its part file an FIR with respect to that crime.

Unfortunately, there are certain difficulties in this process. Firstly it is not compulsory on the part of the CWC to register an FIR on behalf of the juvenile in case it is discovered that the juvenile is sexually exploited.

Secondly, the current legal provisions in the field of sexual crime are very specific and limited such as rape, unnatural offence, pornography, breach of modesty etc. which practically exhaust the range of sexual offences.

For these two reasons the offence against juveniles often goes unpunished. Appropriate change in the legislation is overdue.

54 WHAT IS RE-TRAFFICKING?

Re trafficking is the induction of a rescued victim back into flesh trade immediately or after a gap of time. Retrafficking takes place quite often when the rescue and PRO are handled by the police and state agencies who lack sensitivity, competence, motivation or have a direct interest in the continuation of the flesh trade or in re- trafficking of the victim. Quite often agents of flesh trade

appear before the competent authority as claimants for the rescued victims and manage to take the rescued victim back to the flesh trade.

55 WHO SHOULD ACCOMPANY A SEARCH TEAM?

A representative of child welfare, women welfare organization can accompany the search team / search operation under the anti trafficking legislation or PITA.

56 WE HAVE BEEN HEARING A LOT ABOUT CASES OF SEXUAL EXPLOITATION IN RESIDENTIAL INSTITUTIONS MEANT FOR CHILD CARE. IS IT COMMERCIAL SEXUAL EXPLOITATION?

At face value the sexual exploitation that takes place in institutions of child care can be considered as non-commercial. That does not mean that such non-commercial sexual exploitation is insulated from commercial sexual exploitation. Often it is the first step to commercial sexual exploitation.

There are other cases where residential care institutions have been set up for commercial sexual exploitation. e.g. in the Freddy Peats case of Goa or in many other cases one does find that the custodians of the institutions used to make money by keeping and offering the children under their custody to sexual exploiters against money. In the recent past a few cases have been exposed where orphanages were set up and used for the purpose of commercial sexual exploitation of children.

57 SHOULD WE ESCORT THE VICTIMS?

There are several situations where a rescued child has to be escorted to be produced before the Juvenile Magistrate, the CWC etc. to identify the offender, As a matter of routine this is done by the respective police station. It has been a demand and an element of progressive practice of victim treatment particularly treatment to child victims or witnesses that no child should be asked to report to a police station. A child victim or witness should not be exposed to the influences of the accused or their representatives. The police officer should meet the child in civil dress. A child while passing through a process of prosecution should be provided with a representative whom the child trusts and who would help the child to pass through the process without undergoing any additional trauma. A child should not be directly exposed to cross-questioning by the defence lawyer and the concerned judge should facilitate the process of cross-examination by intervening and the principle of sight separation between the accused

and his representatives and the child should be followed. Unfortunately these are practices which have neither been incorporated nor mainstreamed into the Indian system although in some rare cases the judiciary has shown extra sensitivity to the child victim/ witness.

The practice of a policeman escorting the child (taking away the child for the above-mentioned purposes to be produced before the Juvenile Magistrate, the CWC etc. to identify the offender) has come under heavy criticism as it is a breeding ground for several malpractices which further exploit the child victim and vitiate the process of justice.

Sometimes the child victim is under danger of physical interception, repression or intimidation by the accused or his agents and needs competent protection which the police is authorized, expected, and equipped to provide.

It is therefore difficult to make a hard and fast rule about this system. Needless to say, a child must be provided extra protection through proper escorts in all the stages of rescue, post rescue and repatriation.

While the child is in the custody of the police or the competent body constituted under the Juvenile Justice legislation escort is provided by the respective body

58 SHOULD WE NEGOTIATE WITH THE BROTHEL KEEPER AND OTHER ACCUSED OVER THE COMPENSATION TO THE RESCUED VICTIM AND SETTLE THE AMOUNT AS “OUT OF COURT SETTLEMENT” OR “ PRE-PROSECUTION SETTLEMENT”?

Under no circumstances should we 'negotiate' with the brothel keepers over such issues as compensation etc. in the "Out of Court' or 'Pre Prosecution" arena. When you negotiate like this it is likely to be interpreted that you consider the placement of the child in a brothel to be some kind of social contract or labour contract and not a crime. Objectively the situation is a crime situation and thus you could be considered to be a party to the crime or abetting it.

59 WHAT IS A HOME STUDY?

In the case of a rescued child victim sometimes some persons come forward/approach the competent authority to claim the custody of the child otherwise the Intervening body has to identify the family and the parents or guardians.

A Home Study aims to:

- Identify and verify the authenticity of the parents, or any other legal guardian and the family of a rescued child victim
- Identify and verify the authenticity of the community and neighborhood of a rescued child victim
- Identify and verify the authenticity of the school, birthplace etc of a rescued child victim
- Ascertain the willingness and suitability of the parents, customary or legal guardians of the child for taking possession/ custody of the rescued child
- Ascertain the willingness and suitability of the neighbourhood, community etc. where the child is considered to be placed for further care.

60 WHO ARE THE PERSONS WHO CAN HELP IN THE HOME STUDY?

Often the Home Study has to be carried out at places which are far from your project area and you need help from others. Local professionals, social workers, professional organizations, schools, police stations, CHILDLINE etc. can all help in the Home Study.

Networks of social work, psychiatrists, psychologists, child rights, women rights, human rights organizations, community based organizations even environmental organizations could be approached for such help. Not all organizations are trained, equipped or experienced in carrying out a home study and you will be required to orient them send guidelines and actively communicate with them in order to have a proper home study done.

There are extensive networks of voluntary sector e.g. Network Against Commercial Sexual Exploitation & Trafficking (NACSET) which is active in the state of Maharashtra as well as parts of Karnataka, the Network Against Trafficking & Sexual Exploitation Andhra Pradesh (NATSAP), Action against Trafficking and Sexual Exploitation of Children (ATSEC), Anti Trafficking Network (ATN) are some such networks and organizations which have come forward to offer help in the post-rescue scenario.

There are other networks e.g. Action Against Trafficking & Sexual Exploitation of Children (ATSEC) which have chapters in Nepal and Bangladesh. Several funding agencies have encouraged their grant receiving organizations to set up their own networks. All these networks should be mobilized not only for Home Studies but also for repatriation, rehabilitation, and follow up of the victim

61 WHAT IF THE CHILD BELONGS TO AN UPPER CLASS FAMILY?

A child is a child. Class does not make the harm caused to the child any less or more serious. The only thing that may make a difference is the possibility of the family of the child willing to spend more resources for the overall rehabilitation as well as prosecution process.

62 WHAT ARE SUPPLY AREAS /ZONES?

Certain geographical areas that suffer from economic depression, industrial depression, agricultural degradation, natural disasters, ethnic or communal riots, physical violence, war, famines, project displacement etc. result in family disintegration, community disintegration etc. There is socio-economic uprootment of these children. Families and communities get uprooted. They wander around in search of livelihood. Sometimes children and youth from rural areas leave their homes out of the attraction of the city life and become vulnerable. They are then tracked by the ever-vigilant traffickers and by force or fraud recruited into the flesh trade.

Certain areas are afflicted with evil social customs where the pre-pubescent girls of the disadvantaged and subjugated sections of society (often peasantry, agricultural labour, poor tribals etc.) are dedicated to the gods, goddesses and other deities and in the name of god and religion are made available for the satisfaction of the extra marital sexual lust of men of the dominant communities. With the active initiation from the parents and relatives innocent girl children are trafficked into flesh trade.

These areas are called supply zones. Such situations are called supply situations.

63 WHAT ARE DEMAND AREAS/ZONES?

There are certain areas which demand commercial sex. Traditionally, port cities and cantonment areas were infamous demand zones as the colonial soldiers used to be posted there.

Market places and halting stations on the trade routes were the other traditional high demand areas or zones where the traders used to trade and rest.

Later, all unplanned urban conglomerations became high demand areas as the unplanned movement of people gave rise to demographic imbalance.

Wherever there has been surplus (industrial or agricultural) it has created a demand for commercial sex and given rise to a variety of entertainment forms at the core of which commercial sex was ever present. Modern day sex tourism areas are examples of these types of demand zones.

Migrant workers, mobile workers such as truckers , places of loading and unloading of goods, men's parlours , massage parlours are other demand areas.

64 WHAT ARE TRAFFICKING DESTINATIONS

Trafficking destinations are those areas where the journey of a trafficked victim usually ends and the victim is put to regular sexual exploitation in a market known to the other stake holders in the flesh trade.

These are the destinations of sex tourism, tourists mainly come from western Europe, USA, Canada, Australia and other developed Pacific countries. Sex tourists usually visit Thailand, the Philippines, Cambodia, Vietnam, Indonesia, Malaysia, Nepal, Sri Lanka and India.

Victims are not always trafficked from home to the final destination. There are transit points and several destinations. The practice of shifting the victims regularly is also prevalent.

65 WHAT ARE THE DIFFERENT SITES OF CSE?

CSE takes place not merely in traditional redlight areas. It takes place in many other places. These days National and State Highways, tourism places, places of pilgrimages, freshly mushroomed centres of vulgar entertainment behind the facade of folk dance theatres, several lodging and boarding houses, market yards, beauty and massage parlours, film and modeling industry have all emerged as major places of CSE.

66 OFTEN WE COME ACROSS SOME NUMBER PLATES PROMINENTLY DISPLAYED OUTSIDE THE BROTHELS. DOES THAT MEAN THESE BROTHELS ARE OFFICIAL? ARE THEY LICENSED BY THE HEALTH DEPARTMENT?

No brothels are authorized in India. Moreover, brothels are unconditionally illegal in India and hence no health department is authorized to give them any licenses even on temporary basis. The brothel keepers and agents of flesh trade try to mislead the customers and others by giving the impression that their brothels are licensed, legal and under some kind of government surveillance and therefore a customer is not likely to get into any trouble by entering it. But it is a misinformation.

67 IS CSE&T A SOCIAL PROBLEM?

CSE&T is a global organized crime. It is a widespread crime that is growing at an alarming rate. It brings in huge profits the brunt of which is borne by millions of children all over every year. Social factors facilitate most crimes. That does not make them purely social problems. CSE&T is also a social problem but to categorize it only as a social problem is to trivialize its seriousness and to make the crime invisible.

It is a serious mistake to call it a social problem. It is an organized crime.

68 IN THE AREA OF PREVENTION WHAT IS THE ROLE OF CHILDLINE?

Early intervention, awareness generation, fast reporting, efficient detection of suspect trafficking situation etc. are ways in which CHILDLINE can facilitate prevention.

Certain situations have high potentialities for exposing children to trafficking and CSE e.g. natural disasters, ethnic/ communal riots.

In such cases anticipating trafficking of helpless children, CHILDLINE can adequately alert the state agencies, other organizations engaged in relief work, set up special helplines, link helplines temporarily set up for relief with CHILDLINE in order to reach out to a supportless child.

69 IN THE AREA OF PROTECTION WHAT IS THE ROLE OF CHILDLINE

Networking with organizations that provide protection, shelter, legal help, medical help, counseling, repatriation services etc. could go a long way in offering protection.

Certain situations have high potential for exposing children to trafficking and CSE, especially situations like natural disasters, ethnic/ communal riots.

70 IN THE AREA OF ADVOCACY WHAT IS THE ROLE OF CHILDLINE?

Advocacy is undertaken in order to influence the designing of legislation policies and programmes, mainly of the state, in order to provide a whole range of interventions and care and support services for a child who is a victim of CSE&T or a potential victim of CSE&T.

Regular interaction with other organizations, advocacy groups, federations, networks, decision making and opinion making bodies, influencing the media to generate social awareness — these are the ways in which CHILDLINE can facilitate advocacy.

71 IN THE AREA OF PROSECUTION WHAT IS THE ROLE OF CHILDLINE?

CHILDLINE can take up the role of plaintiff and continue through the process of prosecution.

Victims of CSE&T, particularly children, need a lot of support while passing through the prosecution process.

CHILDLINE can advocate and lobby for introduction of child friendly procedures and practices in the process of prosecution.

PART II: Cases

I) Suja: In the 3rd week of August 2001, Suja a 15-year-old girl was rescued from a beer bar by the police station and CHILDLINE. She was then sent to the Juvenile Welfare Board (JWB)/Child Welfare Committee (CWC) as per the provisions of the Juvenile Justice Act 2000. The CWC transferred her to an institution PS meant for rescued minors.

Organization M decided to follow up this case. After a few meetings Suja developed trust in M. She revealed that both her parents were dead and that she had just a step-mother. Suja was staying with her maternal uncle in a village in Uttar Pradesh. It was the wife of this uncle who brought her to a city and forced her to join a beer bar as a dance girl.

Suja's family in Uttar Pradesh was informed that Suja was in the custody of the JWB/CWC and that they should report to the same at the earliest.

In the first week of October 2001 a woman named Nandadevi approached the JWB/CWC to claim Suja. Nandadevi was given the custody of Suja against a bond that she would submit a progress report of Suja to the Board regularly.

As a part of the follow up CHILDLINE - UP made a home visit in two weeks' time at the address given by Nandadevi. Neither Suja nor Nandadevi could be traced there. No neighbour was willing to talk about them and informed that the duo could be seen only after the midnight. Everything sounded suspicious.

Around this time yet another woman named Gangadevi approached the JWB / CWC seeking the custody of Suja. She had brought photographs, ration card and such other documents to establish her identity. In the meantime Nandadevi was contacted and asked to report to the JWB/CWC along with Suja. When Suja was produced before the JWB yet another woman named Ms Leela alias Suma was found to be accompanying Suja.

During the investigation which followed Suja revealed that the two women Nandadevi and Leela alias Suma were the ones who had forced her to work in the beer bar. KT expressed a desire to go back home with Gangadevi.

X however requested the JWB not to hand over the girl to Gangaadevi without detailed investigations into the authenticity and suitability of Gangadevi and that the best interest of Suja should be given supreme importance rather than the pleas and merits of the claimants. It was then decided that further investigations should be carried out by organization M on this case.

There are some obvious questions that get raised:

How could the letter sent by the JWB on Suja's home address reach Nandadevi when the letter had actually been returned by the postal department to the PS with a remark as undeliverable?

How did Nandadevi get to know about the content of the letter?

Who is Gangadevi to claim Suja? Is she an authentic legal guardian to claim KT?

Is she competent to look after the interest of Suja?

Is she just another agent of the traffickers' gang?

What pressures are operating upon Suja that made her go with Nandadevi in the first instance?

Are there any pressures operating upon Suja that make her go with Gangadevi now?

Who is Leela alias Suma?

Shouldn't action be taken against Leela alias Suma ?

What work did Nandadevi make Suja do during the period between taking her custody from the JWB/ CWC and producing her before the JWB/CWCW as per the instructions of the latter? Was there any unlawful in it?

Who is the trafficker?

Who all are the criminals?

Should the charge of such a child be given to the claimants?

Case 2 :- The case of Neelu:-

Neelu a girl child of 16 years belonged to a resourceless peasant family that lived in a remote village in a village in Karnataka. A neighbouring woman B assured Neelu's father that she could place Neelu as a domestic servant in a decent family in Pune. Father agreed and sent Neelu with the neighbour.

In a week's time A returned to the village and assured Neelu's father that Neelu had been placed properly in a decent house as a domestic servant and the lady of the house had kindly also given some money as advance salary. Neelu's family was very happy to hear that and thanked A for her help.

Almost three months later once Neelu's father received a telephone call at a request phone number. Neelu was on the line. L informed her father that their neighbour A had sold her out to a brothel in Nagpur and the brothel keeper had ruined her life by forcing her to sell sex. Neelu pleaded that she had been living an extremely traumatized life in the flesh-trade and requested her father to rescue her forthwith.

The shocked and shattered father approached a voluntary organization E which worked in that area. E got in touch with yet another organization D in Karnataka. Prajwala got in touch with the Anti Trafficking Centre (ATC) of Prerana.

The ATC got in touch with one member of NACSET (an anti trafficking network) in Ahmednagar which is 2 hours from Pune. KL from that organization Ahmednagar did not waste any time and the same night left for Pune to get Gauri rescued. KL approached the Shukrawar Peth police station took a police team in plain clothes for search and scanned all the suspected buildings without divulging what he was looking for as he feared that once made known the traffickers would have whisked Gauri away from that place.

There were difficulties in identification and language and KL could not get Neelu out in the first round. He prepared for a second round and sought many more

details of Neelu including some photograph for identification etc. The ATC sought the same from organizations E and D.

P suggested organizations E and D to send Neelu's father to city N for a proper rescue.

P then contacted yet another organization W, which was a member of a network that worked in the red light area in N. W agreed to provide accommodation in the city N the team from Karnataka.

As the CHILDLINE team returned P contacted the CHILDLINE - N who instantly agreed to take the responsibility for the rescue and the follow up of the rescue. P then contacted the Maharashtra Police for help.

The steps in the second round of rescue were worked out and rehearsed with all the concerned.

As soon as Neelu's father, D's social worker and that of E reached N they were accommodated in a local hotel and the very next day CHILDLINE as it had taken the responsibility took the police team. Though Neelu had been made to hide in a hole by her brothel-keeper she was rescued and had an emotional reunion with her father.

The local police station which helped enthusiastically all the while became a little uninterested in filing an FIR against the traffickers and the agents of flesh. Many suggestions were made to settle the issue there and then with some hefty compensation from the brothel keeper.

P advised strongly against any such settlements at the police station and in fact mailed detailed guidelines on how to file an FIR and what must be mentioned in it , to CHILDLINE N.

P conveyed to CHILDLINE N that it should insist on a proper medical examination of the girl, proper age verification test as well as on registering the crime under the Maharashtra Control of Organized Crime Act 1991 besides the ITP Act and not merely get Neelu picked up under the JJ Act as a 'neglected child'.

Several messages were given to the intervening team that the building where all the irregularities were being carried out belonged to a senior IPS officer and no efforts on the part of the social workers would cause any harm to the criminals. The E team consulted P who reassured them that such stories were a part of the crime scene mainly to dissuade the complainant from insisting on the proper legal action and that it was not the first time it had come across such stories. That instantly relieved the tension in the situation and the E team insisted on going ahead with the complaint undaunted by the stories.

CHILDLINE, E, D and P all insisted on a proper FIR and completion of age verification medical examination and such other procedures with respect to the victim girl. The FIR took unreasonably long time but it was completed nonetheless though after the midnight.

The social workers had been intimidated as much as they could be. The very next day the state was declared closed in protest against the Godhra carnage in Gujarath. There were serious problems of getting the daily supplies. Nonetheless the procedures were completed and the girl was placed in an observation team in spite of all that.

Observations: This is an excellent example of well orchestrated joint action of a number of voluntary sector agencies, their networks and the CHILDLINE. Networks build confidence which individual organizations find difficult to exhibit. Networks are essential to counter organized crime. Traffickers are no strangers they are often hidden in one's own environment. Job promise is one important lure used by the traffickers to get their victims.

Case 3:- The case of Kamal

Kamal was a 16 year young girl from Lucknow. Her mother had died when she was young and her father had remarried but since there would be regular problems between Kamal and her step-mother, her father decided to place her in an institution run by a voluntary organization. There eventually she reached the 9th standard, but she was all the time aware of the fact that once she became 18 years of age the Home would not keep her anymore.

Out of desperation to find an alternative place to stay she came to Mumbai where her brother and sister-in-law were staying. They refused to accommodate Kamal in their house and advised her to go back to the Home. Kamal was clueless as she had left the Home in desperation with the hope to find shelter at her brother's place.

As an anti trafficking flying squad of organization T was on its outreach work it found Kamal at a railway station. Kamal was immediately referred to the Drop in Centre of yet another organization P which was a support organization of CHILDLINE. Kamal stayed there for a couple of days. P then referred her to the JWB/CWC which in turn placed her at MS a Home for rescued minors in Mumbai. After that MS repatriated her to her Home in Lucknow.

Case 4 :- the case of V and S

V (3yrs) and S (6yrs) used to be dropped regularly at P's Night Care Centre (NCC) night-creche by their mother Meena who was a victim of CSE&T. Both the children attended P's Day Care Centre (DCC). Meena was a responsible mother.

Meena had a fancy man, a regular customer who was also a pimp who controlled her life and lived by prostituting Meena. She had often complained about him and wanted her children to be safe from his clutches.

On 20th January, 2002, Meena caught fire and suffered 95% burns. Her youngest child F (1 yrs) also got burnt with 40% burns. She was admitted at the Nair hospital and F at the J.J. hospital. During this time the two elder children remained with Prerana for all the 24 hours and P followed up with Meena and F as well.

On 27th January both Meena and F succumbed to their burns. Meena gave a dying statement in which she blamed her Aadmi for harassing her to no limits and causing her to immolate herself.

On 25th January, two days before Meena's death P had put the two elder children to an adoption centre in Mumbai

On her deathbed Meena, had expressed her keenness in putting her children in 'safe custody' and gave a statement saying that the best interests of the children should at all times be preserved and she entrusted upon P to take the necessary action in relation with her children.

Meena's aadmi keeps approaching P and demands the custody of both the children. P keeping in mind Meena's wishes and statements as also in keeping with the best interest of the children denied the aadmi any control over the two children.

Case 5 : The case of Jyoti and Swati

Jyoti and Swati were two sisters from a district place of Maharashtra. Jyoti was 15 years of age while Swati was two years her senior. Both used to be physically harassed by their father. The father even tried to forcibly marry off S much against her wishes.

Unable to take her father's behaviour any longer Swati once ran away along with her sister from her house and came to Mumbai where they both were found at a railway station by an outreach team of an organization O who referred them to another organization P and R which had a night care shelter and a day care shelter respectively. The girls stayed with R during the day and with P during the night.

Subsequently they were placed for residential care. They were then placed firstly in three Homes in succession Home 1, Home 2 and Home 3.

By this time, Jyoti was ready to go back home and she even gave CHILDLINE - F her home address but then Swati had succeeded in talking her out of it, so she changed her mind about going back.

Both the sisters could not adjust to the ashram-like life at Home 3 and came back to P. The old arrangement of staying in R during the day and with P in the night was resumed.

During this time P started counseling them and put various options before them. They were told that if they wanted they could be put in a Home in their own district itself where they could not only stay but also continue their studies. P agreed to do the necessary follow up with them.

The girls agreed to this proposal and P put them with the MVM in that district. P maintained regular follow up with both the sisters.

Both have a smile on their face these days. They are studying well. Swati has appeared for her SSC exams this year. If not intervened at the right moment and if not followed up at each of these various stages where the sisters got shifted from one place to another the sisters would have been the victims of commercial sexual exploitation and the crime of trafficking long ago.

Case 6 :- The case of Zarine

Zarine a 16 year old girl ran away from her home in Bangladesh order to get married to her boy-friend R. They set off to somewhere and got into a train. They were accompanied in their journey by a eunuch who was from the same village who guided them to Mumbai. As they got apprehensive of the intentions of the eunuch they escaped his attention at Kalyan near Mumbai and got into another train. On foot they reached Falkland rd inquiring as to where did the Bengali people lived in Mumbai.

As soon as they reached Falkland Road, one kind looking lady listened to their story and offered to help out in their marriage. She gave Rs. 500 to R the boy and asked him to go back to Bengal and get his parents from home so that he and Zarine could be married properly.

As R left the lady locked Zarine in a room along with a man who had acted all the while as her husband. Wasting no time that man raped Zarine. After she was raped, the brothel-keeper had sex with that man in front of Zarine and told Zarine that she would be required to do that everyday with different men.

R returned the same night. Zarine told him everything that had taken place. The next day afternoon both tried to run away from that place which was in fact a brothel in Falkland Rd red light area. The next day they were spotted wandering clueless by one of the anti flying squad of an organization P.

P lodged a FIR of rape at the police station against the man naming the woman as an accomplice. The police immediately arrested both of them. They were refused bail.

R was sent to the observation home for boys and Zarine was put in a Home for rescued minors. Currently, Zarine is undergoing a vocational training course but wants to go back to her village in Bangladesh.

These cases establish the omni presence of alert traffickers who are preying on their potential victims and their network works very effectively. They first build trust among their victims by offering situational help which is much needed to the gullible potential victims.

Case 7 :- The case of Rajni and Munni

Munni was a 12 year old girl whose mother Shyama was a victim of CSE&T and stayed in Falkland Road redlight area. Her mother Shyama admitted Munni to the Falkland Road night creche run by organization D. After sometime the organization D admitted M in a Home in Lonavala.

Munni had an older sister named R who stayed with her grandmother in Shyama's native place in Andhra Pradesh. One night at around 11 p.m. all of a sudden, Shyama's mother arrived from the village with Rajni. This was surprising since S's family members used to visit her only once in 6 months to collect money from her. On the request of Shyama, Rajni was admitted to the Night Care Centre of Organization D. Rajni had never attended school while with her grandmother in the village.

Later on the request of Shyama organization D got Rajni admitted at yet another Home in Mumbai LS.

Subsequently Laxmi Gowda died. D workers ensured that both Shyama's daughters continued their studies uninterruptedly. Hence D maintained a regular follow up at Lonavala (M) and at LS (R). During one such follow-up visit Rajni revealed that the Director of the Home LS who also called himself a 'Father' had sexually exploited her. She did not want to stay there any longer and wanted to be shifted instantly.

D immediately removed her from LS and placed her at yet another Home CCS in Andheri. A police complaint was lodged against the Director of the earlier Home LS as there were some more reports of sexual exploitation by the so called

'Father' of the inmates of LS. Subsequently Munni was also shifted to CCS Home so that both the sisters could stay together.

Ever since Shyama passed away, a man appeared from nowhere claiming to be Shyama's aadmi (the fancy man). He left no stone unturned to find out the whereabouts of R and M in order to get custody of the children. As he could not establish his credibility D did not disclose to him the whereabouts of the two sisters. He then brought the children's grandmother with him and tried to find through her mediation. Ultimately, he managed to find where the girls were and approached the CCS Home instead of approaching D. Realizing the possible danger in having this man contact these two sisters this CCS Home too denied him access to the girls. He finally gave up. Both the sisters are now well-settled at CCS Home)

There have been increasing reports that the predators like the habitual child sex offenders and child sex tourists prey on children by seeking access to the charities where they hope to get easy access to helpless children. Placing children in some residential institutions is not the end of the agony of a supportless child; it could be a beginning of yet another chapter of exploitation. Close monitoring, continuous follow up and alert vigilance cannot be spared when it comes to vulnerable children.

Children of VOCSET women are considered as captive recruits for flesh trade by the innumerable agents of CSE&T in their environment. Often the mother who is herself in a very powerless situation expresses her keen desire to have her children kept away from the flesh trade. Such children without external positive intervention easily fall victims to CSE&T.

Case 8 :- The case of the 6 sisters

Six sisters Anjali, Bimla, Christina, Dina, Esha, Fatima from a part of Mumbai were being sexually and physically harassed by their father. As the CHILDLINE-F came in contact with them in its outreach programme it immediately arranged to have them placed first at KK a Home and later in yet another Home S. It was discovered during inquiries that the father also tortured the mother of these sisters, (his wife) and forcibly prostituted her at a beer bar and lived on her earnings. The father of these sisters often visited these Homes and created scene there besides hurling abuses on the authorities. As a result the authorities of S handed over the sisters to the father.

Having received the custody of the sisters the father raped Fatima one of them. Upon this the girls were sent to S once again. However no police complaint was made against the father. The father resumed his unpleasant behaviour at the gate of S and hence the girls were once again handed back to the father by the authorities of S.

Around this time Fatima ran away from the house. The police found her on the streets and took her to the state run New Observation Home. Soon after that another sister A called up CHILDLINE complaining that her uncle's son had tried to molest her.

After this Anjali once again called up CHILDLINE. There was an attempted molestation on her by her uncle's son. CHILDLINE immediately took her from her house and produced her before the nearby police station where she filed a complaint against her father and requested that all the sisters be rescued from the father's torturous custody. The grandmother who intervened at this time foiled the attempt of the police to get the remaining sisters out. The police admitted Anjali to a rescue home. CHILDLINE then contacted yet another organization P to look into Anjali's case as it was a case of sexual exploitation. P moved the JWB the very next day and briefed the JWB them about Anjali's situation. It also requested the JWB to rescue the remaining sisters based on Anjali's statement registered at the police station pleading safe custody for all those girls.

The Board ordered the concerned police station to rescue the rest of the sisters. The police then rescued the girls from their home and the JWB put all of them in the New Observation Home. P is currently working out suitable institutional placement for these girls.

Observations: Sometimes children get sexually exploited in their own homes by the male family members including their fathers. A family does not have an absolute right over the children. A Child's right cannot be ignored and protection to a child cannot be denied on the grounds that the offender/ accused is a family member. We must remember that the child's best interest should be supreme at our heart. Similarly such cases must be taken up in a very responsible manner as slightest lapse or delay could cause irreversible damage to a child under physical and moral danger. The police and the other competent authorities sometimes hesitate to question the right of the parents over their children even though they see that the child is in danger and the parent is a source of that danger. Under such cases we have to see the spirit and the text of the law as well as other legal instruments meant to protect children and must exhaust them to protect the child.

We must remember that such cases have potentialities of trafficking and commercial sexual exploitation. These situations establish the predisposing factors and any situational trivial event can serve as a precipitating factor resulting into something as dangerous as CSE&T.