

HUMAN TRAFFICKING – 370 INDIAN PENAL CODE



- Whoever, for the purpose of exploitation, (a) recruits, (b) **transports**, (c) **harbours**, (d) **transfers**, or (e) **receives**, a person or persons, by— using **threats**, or
- using **force**, or any other form of **coercion**, or
- by **abduction**, or
- by practising **fraud**, or **deception**, or
- by abuse of **power**, or
- by **inducement**, including the giving or receiving of payments or benefits, **in order to achieve the consent** of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking¹.

Explanations

1. The expression **“exploitation”** shall include any act of physical exploitation or any form of **sexual exploitation, slavery** or practices similar to slavery, **servitude**, or the **forced removal of organs**.
2. The **consent** of the victim is **immaterial** in determination of the offence of trafficking.

EXPLANATIONS TO S. 370

Explanation 1: “Exploitation” shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude or the forced removal of organs.

Explanation 2: The consent of the victim is immaterial in a determination of the offence of trafficking .

Child trafficking for domestic labour
and other forms of labour

Trafficking for forced marriages

Trafficking for commercial sexual
exploitation by de-notified tribes

Trafficking for adoption

Trafficking for the purpose of begging

Trafficking for the purpose of organ
donation

**TRAFFICKING
TAKES MANY
FORMS:**



The diagram illustrates the Trafficking Supply Chain. On the left, three stacked rounded rectangular boxes represent the stages: 'Source(Recruitment)' in light green, 'Transit (Transportation)' in medium green, and 'Destination (Exploitation)' in dark green. On the right, the title 'THE TRAFFICKING SUPPLY CHAIN' is displayed in blue, flanked by two large blue rectangular blocks and two dark gray rectangular blocks at the top and bottom.

Source(Recruitment)

Transit
(Transportation)

Destination
(Exploitation)

THE TRAFFICKING SUPPLY CHAIN

DEMAND SIDE: CRIMINAL NETWORKS

Visible Links of Criminal Networks

- Brothel Owners and Managers
- Pimps

Hidden links of Criminal Networks

- Recruiters
- Transporters
- Buyers/Sellers
- Financiers
- Corrupt public officials

Criminal Networks take advantage of:

Absence of the rule of law (as far as trafficking is concerned)

Arrest of victims

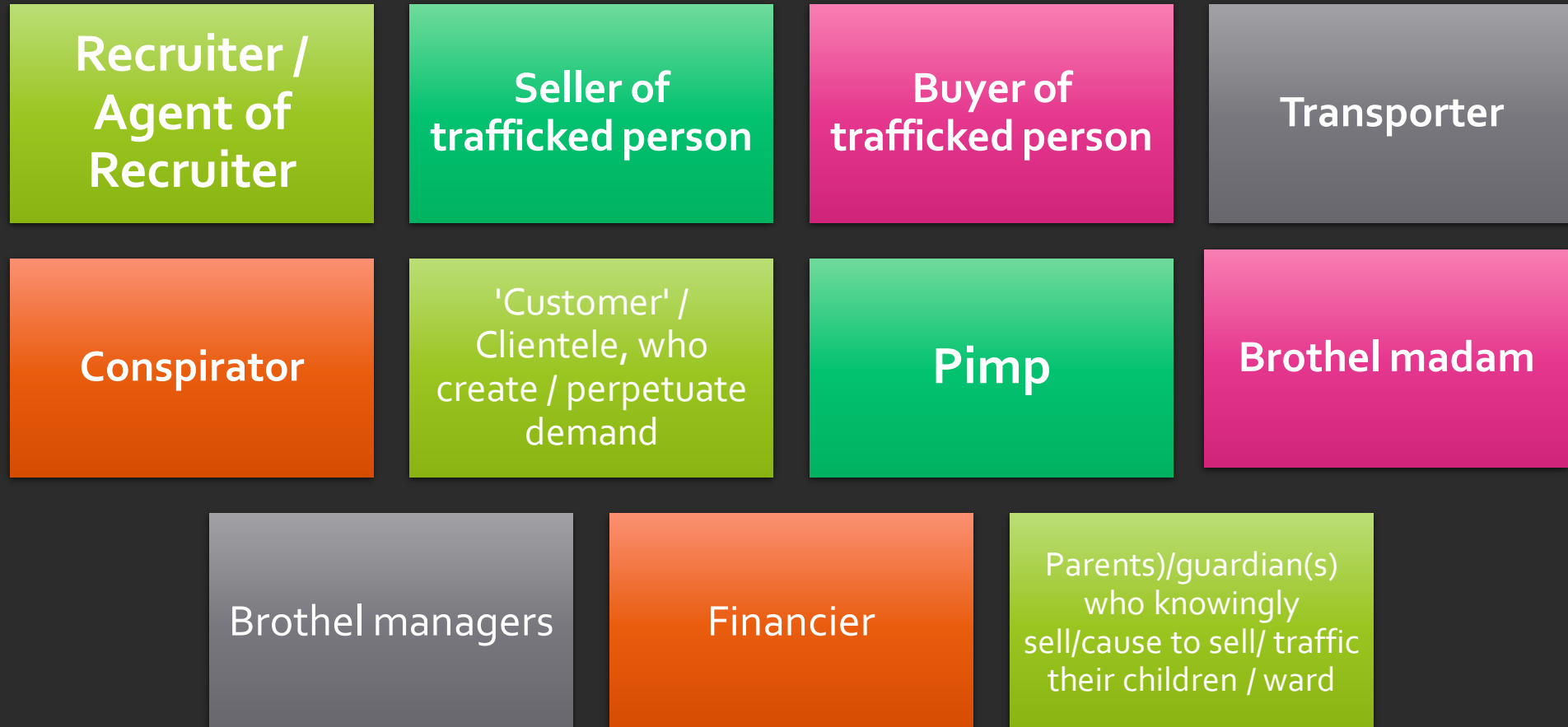
Poor resources to care for victims

Lack of access to justice systems for victims

Lack of punishment which makes trafficking a high-profit, low-risk business

DEMAND SIDE: CRIMINAL NETWORKS

WHO ARE THE TRAFFICKERS



PROFILING TRAFFICKER

TRAFFICKER / OFFENDER IN SEX TRAFFICKING CRIMES INCLUDES ALL PERSONS, AGENCIES OR INSTITUTIONS:

- Involved in any act in the process of trafficking
- Who gains/makes profit/exploits: As the trafficked person passes through a chain, From the starting point of source area through the transit area to the point of final destination
- From any act involved in the process of exploitation of the trafficked person(s)

THINGS TO REMEMBER

- Traffickers have already played with the mind of the girl. The girl has already developed a dependency on the traffickers - She trusts the trafficker and is also emotionally attached.
- She has a sense of gratitude as well - traffickers have told her that her family is being supported well; They are being taken care of, they send them money regularly and if she continues to do what the trafficker says - her family will be looked after well.
- Traffickers have already told the girl that police will beat them up and put them in jail. They will extort money from them and will torture them brutally.
- Traffickers also told the girl that these NGOs will come and rescue you - they are no good - they will take all your belongings and you will be in their shelter home for good. They will also torture you and not allow you to even meet with your family. You will not be able to take care of them, if you are rescued and kept in a home.

THINGS TO REMEMBER

1. Traffickers use their network to scare the girl with threats to harm her family.
2. Traffickers try to become the benevolent well-wishers of the girl
3. Traffickers threatens the NGO who has rescued the girls - they often uses the media to shame the organisation and brand them as traffickers
4. Traffickers act as close relatives, parents to seek court orders to meet the girl in shelter homes so that they can motivate the girl to remain silent by using the same method of psychological manipulation
5. Parents are often part of this network

Section	Provision	Punishment
370 (1)	Punishment for offence of trafficking.	RI of 7 years, extendable to 10 years and liable to fine.
370 (2)	Punishment for the offence of trafficking of more than one person	RI of 10 years which may be extended to life and shall also be
370(3)	Punishment for the offence involving trafficking of a minor	RI of 10 years which may be extended to life and shall also be liable
370(4)	Punishment for the offence involving trafficking of more than one minor.	RI of 14 years which may be extended to life imprisonment and shall also be liable to fine.
Section	Provision	Punishment
370 (5)	Punishment for a person convicted of offence of trafficking of a minor in more than one occasion	Imprisonment for life , which shall mean imprisonment for the remainder of the person's natural life and shall also be liable to fine
370(6)	Punishment for public servant or a police officer involved in trafficking of any person	Imprisonment for life, which shall mean imprisonment for the remainder of the person's natural life and shall also be liable to fine.
370 A (1)	Punishment for a person who engages a trafficked minor for sexual exploitation.	Rigours imprisonment for 5 years which may extended up to 7 years and shall be liable to fine
370 A (2)	Punishment for a person who engages a trafficked person for sexual exploitation.	Rigorous imprisonment for 3 years which may extend up to 5 years and shall be liable to fine.

OFFENCES ON HUMAN BODY – MURDER AND HOMICIDE

**Section 302
IPC -**
Punishment
for murder

**Section 308
IPC - Attempt**
to commit
culpable
homicide

**Section 313
IPC - Causing**
miscarriage
without
woman's
consent

**Section 314
IPC - Death**
caused by act
done without
woman's
consent

Section 315 IPC -
Act done with
intent to prevent
child being born
alive or to cause
it to die after
birth

Section 316 IPC -
Causing death of
quick unborn
child act
amounting to
culpable

OFFENCES ON HUMAN BODY – ILLEGAL CONFINEMENT AND HURT

Section 323 IPC
Punishment for
voluntarily
causing hurt

**Section 324
IPC** Voluntarily
causing hurt
by dangerous
weapons or
means

Section 324 IPC
Punishment for
voluntarily
causing grievous
hurt

Section 324 IPC
Voluntarily
causing
grievous hurt by
dangerous
weapons or
means

Section 342 IPC
Punishment for
wrongful
confinement

**Section 343
IPC** Wrongful
confinement
for 3 or more
days

**Section 344
IPC** Wrongful
confinement
for 10 or more
days

**Section 346
IPC** Wrongful
confinement
in secret

SECTION 352 IPC Punishment for assault or criminal force otherwise than on grave provocation

SECTION 354-A IPC Sexual harassment and punishment for sexual harassment

CRIMINAL FORCE AND ASSAULT

SECTION 354-B IPC Assault or use of criminal force to woman with intent to disrobe

SECTION 354-C IPC Voyeurism

SECTION 354 -D IPC Stalking

SECTION 363 IPC Punishment for kidnapping

SECTION- 363-A Kidnapping or maiming a minor for purpose of begging

SECTION 365 IPC Kidnapping / Abduction with intention of secret or wrongful confinement

SECTION 366 IPC Kidnapping, Abducting or inducing woman to compel her marriage etc

KIDNAPPING ABDUCTIONS FORCED LABOUR

**SECTION 366-A IPC
Procurement of minor girl**

Section 366-B Importation of girl from foreign country

SECTION 367 IPC Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.

Section 368 Wrongful concealing or keeping in confinement, kidnapped or abducted person

SECTION 371 IPC Habitual dealing in slaves

SECTION 372 IPC Selling minor for purposes of prostitution, etc

SECTION 373 IPC Buying minor for purposes of prostitution ,etc.

Section 374 IPC - Unlawful compulsory labour

BONDED LABOUR SYSTEM (ABOLITION ACT,1976)

Section	Provision	Punishment	Classification
16	Punishment of enforcement of bonded labour	Imprisonment for a term which may extend up to 3 years and fine of up to Rs. 2000	Cognizable and Bailable
17	Punishment of advancement of bonded debt	Imprisonment for a term which may extend up to 3 years and fine of up to Rs. 2000	Cognizable and bailable
18	Punishment for extracting bonded labour under the bonded labour system	Imprisonment for a term of up to 3 years and fine of up to Rs. 2000	Cognizable and bailable
19	Punishment for omissions or failure to restore possession of property to bonded labourers	Imprisonment for a term of up to 1 year and fine of up to Rs. 1000	Cognizable and bailable

CHILD LABOUR (PROHIBITION REGULATION) ACT 2016

Section	Provision	Punishment
14(1)	For employment of child in any occupation or process, in violation of Section 3 of the Act and corresponding rules.	Imprisonment for a term which shall not be less than 6 months but which may extend to 2 years or with fine which shall not be less than 20000 rupees but which may extend to 50000 rupees, or with both, this is a cognizable offence.
14(1A)	For employment of adolescent in any hazardous occupation or process listed in the Schedule	Imprisonment for a term which shall not be less than 6 months but which may extend to 2 year's or with fine which shall not be less than 20000 rupees but which may extend to 50000 rupees, or with both. This is a cognizable offence.
14(2)	A repeat offence of the above stated sections	Imprisonment for a term which shall not be less than 1 year months but which may extend to 3 years.
14(B)&(2A)	Parents who commit a repeat offence	Fine which extend to 10000 rupees
14(3)	Violation of any other section of the Act including conditions for adolescents to work	Imprisonment for a month or with fine of 10000 rupees or with both

THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015

Section	Provision	Punishment
74	Prohibition on disclosure of identity of children	Imprison for a term which may extend to 6 months or a fine upto Rs 1 lakh or both
	Punishment for cruelty to child – assault, abandon , exploit, abuse , neglect a child –giving a child in marriage is cruelty to child	Imprisonment for a term which may extend to 3 years or a fine up to Rs.5 lakh
75	If committed by any person employed by or managing an organization, responsible for care and protection of child	Rigorous Imprisonment for a term which may extend to 5 years and a fine up to R 5 lakh
	If because of cruelty, the child is physically incapacitated or performs a physical or mental illness	Rigorous Imprisonment for a term not less than 3 years but which may be extended up to 10 years and a fine up to Rs. 5 lakh
76	Employment of child for begging	Imprisonment for a term which may extend to 5 years and fine of Rs 1 lakh if amputates or maims a child-rigorous Imprisonment for a term not less than 7 years which may extend to 10 years and a fine of Rs 5 lakh
77	Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance to a child	Imprisonment for a term which may extend to 7 years and a fine up to Rs 1 lakh
78	Using a child for vending peddling, carrying, supplying or smuggling any intoxicating liquor, narcotic drug or psychotropic substance	Rigorous Imprisonment for a term which may extend to 7 years and a fine up to Rs 1 lakh

THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN)ACT ,2015

Section	Provision	Punishment
79	Exploitation of a child employee-child labour or bonded labour	Rigorous Imprisonment for a term which may extend to 5 years and a fine of Rs 1 lakh
80	Punitive measures for adoption without following prescribed procedures	Imprisonment for a term which may extend up to 3 years and a fine of Rs 1 lakh or both
81	Sale and procurement of children for any purpose	Rigorous Imprisonment for a term which may extend to 5 years and a fine of Rs 1 lakh
	If this offence committed by a person in charge of the child	Rigorous Imprisonment for a term which is not less than 3 years and may extend up to 7 years
83	Use of child militant group or other adults	Rigorous Imprisonment for a term which may extend to 7 years and shall also be liable to fine of Rs 5 lakh
84	Kidnapping and abduction of child	As per IPC 359 -369
85	Offences committed on disabled children	Liable to twice the penalty provided for such offence in Persons with Disabilities (Equal Opportunities ,Protection of Rights and Full Participation Act, 1995

THE IMMORAL TRAFFIC (PREVENTION) ACT, 1956

Section	Provision	Punishment
3	Punishment for keeping a brothel or allowing premises to be used as a brothel	On first conviction-rigorous imprisonment for a term of not less than 1 years and not more than 3 years and also with fine which may extend to 2000 Rs
		Second or subsequent conviction –rigorous imprisonment for a term of not less than 2 years and not more than 5 years and also with fine which may extend to 2000 Rs
4	Punishment for living on the earning of prostitution	Imprisonment for a term which may extend to 2 years, or with fine which may extend to 1000 Rs, or with both,
		In case of a child of a child- imprisonment for a term of not less than 7 years and not more than 10 years.
5	Procuring , inducing or taking person for the sake of prostitution	Punishable on conviction with rigorous imprisonment for a term of not less than 3 years and not more than 7 years and also with fine which may extend to 2000 Rs
		If any offence committed against the will of any person –imprisonment for a term of 7 years shall extend to imprisonment for a term of 14 years.
		In case of a child- the punishment provided under this sub –section shall extend to rigorous imprisonment for a term of not less than 7 years but may extend to life. In case of not less than 7 years and not more than 14 years.
6	Detaining a person in premises where prostitution is carried on	Punishable on conviction, with imprisonment of either description for a term which shall not be less than 7 years but which may be for life or a term which may extend to 10 years and shall not be liable to fine.

THE PROHIBITION OF CHILD MARRIAGE ACT 2006

Section	Provision	Punishment (Cognizable & non- cognizable)
9	Punishment for male adult (above 18 years) marrying a child	Rigorous imprisonment which may extend to 2 years or with fine which may extend to 1 lakh rupees or with both
10	Punishment for solemnizing a child marriage (performs, conducts or directs or abets any child marriage)	Rigorous imprisonment which may extend to 2 years and shall be liable with fine which may extend to 1 lakh rupees
11	Punishment for promoting or permitting solemnizing of child marriages	Rigorous imprisonment which may extend to 2 years and shall also be liable to fine which may extend up to 1 lakh rupees
12	If a child is enticed out of the keeping of a lawful guardian , is made to go from one place to another by force or deceitful means, or if a minor is sold for marriage, or after marriage is sold trafficked for marriage or immoral purposes	Such marriage shall be null and void

THE TRANSPLANTATION OF HUMAN ORGANS ACT ,1994

Section	Provision	Punishment
18	Punishment for removal of human organ without authority	18(1) – Imprisonment for a term which may extend to 5 years and with fine which may extend to 10000 Rs
		18(2) If a registered medical practitioner he should be reported to respective State medical Council for action including removal of his name from the register of the council for 2 years for 1 offence and permanently for subsequent offence
19		Imprisonment for a term which shall not be less than 2 years but which may extend to 7 years and shall be liable to fine which shall not be less than 10000 Rs but may extend to 20000 Rs

THE SCHEDULE CASTE AND SCHEDULE TRIBES (PREVENTION OF ATROCITIES) ACT 1989

Section	Provision	Punishment
3(h)	Makes a member of a schedule Caste or a Scheduled tribe to do-begar or other forms of forced or bonded labour other than any compulsory service for public purposes imposed by the Government	Imprisonment for a term which shall not be less than six months but which may extend to five years and with fine
3(w)(i)	Intentionally touches a woman belonging to a Schedule Caste or a Scheduled Tribe, knowing that she belongs to a Schedules Caste or a Scheduled Tribe, when such act of touching is of a sexual nature and is without the recipient's consent	Imprisonment for a term which shall not be less than six months but which may extend to five years and with fine
3(w)(ii)	Uses words, acts or gestures of a sexual nature towards a woman belonging to a Scheduled Caste or a Scheduled Tribes, knowing that she belongs to a scheduled Caste or a Scheduled Tribe	Imprisonment for a term which shall not be less than six months but which may extend to five years and with fine
3(2)(v)	Commits any offence under the Indian Penal Code punishable with imprisonment for a term of ten years or more against a person or property (knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member)	Imprisonment for life and with fine

THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT 2012

Section	Provision	Punishment
4	Punishment for penetrative sexual assault	Imprisonment of their description for a term which shall not be less than 7 years but which may extend to imprisonment for life , and shall also be liable to fine
6	Punishment for aggravated penetrative sexual assault	Rigorous imprisonment for a term which shall not be less than 10 years but which may extend to imprisonment for life and shall also be liable to fine
8	Punishment for sexual assault	Imprisonment for either description for a term which shall not be less than 3 years but which may extend to 5 years, and shall also be liable to fine
10	Punishment for aggravated sexual assault	Imprisonment of either description for a term which shall not be less than 5 years but which may extend to 7 years, and shall also be liable to fine
12	Punishment for sexual harassment	Imprisonment of with either description for a term which may extend to 3 years and shall also the liable to fine

THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT 2012

Section	Provision	Punishment
14	(1) Punishment for using child for pornographic purpose	Imprisonment of either description which may extend to 5 years and shall also be liable to fine
15	Punishment for storage of pornographic material involving child	Imprisonment of either description which may extend to 3 years or with fine or with both
17	Punishment for abetment	If act committed in consequence of the abetment, shall be punished with punishment provided for that offence
18	Punishment for attempt to commit an offence	Imprisonment of any description provided for the offence , for a term which may extend to one-half of the imprisonment for life, or as the case may be , one -half of the longest term of imprisonment provided for that offence or with fine or with both.



INFORMATION TECHNOLOGY ACT 2000

- **66A. Punishment for sending offensive messages** through communication service, etc.
- **66E. Punishment for violation of privacy –** Whoever, intentionally or knowingly captures, publishes or transmits the image of a private area of any person without his or her consent, under circumstances violating the privacy of that person, shall be punished with imprisonment which may extend to three years or with fine not exceeding two lakh rupees, or with both.



INFORMATION TECHNOLOGY ACT 2000

- **Section 67.** Punishment for publishing or transmitting obscene material in electronic form
- **Section 67A.** Punishment for publishing or transmitting of material containing sexually explicit act, etc., in electronic form
- **Section 67B.** Punishment for publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form.

Money Laundering Act , 2002



Section-3 Offence of money-Laundering.-Whosoever directly or indirectly attempts to indulge or knowingly assists or knowingly is a party or is actually involved in any process or activity connected proceeds of crime including its concealment, possession, acquisition or use and projecting or claiming it as untainted property shall be guilty of offence of money-laundering.

Section-4 Punishment for money-Laundering.-Whoever commits the offence of money-laundering shall be punishable with rigorous imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine

Maharashtra Control of Organised Crime Act, 1999 (Maharashtra Act No. 30 - of 1999)

d) **"continuing unlawful activity"** means an activity prohibited by law for the time being in force, which is a cognizable offence punishable with imprisonment of three years or more, undertaken either singly or jointly, as a member of an organised crime syndicate or on behalf of such, syndicate in respect of which more than one charge-sheets have been filed before a competent Court within the preceding period of ten years and that Court has taken cognizance of such offence;

(e) **"organised crime"** means any continuing unlawful activity by an individual, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence or threat of violence or intimidation or coercion, or other unlawful means, with the objective of gaining pecuniary benefits, or gaining undue economic or other advantage for himself or any person or promoting insurgency;

Note 1

The expression **"organised"** in 2 (e) is very important. It means a Crime done by a single person in a planned way, as well as, crime committed, with the help of others in an organised way. It presupposes that the criminal, before committing the crime, has obtained complete information regarding the economic as well as social status of the person against the crime of is committed.

(f) **"organised crime syndicate"** means a group of two or more persons who, acting either singly or collectively, as a syndicate of gang indulge in activities of organised crime; (g) "Special Court" means the Special Court constituted under section 5.

Maharashtra Control of Organised Crime Act, 1999 (Maharashtra Act No. 30 - of 1999)

3. Punishment for **organised crime**-

(1) Whoever commits an offence of **organised crime** shall,

- (i) if such offence has resulted in the death of any person, be punishable with death or imprisonment for life and shall also be liable to a fine, subject to a minimum fine of rupees one lac;
- (ii) in any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to a fine, subject to a minimum fine of rupees five lacs.

(2) Whoever conspires or attempts to commit or advocates, abets or knowingly facilitates the commission of an **organised crime** or any act preparatory to **organised crime**, shall be punishable with imprisonment for a term which shall be not less than five years but which may extend to imprisonment for life, and shall also be liable to a fine, subject to a minimum of rupees five lacs.

(3) Whoever harbours or conceals or attempts to harbour or **conceal, any member of an organised crime syndicate**; shall be punishable, With imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to a fine, subject to a minimum fine of rupees five lacs.

(4) Any person who is a member of an **organised crime syndicate** shall be punishable with imprisonment for a term which shall not be less, than five years but which may extend to imprisonment for life and shall also be liable to a fine, subject to a minimum fine of rupees five lacs.

(5) Whoever holds any property derived of obtained from commission of an **organised crime** or which has been acquired through the organised crime syndicate funds shall be punishable with a term which, shall not be less than three years but which may extend to imprisonment for life and shall also be liable to fine, subject to a minimum fine of rupees two lacs.

Maharashtra Control of Organised Crime Act, 1999 (Maharashtra Act No. 30 - of 1999)

Section- 4. Punishment for possessing unaccountable wealth on behalf of member **of organised crime syndicate**.

If any person on behalf of a member of an **organised crime syndicate** is, or, at any time has been, in possession of movable or immovable property which he cannot satisfactorily account for, he shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to ten years and shall also be liable to fine, subject to a minimum fine of rupees one lac and such property shall also be liable for attachment and forfeiture

REGISTRATION OF CASE IN SOURCE AREA-

(Bachpan Bachao Andolan Case-Supreme Court Orders on Registration of FIR)

IMMEDEATE RESPONSE SOURCE AREA - WHEN SOME INFORMATION IS AVAILABLE

(Inter State Collaborations)

IMMEDEATE RESPONSE DESTINATION AREA

(Inter State Collaborations for Immediate response)

FIR REGISTERED IN SOURCE AREA

(Responses of the Police in Destination Area- Loss of Time)

CONVERGENCE AMONG ALL STAKEHOLDERS

HUMAN TRAFFICKING- RESPONSES

- **REGISTRATION OF CASE IN SOURCE AREA-**
 - (Bachpan Bachao Andolan Case-Supreme Court Orders on Registration of FIR)
- **IMMEDEATE RESPONSE SOURCE AREA - WHEN SOME INFORMATION IS AVAILABLE**
 - (Inter State Collaborations)
- **IMMEDEATE RESPONSE DESTINATION AREA**
 - (Inter State Collaborations for Immediate response)
- **FIR REGISTERED IN SOURCE AREA**
 - (Responses of the Police in Destination Area-Loss of Time)

HUMAN TRAFFICKING- RESPONSES

- **RESCUE PROTOCOL-**
- Involvement of Advisory Board of Social Workers as Mandated in Section 13 (3)b of Immoral Traffic Prevention Act.
- Involvement of Special Police Officer
- Rescue of Suspected Victims of Human Trafficking (Section 15 ITPA)
- Counselling to Victims.
- Facilities for Medical Examination
- Suspected Age of the Victims of Human Trafficking.
- Production Protocols
- Investigation and Evidence Collection of Day ¹

HUMAN TRAFFICKING- RESPONSES

- INVESTIGATION PROTOCOL-
- Age of the Victim
- Organized Nature of Crime
- Inter State Police Collaboration-
Investigation from Source to
Destination(Vice Versa)
- Home Verification Report
- Collection of Local Information
- Antecedents of the Brothel
Owner/Manager

HUMAN TRAFFICKING- RESPONSES

- INVESTIGATION PROTOCOL FOR SOURCE ARE POLICE TEAMS
- Financial Support from Integrated Child Protection Scheme
- Logistics Support from Destination Police Agencies
- Lodging and Boarding Support to Police Agencies

HUMAN TRAFFICKING- RESPONSES

- Victim Compensation
- Victim Support Mechanism
- Support to Victim for Attending Court
- Protection for Victims during Testification/Cross Examination
- Support to Anti Trafficking Activists/NGO
- Rehabilitation Mechanisms

UNDERSTANDING TRAUMA

- Traumatic events refer to extreme stress:
 - That overwhelms a person's ability to cope
 - Has profound short term and long term impacts on the individual's ability to function
- Emotional effects of trauma are persistent and devastating
- Victims of trafficking often suffer from (one or more of):
 - PTSD
 - Anxiety
 - Panic disorder
 - Persistent depression
 - Substance abuse
 - Eating disorder

WHAT CAUSES TRAUMA?

- Triggers for trauma exist through various stages of a victim being trafficked and rescued:
 - In the act of trafficking- being cheated, separated from their family and familiar surroundings
 - In Course of exploitation/in the trade- physical abuse, lack of self esteem, commodification, persistent ill treatment from person exerting control, authority and dominance
 - Post rescue-dealing with procedural formalities at police station, court and shelter homes.

SURVIVOR TESTIMONY AT TRAIL IS PART OF REHABILITATION

- The justice process is meant to help survivors feel vindicated and justice can have a healing effect on survivors
- But the sad reality is that survivors feel traumatized by court proceedings and the process of providing their testimony can actually set them back in the restoration process

VICTIMS MAY NOT COOPERATE IN COURT

- Often victims are found to be hesitant in testifying during court proceedings or giving inconsistent statements. This could be on account of:
 - Lack of trust
 - Fear of people in a statutory role
 - Temporary memory loss caused by trauma
 - Brain washing by traffickers/perpetrators/ Stockholm syndrome
 - Fear of consequences/ threat to themselves, their family
 - Fear of acceptance back into the community if truth is revealed

VICTIMS MAY NOT COOPERATE IN COURT

- Giving testimony- reliving the trauma
 - A perceptible shift in the victim's attitude is noticeable as the court date approached
 - Shame, guilt, emotional turmoil at the prospect of recounting all that occurred
 - Impact ability to verbalize their past experience
- Post trauma responses contribute to problems with functioning, including difficulties controlling emotions, concentrating, sudden outbursts of anger, self mutilation, suicidal tendency, instead risk taking and alterations in consciousness

ENLISTING VICTIM COOPERATION IN COURT

- Supportive approach by people in authority
 - Non-threatening and non-judgemental approach by people in power
- Treating victims with dignity
- Being aware of what to expect in terms of procedure
- Counselling
- Appropriate procedure being followed during police investigation and court room trial

HOW DO SURVIVORS RESPOND TO THE COURT PROCESS?

- In court, survivors feel isolated, believe that the system protects the accused and receive little validation or acknowledgment of their re-traumatisation
- Cross-examination, if uncontrolled, can lead to re-traumatization
- Attack on survivors' credibility, if unexplained, can retard rehabilitation and lead to loss of confidence
- Adjournments can prolong all the physical and emotional impact of the court testimony

HOW CAN COURTS PROTECT VICTIMS?

- The Delhi High Court has held that there is a need for effective measures to be taken from the initial stage of commission itself to ensure adjustment and rehabilitation, healthy and normal growth of the victim as member of the community. It is necessary to sensitize all who are involved in the investigation, prosecution and trial and the role each one of them can play to mitigate the rigor of the trial and prevent the erosion of confidence of the victim, *Khem Chand & Ors. V. State of Delhi* (ILR(2008) Supp.(5)Delhi92)

HOW CAN COURTS PROTECT VICTIMS?

- Provide counsellors and legal aid lawyers, *Prerna V. State, Criminal Writ Petition 1694 of 2003*
- Direct in camera hearing, *Sakshi v. Union of India, AIR 2004SC3566*
 - In camera hearing protect victims from embarrassment and intimidation and protect their reputation, *Sumeshwar Choudhury v. State, 1993/MANU/MP/0171*
 - Unconnected advocates must leave the courtroom, *Varadaraju v. State, 2005 Cr.L.J 4180*
 - Junior lawyers must leave if their seniors are cross-examining the victim, *Sumeshwar Choudhury v. State, 1993/MANU/MP/0171*

HOW CAN COURTS PROTECT VICTIMS?

- Restrain cross-examination if it is designed to embarrass, harass or exhaust the witness, Indian Evidence Act Ss 151 and 152
- Require that defence counsel provide question in writing to the Court which can then cross-examine the victim in a manner which is clear and restores her dignity, *Sakshi v. Union of India*, AIR 2004 SC 3566

HOW DO COURTS PROTECT CHILDREN?

- Courts must apply the “best interest of the child” standard- the best interest of the child is paramount and not the interest of the accused, *Shankar Khade v. State of Maharashtra*, 2013(5) SCC 546

HOW CAN COURTS PROTECT VICTIMS?

- Video-Conferencing: the Supreme Court has directed use of video conferencing in cases of child abuse or rape to prevent trauma to victims, *Sakshi v. Union of India*, AIR 2004 SC 3566
- The Supreme Court has held in *State v. Praful Desai*, AIR 2003 SC 2053 that:
 - Video conferencing satisfies the evidentiary requirement of Cr. P.C 273
 - Video conferencing can be used if the country of the witness has an extradition treaty with India
 - Evidence taken via videoconferencing can be discarded if the witness is shown to be untruthful

COURTS CAN RESTORE CREDIBILITY OF SURVIVORS THROUGH:

- Re-Examination: Prosecutors have the freedom and the right to re-examine witnesses not only about ambiguity but any other matters arising during cross examination or even to elicit additional information, *Rammi v. State, AIR 1999 SC 3544*
- Court Questions under Indian Evidence Act S. 165
 - Judges must be active and effective instruments of justice-they are no mere spectators or recording machines, *RamChander v. State, AIR 1981 SC 1036*

COURTS MUST DENY ADJOURNMENTS:

- Systemic obstacles cannot justify violating Cr.P.C. Section 309, *Association of Victims of Uphaar Tragedy v. State*, 2002/MANU/DEL/0477
- Witness must be examined on the day they are present:
 - The absent accused must exempt identification or his bail should be cancelled;
- If adjournments are unavoidable, witness must be provided with adequate costs, *State v. Shambhu Nath*, AIR 2001 SC 1403

COURTS MUST DENY ADJOURNMENTS:

- Adjournments should not be granted on grounds of :
 - Inconvenience to counsel, *Akil v. State*, 2013 CrLJ 57
 - Counsel's Lack of preparation, *Delhi Administration v Vishwanath Lugnani*, 1982 SCC(Cri) 139
- Disciplinary action can be taken against counsel who absent himself without making arrangements for examination of witnesses, *Dastane v. Shivde*, AIR 2011 SC 2028

COURTS CAN DEMONSTRATE COMPASSION:

- Active listening
- Speaking gently with victims being mindful of the trauma they've gone through and the trauma the court proceedings are causing
- Providing validation to the survivor:
 - By making eye-contact
 - Displaying interest in rehabilitation
 - Giving her breaks, offering water
 - Being alert for signs of fainting, dizziness etc.
 - Treating her as a victim no just a witness