

CONFIDENTIAL PLEASE DONOT SHARE



STANDARD OPERATING PROCEDURE (SOP)

for

Combatting Trafficking of Persons in India

National Human Rights Commission (NHRC)

New Delhi, India



Contents

1. Standard Operating Procedure.....	2-8
2. Abbreviations Used.....	9
3. Annexure 1 – Checklist	10
4. Annexure 2 – Applicable Provisions of Law for Reference	11-16
5. Annexure 3 - Victim Friendly Prosecution.....	17-18

Indian Penal Code (IPC) 1860: Section 370 and 370 A				
Trafficking of Person				
Through Act of	By means (process) of	For the purpose of		
<ul style="list-style-type: none"> - Recruitment - Transportation - Transfer - Harboring or - Receipt of a person 	<ul style="list-style-type: none"> - Threat - Force or Coercion - Abduction - Fraud or Deception <p>Of the abuse of power (or position of vulnerability)</p> <ul style="list-style-type: none"> - Inducement, including giving or receiving money or benefit 	<p><u>Exploitation</u> Including, at a minimum</p> <ul style="list-style-type: none"> - Physical Exploitation - Sexual Exploitation - Slavery or practice similar to slavery (like Forced Labour) - Servitude - Forced removal of organs 		
CONSENT OF THE VICTIM IS IMMATERIAL IN DETERMINING AN OFFENCE OF TRAFFICKING				
<p>One or more of the following issues can be construed a means AND/OR ends to human trafficking or human trafficking itself for the purpose of the above definition:</p>				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 50%; vertical-align: top;"> <ol style="list-style-type: none"> 1. Child Labour 2. Bonded Labour 3. Commercial Sexual Exploitation (CSE) 4. Any form of Sexual Exploitation 5. Pornography </td> <td style="width: 50%; vertical-align: top;"> <ol style="list-style-type: none"> 6. Child Soldiers 7. Illegal Adoption 8. Missing Persons 9. Child Marriage 10. Online Abuse 11. Forced Removal of organs/ Organ Trafficking </td> </tr> </tbody> </table>			<ol style="list-style-type: none"> 1. Child Labour 2. Bonded Labour 3. Commercial Sexual Exploitation (CSE) 4. Any form of Sexual Exploitation 5. Pornography 	<ol style="list-style-type: none"> 6. Child Soldiers 7. Illegal Adoption 8. Missing Persons 9. Child Marriage 10. Online Abuse 11. Forced Removal of organs/ Organ Trafficking
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REMEMBER

The victim should **NOT** be

Treated as an offender

'Re-victimised'

Branded as 'a soliciting person'

Arrested

Stigmatized

REMEMBER

Every person SHOULD BE EXTENDED ALL HELP AND ASSISTANCE AS A MATTER OF RIGHT

- Privacy and confidentiality throughout the judicial process;
 - Be heard and informed;
- Participate in all decisions and processes affecting her/his interest.

PRE-RESCUE

Plan of action for rescue

How to identify a victim?

Identify primary source of information and how it was obtained. Information can be obtained from:

1. Pro-active **investigation** by police team or NGO team;
2. Information based on local surveys;
3. Partnership with other **organizations** for intelligence sharing and collection (Other NGOs, CHILDLINE, CWC, Vigilance Committee run by SDM, Labour Inspector factory checks, police, DTF, AHTU, GRP, RPF, DLSA, SCPCR, CMPO in case of child marriage);
4. **Self-reported** by victim;
5. Complaint from **family or relative**;
6. A public spirited citizen.

Who can file a complaint? Any person through phone, e-mail, helpline, in person, any other means.

- | | |
|--|---|
| 1. A parent or a legal guardian | 10. SJPU, DCPU, Police or public servant |
| 2. NGOs | 11. Social worker |
| 3. Relative | 12. Labour Inspector/Labour Department |
| 4. CWC | 13. Railway Police |
| 5. Childline 1098 or other helpline services | 14. Nurse, doctor or management of a nursing home or hospital |
| 6. NCPCR or SCPCR | 15. Any person who has knowledge of incident |
| 7. DALSA or NALSA | 16. Any person concerned with safety and wellbeing of the child |
| 8. CWO | 17. CMPO in case of child marriage |
| 9. Child himself | |

Where to file a complaint?

Age<14	Child labour and bonded labour	AHTU, Police (Dial 100), SJPU, CWC, Department of Labour, Childline at 1098, Labour Inspector, Any other helpline, DCPU, SCPCR, SDM, DTF, DALSA
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	CSE, sexual exploitation, child marriage, organ transplantation, missing children, illegal adoption, child soldiers	AHTU, Police (Dial 100), CWC, SJPU, Childline at 1098, Any other helpline, DCPU, SCPCR, SDM, DALSA
Age 14-18	Child Labour, bonded Labour, CSE, sexual exploitation, child marriage, organ transplantation, missing children, illegal adoption, child soldiers	AHTU, Police (Dial 100), SJPU, CWC, Department of Labour, Childline at 1098, Labour Inspector, Any other helpline, DCPU, SCPCR, SDM, DTF, DALSA
Age >18	Bonded Labour, CSE, sexual exploitation, organ transplantation, missing persons, illegal adoption	AHTU, Police (Dial 100), Any other helpline, DCW, SDM, DALSA

If in transit, then can also report at the following, besides the above.

- Railway: GRP, railway protection force
- Cross Border: BSF, CRP, CBI
- Railway Childline or any other helpline

How to register a complaint? (Please refer to Annexure 2 for details of the relevant laws) Identify relevant [laws to include in complaint](#).

***Any form of exploitation in a case can fall below one or more categories of exploitation.**

Child Labour	IPC Sec 370, 370A, 342, 343, 344, 363A, 374 JJ Act 2015 Sec 74-88, 80-85, 87, 42, 33-34 CLPRA 2016 Sec 14
Bonded Labour	IPC Sec 370, 370A, 342, 343, 344, 363A, 374 JJ Act 2015 Sec 74-88, 80-85, 87, 42, 33-34 CLPRA 2016 Sec 14 BLSA 1976 Sec 16-23
Commercial Sexual Exploitation	IPC Sec 370, 370A, 342, 343, 344, 346, 354A, 354B, 366A, 366B, 371, 372, 373, 509 JJ Act 2015 Sec 74-88, 42, 33-34 ITPA 1956 Sec 3-7 POCSO 2012 Sec 3-18
Sexual Exploitation	POCSO 2012 Sec 3-18, JJ Act 2015 Sec 74-88, 42, 33-34, IPC 342, 343, 344, 346, 354A, 354B, 354C, 354D, 366A, 366B, 509
Child Marriage	CM Act 2006 Sec 9, 10, 11 JJ Act 2015 (CRUELTY TO CHILD) Sec 75 IPC Sec 370, 370A
Illegal Adoption	JJ Act 2015 Sec 80, 81
Child Soldiers	JJ Sec 83 IPC Sec 370, 370A

Forced removal of organs	THOA 1994 Sec 18, 19, 20 IPC Sec 370, 370A
Online Abuse, Pornography	IT Act Sec 66, 67 POCSO Sec 14, 15 (in case of children)
Missing children as trafficked children	As per the directions of the Hon'ble Supreme Court of India in Bachpan Bachao Andolan vs. Union of India (WP (Civil) 75 of 2012) on 10th May 2013, - "upon receipt of a complaint regarding a missing child, an FIR should be registered forthwith as a case of trafficking or abduction". Accordingly apply Section 370 and 370A of IPC Refer SOP by MWCD - http://www.wcd.nic.in/acts/sop-cases-missing-children

What plan of action needs to be followed before rescue? <ol style="list-style-type: none"> 1. Logistical support: clothes, medical kit, food, water. 2. Victim protection to safeguard evidence: plan for separating victim from exploiter/trafficker, staff member from the NGO or police or CWC explaining to victim what is happening, involvement of a social worker. 3. Notify the government or NGO run Short Stay Home/ CCIs of the expected number of rescued persons and the expected time of arrival to produce them before CWC in case of children. 4. Ensure confidentiality of the rescue operation and the persons rescued. 5. At least two witnesses to be present during rescue, at least one of whom is a woman. 6. Involvement of a woman police officer (from the concerned SJPU), SDM (Bonded Labour case), Labour Dept. 7. Necessary preparation for collection of evidence. 8. In case of child marriage, CMPO/Police to take injunction order. 	Which law enforcement authority to include in rescue? <table border="1"> <tr> <td>Age<14</td> <td>Bonded labour and child labour -</td> </tr> <tr> <td>Age 14-18</td> <td>CWC, SJPU, woman police officer, SDM, Dept. of labour and employment, AHTU, DTF, police, labour inspector, DCPU, DTF, CMPO in case of child marriage Sexual exploitation and others - CWC, SJPU, woman police officer, AHTU, police, SJPU, DCPU, CMPO in case of child marriage</td> </tr> <tr> <td>All ages</td> <td>AHTU, Police, SDM (If in transit, also include GRP in case of railways and BSF, CRP, CBI in case of cross-border),</td> </tr> </table>	Age<14	Bonded labour and child labour -	Age 14-18	CWC, SJPU, woman police officer, SDM, Dept. of labour and employment, AHTU, DTF, police, labour inspector, DCPU, DTF, CMPO in case of child marriage Sexual exploitation and others - CWC, SJPU, woman police officer, AHTU, police, SJPU, DCPU, CMPO in case of child marriage	All ages	AHTU, Police, SDM (If in transit, also include GRP in case of railways and BSF, CRP, CBI in case of cross-border),
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All ages	AHTU, Police, SDM (If in transit, also include GRP in case of railways and BSF, CRP, CBI in case of cross-border),						

RESCUE

Conduct rescue as per the above plan

REMEMBER
<ul style="list-style-type: none"> * No victim should be arrested. * Rescue can be conducted without FIR and FIR can follow, if required. * Sec 74 of the JJ Act, 2015, mandates ensuring the anonymity of a rescued child. Contravention of this provision is punishable with imprisonment of 6 months. * If children in need of care and protection are not reported, then it is an offence, liable for imprisonment up to 6 months or fine of Rs 1000 or both.

- * Collect evidence in form of photographs and documents for prosecution.
- * Protection of identity of a woman rescued from sexual exploitation. Confidentiality and protection of identity of all victims.

What can be done to immediately place the victim?

Secure safe place for victim. If

Age <18, CCIs; Age>18: One Stop Crisis Centre, other safe place

REMEMBER

Do NOT take custody of the child as an individual or NGO.

Do NOT place the child or the woman in a police station overnight.

Child friendly (See Annexure 2) and victim friendly police station/procedures.

What is the initial legal assessment to be done?

1. Register FIR.
2. Aid from paralegal for legal assistance at police station.
3. **Victim statement collected by SDM as per CrPC Section 164.**
4. Immediate medical attention.
5. Assess proper laws to be applied for prosecution of criminal (see sub-section within rescue – how to register a complaint?).

IN CASE OF ADULTS

Place the adult at a safe place away from the trafficker for time of investigation.

IN CASE OF CHILDREN

1. Immediate medical attention free of cost to children as per Section 55(3) of the rules to JJ Act 2015. Offence under Section 75 75 if not provided.
2. Produce the child before CWC within 24 hrs. excluding time of journey (Produce before SDM in case of bonded labour (in addition to CWC)).
3. CWC to conduct enquiry/ direct the CWO, DCPU, NGO to conduct investigation within 15 days as per Section 36 of the JJ Act.
4. Age determination (Sec 94 of JJ and Sec 10 of CLPRA).

- If CWC based on appearance decides that it is a child, proceed with inquiry.
- If reasonable doubt about age, undertake process of age determination by seeking evidence (to be completed within 15 days from the date of such order):
 1. Date of birth certificate or matriculation equivalent certificate from school
 2. Birth certificate
 3. If the above two are unavailable, then ossification test or any latest medical age determination test conducted on their

orders.

5. Place the child with family, in children's home/ shelter home/fit facility/fit person for the time of investigation.
6. CWC to pass final order within 4 months of first production of child.
2. Initiation of [Home Verification by CWC with CWC of home district](#).
3. Confirm efforts are being made to find the Identify home, parents, village, home of the child by Resident Commissioner of Police.
4. Confirm efforts are made to complete home verification.

[Home verification complete – Approved](#) – Home is safe for return – Parents come to CCI with identification documents to retrieve the child and arrangements made to send child back safely.

[Home verification completes – not approved](#) – find long term housing of child.

[Home verification not complete](#) – document incomplete home verification.

After investigation, the CWC can:

- Declare the child is in need of care and protection;
- Restore the child to family under supervision of CWO or social worker;
- Send child to
- Specialized Adoption Agency (if child below 6 years of age)

Open Shelter/Children's Home/ Fit facility/fit person/oster care (if child is above 6 years of age) until the child attains an age of 18 years;

- Declare the child legally free for adoption;
- Provide Sponsorship (individual/group/community sponsorship).

6. [Charge sheet](#) on completion of investigation by IO.
7. Assess proper [economic compensation](#) for victim.
8. Transfer case to DLSA for legal aid and assistance.

REMEMBER

1. A photocopy of all documents furnished during the proceedings Police/DCPU/ parents/guardian of the child and others concerned.
2. Proper arrangement should be made for food, clothing, medical and legal aid for the child at the premises of the place of safety.
3. The whole process of proceedings and interaction should be conducted sensitively and in a victim friendly manner.

Rehabilitation (Individualized Care Plan)

Ensure safety and wellbeing of the victim

1. Send back to community if home verification approved.
2. If not approved, make arrangement in long stay rehabilitation home.
3. Ensure victim gets compensation.
 - As per MC Mehta vs. State of Tamilnadu and Ors. Writ Petn. (C) No. 465 of 1986 Judgment-

- Rs 20000 per child by the employer to a “Child Labour Rehabilitation-cum-Welfare Fund” to be used only for the benefit of that child
 - The Government to provide employment to an adult family member of the child or contribute Rs 5000 per child to this fund
 - Immediate financial assistance of Rs 20000 under the Central Sector Scheme for Rehabilitation of Bonded Labourer 2016.
 - Central Sector Scheme for Rehabilitation of Bonded Labourer 2016 - child labour, bonded labour, begging rings, forced prostitution, sexual exploitation, human trafficking;
 - Back wages in whichever state applicable. ? In case of Delhi there is a high court judgment and CWC is authorized to recover back wages, may be that can be included.
 - CrPC Section 357, 357A, Sec 33(8) of POCSO - CSE.
 - In case of child labour according to Sec 14(B) of CLPRA, provision of a Child and Adolescent Labour Fund in every district. An amount of Rs 15000 to be credited by Govt for each child (for whom the fine amount has been credited) in such fund. The amount deposited and interest accrued shall be given to the child as per rules to CLPRA.
 - Any other central or state scheme.
4. Ensure victims get access to appropriate [Government schemes and benefits](#). For instance:
- CSE- Ujjawala, Swadhar, One Stop Crisis Centre
 - Child labour/bonded labour – ICPS, ICDS, Sarva Shiksha Abhiyan (RTE 2009 stipulates for free education to children up to the age of 14 years, along with free uniform, books and writing material).
 - Homes under JJ Act – CCIs - Children’s home, , fit facility, short stay homes or with a fit person or in foster care
5. Get the victim’s Adhaar card, BPL card made and bank account as required for availing benefit under scheme.

Additionally, in case of children: Rehabilitation services and reintegration

1. Make an individual care plan as per the above direction (with information on health and nutrition needs, special needs, educational, training, emotional, psychological, restoration, follow up, social mainstreaming, life skills, protection from all kinds of exploitation and abuse). This has to be reviewed after three months and modified as per progress.
2. Issue rehabilitation card to monitor progress of the individual care plan of the child, which needs to be maintained by the Rehabilitation cum Placement Officer (to be appointed in every CCI). Follow up within 1 month of final order, every month for first 6 months and then every 3 months for a year.
3. Ensure that the child is sent home or to a long term housing arrangement within 45 days.

1. Confirm that the CCI is registered.
 2. Verify that minimum standards of care in CCIs as per JJ Act 2015 and corresponding rules are adhered to Identify Govt schemes supporting child homes are available to the child.
4. Ensure education through Sarva Shiksha Abhiyaan and mid-day meal scheme.

*According to JJ Act 2015 (S.46), any child leaving a child care institution on completion of 18 years of age [may be provided financial support](#), in order to facilitate child’s re-integration into the society.

Prosecution

[Ensure maximum compensation for victim and punishment for accused](#)

Verify original complaint was filed under appropriate provision of law.

Verify FIR was registered.

- [If registered](#), identify who registered it and under which provision of law it was registered?
- [If not registered](#), identify if an attempt was made, reason of non-registration, ensure action against erring public servants (IPC Section 166A, 167).

Prosecution of case

1. Provide legal counseling and assistance to victim through DLSA.
2. Obtain maximum amount of compensation for victim and punishment for accused.
3. Monitor [status of bail](#) – opposed or unopposed.
4. Develop and [frame charges](#) against accused.

Examination and [cross examination of victim \(victim friendly approaches\)](#), [accused and witnesses](#) (attempt to get economic compensation from state and accused, attempt to get suspension or cancellation of license of establishment involved in trafficking).

Follow up with case

Ensure findings from prosecution are followed up and enforced if applicable.

- Follow up on rejection of [bail](#) for the accused
- Submit [appeals](#) if appropriate.
- [In cases of child labour and bonded labour](#), ensure that factory is closed, back wages are returned, and legal action is taken for relinquishment of debt.

In CSE, confirm that brothel is closed and offenders are evicted from premise as per Sec 18 of ITPA 1956.

*For children In conflict with law as per JJ Act, 2015 – see Annexure 1.

Prevention of re-trafficking

1. Educate parents on dangers of trafficking.
2. Educate child on rights, how to find help and how to access resources, educate and address stigmas in family or community if appropriate.
3. Panchayat sensitization.
4. Awareness and training of people migrating.
5. CRE in curriculum – teachers, SMCs training.
6. Develop school protection mechanisms and policy.
7. Regulate placement agencies.

TIME BOUND PROVISION OF COMPENSATION, PROSECUTION, REHABILITATION AND REINTEGRATION.

Abbreviations Used

AHTU – Anti Human Trafficking Unit	ICPS – Integrated Child protection Scheme
BLSA 1976 – The Bonded Labour System (Abolition) Act, 1976	IO – Investigating Officer
BSF – Border Security Force	IPC – Indian Penal Code, 1860
CCI – Child Care Institution	IT Act – The Information technology Act 2000
CLPRA 2016 – The Child Labour (Prohibition and Regulation) Amendment Act, 2016	ITPA 1956 – The Immoral Trafficking prevention Act, 1956
	JJ Act 2015 – The Juvenile Justice (Care and Protection of

CMPO – Child Marriage Prohibition Officer	Children) Act, 2015
CRE – Child Rights Education	MWCD – Ministry of Women and Child Development
CRP – Central Reserve Police	NALSA – National Legal Services Authority
CrPC – Criminal Procedure Code	NCLP – National Child Labour Project
CSE – Commercial Sexual Exploitation	NCPCR – National Commission for Protection of Child Rights
CWC – Child Welfare Committee	NGO – Non Government Organization
CWO – Child Welfare Officer	POCSO 2012 – The Protection of Children from Sexual Offences Act, 2012
DALSA – District State Legal Services Authority	RPF – Railway Protection Force
DCPU – District Child Protection Unit	RTE 2009 – The Right to Education Act, 2009
DCW – Delhi Commission for Women	SCPCR – State Commission for Protection of Child Rights
DLSA – District Legal Services Authority	SDM – Sub Divisional Magistrate
DTF – District Task Force	SJPU – State Juvenile Police Unit
FIR – First Information Report	SOP – Standard Operating Procedure
GRP – Government Railway Police	THOA 1994 – The Transplantation of Human Organs Act 1994
ICDS – Integrated Child Development Scheme	

Annexure 1 - Checklist

S.No	Action	
PRE RESCUE		
1	Children in need of care and protection identified?	

2	Complaint been registered?	
3	Appropriate law enforcement authorities involved in rescue? GIVE TABLE WITH CHECKLIST – WHICH ONES COMPULSORY NEEDED?	
4	Place of safety (decided before rescue)?	
RESCUE and IMMEDIATE POST RESCUE		
1	Evidence been collected in terms of photographs and documents?	
2	Immediate assistance such as food and water provided?	
3	Immediate medical assistance provided?	
4	Relevant sections under these laws applied? IPC, POCSO, JJ, CLPRA, CrPC, ITPA	
5	Recording of statement in the presence of CWC, SDM, Police, labour Inspector at the place of safety?	
6	FIR registration?	
7	SDM orders in case of bonded labour?	
8	CWC order regarding short-term rehabilitation?	
9	In cases of child labour and bonded labour, ensure that factory is closed, back wages are returned, and legal action is taken for relinquishment of debt?	
10	In CSE, confirm that brothel is closed and offenders are evicted from premise as per Sec 18 of ITPA 1956.	
11	Charge sheet filed?	
12	Initiation of Legal assistance by DLSA?	
13	Bone ossification test (if required in the absence of birth/school certificate) by CWC?	
14	The CCI been informed about the survivor's arrival?	
POST RESCUE and REHABILITATION/REPATRIATION		
1	Home verification by CWC initiated for safe repatriation of survivor?	
2	Home verification completed by resident Commissioner (Nodal officer from Home State of child)?	
3	Home verification report by IO submitted to CWC	
4	Verification of documents submitted by parents by CWC at the time of repatriation?	
5	IF APPROVED, Child repatriated through Parents/Resident Commissioner from short-stay home?	
6	IF NOT APPROVED, Children to be provided with long term shelter (in case home/parent verification not verified)	
7	Individual care plan as per CCI?	
8	Rehabilitation card provided by CWC and maintained to record progress by Rehabilitation cum Placement Officer at CCI?	
9	Child enrolled in school (SSA and RTE)?	
10	Assessment of economic compensation for survivor?	
11	Assessment of appropriate Government schemes for victim?	
12	Legal counseling to child?	
13	Does the child need consistent medical support?	

Annexure 2 – Applicable Provisions of Law

Indian Penal Code, 1860			
Section		Provision	Classification
166A	Public servant disobeying direction under law	Imprisonment for minimum 6 months which may extend to 2 years and fine	Bailable, Cognizable
167	Public servant framing an incorrect document with intent to cause injury	Imprisonment for either description for a term which may extend to 3 years, or with fine, or with both.	Bailable, Cognizable
342	Punishment for wrongful confinement	Imprisonment for a term of up to 1 year, a fine of Rs. 1000 or both	Bailable, Cognizable
343	Wrongful confinement for 3 or more days	Imprisonment for a term of up to 2 years, a fine or both	Bailable, Cognizable
344	Wrongful confinement for 10 or more days	Imprisonment for a term of up to 3 years, and a fine	Bailable, Cognizable
346	Wrongful confinement in secret	Imprisonment of 2 years in addition to imprisonment under any other section	Bailable, Cognizable
354	Assault or criminal force to deter public servant from discharge of his duty	Imprisonment for 1 year which may extend to 5 years and with fine	Non-bailable, cognizable
354A	Sexual harassment and punishment for sexual harassment	Imprisonment which may extend to 3 years or fine or both	Bailable, Cognizable
354B	Assault or use of criminal force to woman with intent to disrobe	Imprisonment of not less than 3 years but which may extend to 7 years and with fine	Non bailable, cognizable
363	Punishment for kidnapping	Imprisonment for 7 years and fine	Bailable, Cognizable
363A	Kidnapping or maiming a minor for purposes of begging	Imprisonment for 10 years or life and fine	Non bailable, cognizable
365	Kidnapping/Abduction with intention of secret or wrongful confinement	Imprisonment for 7 years and fine	Non Bailable, Cognizable
366A	Procurator of minor girl	Imprisonment for a term of up to 10 years and shall also be liable to a fine	Non Bailable, Cognizable
366B	Importation of girl from foreign country	Imprisonment for a term of up to 10 years and shall also be liable to a fine	Non Bailable, Cognizable
367	Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.	Imprisonment for 10 years and fine	Non-bailable, cognizable
368	Wrongfully concealing or keeping in confinement, kidnapped or abducted person	Same punishment as for kidnapping or abduction	Non-bailable, cognizable
371	Habitual dealing in slaves	Imprisonment for a term of up to 10 years and shall also be liable to a fine	Non Bailable, Cognizable

372	Selling minor for purposes of prostitution, etc.	Imprisonment for a term of up to 10 years and shall also be liable to a fine	Non Bailable, Cognizable
373	Buying minor for purposes of prostitution, etc.	Imprisonment for a term of up to 10 years and shall also be liable to a fine	Non Bailable, Cognizable
374	Unlawful compulsory labour	imprisonment of a max of 1 year or fine or both	Bailable, Cognizable
506	Punishment for criminal intimidation	A term which may extend to 2 years, or fine or with both	Non cognizable, bailable
509	Word, gesture or act intended to insult the modesty of a woman	Imprisonment for 3 year and with fine	Cognizable, Bailable

Indian Penal Code (IPC) 1860: Section 370 and 370 A		
Trafficking of Person		
Through Act of	By means (process) of	For the purpose of
-	<ul style="list-style-type: none"> - Threat - Force or Coercion - Abduction - Fraud or Deception - Of the abuse of power (or position of vulnerability) - Inducement, including giving or receiving money or benefit 	<p><u>Exploitation (Explanation1):</u></p> <ul style="list-style-type: none"> - Including, at a minimum - Physical Exploitation - Sexual Exploitation - Slavery or practice similar to slavery (like Forced Labour) - Servitude - Forced removal of organs

-		
-		
<i>Explanation 2:</i>	Consent of the Victim is immaterial in determining an offence of trafficking	
Section	Provision	Punishment
370 (2)	Punishment for offence of trafficking.	Rigorous imprisonment of 7 years, extendable to 10 years and liable to fine.
370 (3)	Punishment for the offence of Trafficking of more than one person.	Rigorous imprisonment of 10 years which may be extended to life and shall also be liable to fine.
370 (4)	Punishment for the offence involving trafficking of a minor.	Rigorous imprisonment of 10 years which may be extended to life and shall also be liable to fine.
370 (5)	Punishment for the offence involving	Rigorous imprisonment of 14 years which

	trafficking of more than one minor.	may be extended to life imprisonment and shall also be liable to fine.
370 (6)	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 (7)	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.	Rigorous imprisonment for 5 years which may extend 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.

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 and Regulation) Act 2016

Section	Provision	Punishment
14 (I)	<ul style="list-style-type: none"> - For employment of child and adolescent in contravention of the provisions of section 3 and 3A - For repeat offence, imprisonment of at least 1 year and max of 3 years - Parents shall be punished unless they permit such child for commercial purposes in contravention of the provisions of section 3. 	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.

The Juvenile Justice (Care and Protection of Children) Act, 2015

Section	Provision	Punishment
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74	Prohibition on disclosure of identity of children	Imprisonment for a term which may extend to 6 months or a fine up to Rs 1 lakh or both
75	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 1 lakh or both
	If committed by any person employed by or managing an orgn, responsible for care and protection of child	Rigorous Imprisonment for a term which may extend to 5 years and a fine up to Rs 5 lakh
	If because of cruelty, the child is physically in capacitated 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 a 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
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 or with 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
82	Child subjected to corporal punishment	First conviction – fine of Rs 10000; subsequent offence – imprisonment which may extend to 3 months or fine or with both
	If committed by a an employee of the CCI	In addition to above, debarred from working directly with children
	If the management of the CCI does not cooperate with the enquiry	Imprisonment of a term and less than 3 years and shall also be liable to fine which may extend to Rs 1 lakh
83	Use of child by militant groups 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
4	Punishment for living on the earnings of prostitution	<ul style="list-style-type: none"> - 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 - 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	<ul style="list-style-type: none"> - 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 a minor - rigorous imprisonment for a term of not less than 7 years and not more than 14 years
6	Detaining a person in premises where prostitution is carried on	<ul style="list-style-type: none"> - 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 for a term which may extend to 10 years and shall also be liable to fine
7	Prostitution in or in the vicinity of public places	<ul style="list-style-type: none"> - 1 - Imprisonment for a term which may extend to 3 months - 1A – where offence is in respect of a minor or child, imprisonment of either description for a term which shall not be less than 7 years but which may be for life or for a term which may extend to 10 years and shall also be liable to fine - 2 – first conviction with imprisonment for a term which may extend to 3 months or with fine which may extend to 200 Rs or with both; in second or subsequent conviction, imprisonment for a term which may extend to 6 months and also with fine which may extend to 200Rs

The Information Technology Act, 2000		
Section	Provision	Punishment
66	Hacking with computer system	Imprisonment up to 3 years or with fine which may extend up to Rs 2 lakhs or both
67	Publishing of information which is obscene in electronic form	<p>First conviction – imprisonment of either description for a term which may extend to 5 years and with fine which may extend to lakh rupees</p> <p>Second or subsequent conviction – imprisonment of either description for a term which may extend to 10 years and also with fine which may extend to 2 lakh rupees</p>

The Prohibition of Child Marriage Act, 2006		
Section	Provision	Punishment (cognizable and non-bailable offence)

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 solemnization of child marriages	Rigorous imprisonment which may extend to 2 years and shall also be liable to fine which may extend up to one lakh rupees.

*women cannot be punished under this Act.

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 10000Rs 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 st offence and permanently for subsequent offence
19	Punishment for commercial dealings in human organs	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 Protection of Children from Sexual Offences Act, 2012		
Section	Provision	Punishment
4	Punishment for penetrative sexual assault	Imprisonment of either 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 either description for a term which may extend to 3 years and shall also be liable to fine.
14	(1) Punishment for using child for pornographic purposes	Imprisonment of either description which may extend to 5 years and shall also be liable to fine Second or subsequent conviction – imprisonment of either description for a term, which may extend to 7 years and also be liable to fine

	(2)if offence in relation to penetrative sexual assault (Sec 3), by directly participating in pornographic acts	Imprisonment of either description which shall not be less than 10 years but which may extend to imprisonment for life, and shall also be liable to fine.
	(3) if offence in relation to aggravated penetrative sexual assault (Sec f), by directly participating in pornographic acts	Rigorous imprisonment for life and shall also be liable to fine
	(4) if offence in relation to sexual assault (Sec 7), by directly participating in pornographic acts	Imprisonment of either description for a term which shall not be less than 6 years but which may extend to 8 years, and shall also be liable to fine
	(5) if offence in relation to aggravated sexual assault (Sec 9), by directly participating in pornographic acts	Imprisonment of either description which may extend to 3 years or with fine or both
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.

Annexure 3

Victim Friendly Prosecution

1. The statement of the victim of trafficking in persons shall be recorded at the residence of the victim or at a place where he usually resides including a Home or at the place of his choice and as far as practicable by the Special Anti – Trafficking officer or a Special Juvenile Police Officer as the case may be as prescribed in rules.
2. No victim shall be detained or kept in a police station in the night for any reason
3. The police officer shall ensure that the identity of the victim is protected from the public media, unless otherwise directed by the Special Trafficking Court, or in the case of a minor victim, a Child Welfare Committee or a Juvenile Justice Board .
4. **The Procedure for recording the statement of the victim of trafficking in persons shall be as follows:**
 - The Magistrate or the police officer, as the case may be, shall record the statement as spoken by the victim in the presence of the family member of the victim or next friend, or any other person in whom the victim has trust or confidence, in a manner prescribed.
 - Wherever necessary, the Magistrate or the police officer, as the case may be, may take the assistance of a translator or an interpreter, having such qualifications, experience and on payment of such fees as may be prescribed, while recording the statement of the victim.
 - The Magistrate or the police officer, as the case may be, may, in the case of a victim having a mental or physical disability,

seek the assistance of a special educator or any person familiar with the manner of communication of the victim or an expert in that field, having such qualifications, experience and on payment of such fees as may be prescribed, to record the statement of the victim.

- Wherever possible, the Magistrate or the police officer, as the case may be, shall ensure that the statement of the victim is also recorded by audio-video electronic means

5. Protection of victim during recording of evidence

- The Special Court shall ensure that the victim is not exposed in any way to the accused at the time of recording of the evidence, while at the same time ensuring that the accused is in a position to hear the statement of the victim and communicate with his advocate.
- For the purposes of sub-section (1), the Special Court may record the statement of a victim through video conferencing or by utilising single visibility mirrors or curtains or any other device.

6. In Camera trial

The Special Court shall try cases *in camera* and in the presence of the family of the victim or any other person in whom the victim has trust or confidence:

Provided that where the Special Court is of the opinion that the victim needs to be examined at a place other than the court, it shall proceed to issue a commission in accordance with the provisions of section 284 of the Code of Criminal Procedure, 1973.

7. Assistance of an translator or interpreter

- Wherever necessary, the Court may take the assistance of a translator or interpreter having such qualifications, experience and on payment of such fees as may be prescribed, while recording the evidence of the victim.
- If a victim has a mental or physical disability, the Special Court may take the assistance of a special educator or any person familiar with the manner of communication of the victim or an expert in that field, having such qualifications, experience and on payment of such fees as may be prescribed to record the evidence of the victim.

ADDITIONALLY FOR CHILDREN,

1. All police stations to have children's rooms any interaction with children to be conducted in a safe, comfortable and non-intimidating atmosphere.
2. All court trying cases of children to have Child Friendly Court Procedures. This includes-
 - a. Provisions of a support person or paralegal volunteer from Legal Services Authority for pre-trial counseling and to accompanying the child for recording of the statement.
 - b. The statement or the interview of the victim/ witness child shall be conducted while ensuring:
 - i. That it is recorded in the Children's room or, if possible in the child's place of residence including, home or institution where he or she is residing
 - ii. The statement shall be recorded verbatim as spoken by the child.
 - iii. The statement may also be recorded by audio-visual means, including video conferencing.
 - iv. The child may be accompanied by parent or guardian or social worker.
 - c. Compensation of travel expenses borne by the child and one accompanying adult.
 - d. Vulnerable witness rooms/ Children's room to be provided.
 - e. Language to be familiar to the child and provision of translator if required. Psychological counseling wherever necessary.
 - f. At no point will the child be allowed to come in contact with the accused.
 - g. The child may be represented, as the case may be, by:
 - i. a lawyer of his choice, or,
 - ii. public prosecutor, or
 - iii. a lawyer designated or empanelled by the Legal Services Authority, free of cost.
 - h. After the process of trial

- i. The child or guardian should be informed of the decision of the judicial proceeding and its implication.
- ii. The child or guardian should be made aware of his legal options.

Annexure 4 - TEAR OUTS FOR ROLE AND RESPONSIBILITY

Police/SJPU/CWPO/AHTU

1. Identify trafficked children through pro-active investigation; organized crime investigation.
2. Take cognizance of complaint from any other person.
3. Adopt a victim friendly behavior at all times.
4. Ensure a paralegal is present in police station.
5. Register the complaint under relevant laws.
6. Make the necessary arrangements (logistical and for victim protection) for raids by the police.
7. Notify the government or NGO run Short Stay Home/ CCIs of the expected number of rescued persons and the expected time of arrival. In case of children do the same to produce the children before CWC.
8. Ensure confidentiality of the rescue operation and the persons rescued.
9. Participate in the raids with at least one woman police officer.
10. Collect evidence in form of photographs and documents.
11. Arrest the owners/employers/offenders involved in the case.

12. In cases of child labour and bonded labour, ensure that factory is closed, back wages are returned, and legal action is taken for relinquishment of debt? In CSE, confirm that brothel is closed and offenders are evicted from premise as per Sec 18 of ITPA 1956.
13. Treat the liberated victims with respect and dignity and hand them over to short stay home authorized by the Government.
14. Take the victims for immediate medical assistance.
15. Register the crime and take all necessary steps to conduct further criminal proceedings.
16. Put forward the cases before the court in case of adults and the CWC in case of children.
17. Timely file charge sheet on completion of investigation.
18. Resident Commissioner of Police
 - Confirm efforts are being made to find the Identify home, parents, village, home of the child.
 - Confirm efforts are made to complete home verification.
19. Home verification report by IO submitted to the court in case of adults and the CWC in case of children.
20. Ensure that the offender gets prosecuted.
REFER SECTION on victim/child friendly prosecution.

CWC

1. Identify trafficked children
2. Ensure that there is a child labour rehabilitation fund and juvenile justice fund in every district.
3. Take cognizance of cases by other stakeholders.
4. A photocopy of all documents furnished during the proceedings of the CWC to be given to DCPU/ parents/guardian of the victim and others concerned.
5. Conduct enquiry/ direct the CWO, DCPU, and NGO to conduct investigation within 15 days.
6. Age determination (Sec 94 of JJ and Sec 10 of CLPRA).

- If CWC based on appearance decides that it is a child, proceed with inquiry.
 - If reasonable doubt about age, undertake process of age determination by seeking evidence (to be completed within 15 days from the date of such order):
 - Date of birth certificate or matriculation equivalent certificate from school
 - Birth certificate
 - If the above two are unavailable, then ossification test or any latest medical age determination test conducted on their orders.
4. Order for medical examination.
5. Place the child with family, in children's home/ shelter home/fit facility/fit person for the time of investigation.
6. CWC to pass final order within 4 months of first production of child.
7. After investigation, the CWC can:
 - Declare the child is in need of care and protection;
 - Restore the child to family under supervision of CWO or social worker;
 - Send child to
 - Specialized Adoption Agency (if child below 6 years of age)
 - Open Shelter/Children's Home/ Fit facility/Fit person/Foster care (if child is above 6 years of age) until the child attains an age of 18 years;
 - Declare the child legally free for adoption;
 - Provide Sponsorship (individual/group/community sponsorship).
8. Initiation of Home Verification by CWC with CWC of home district.
9. Home verification report by IO submitted to CWC

10. Verification of documents submitted by parents by CWC at the time of repatriation?
11. IF APPROVED, Child repatriated through Parents/Resident Commissioner from short-stay home?
12. IF NOT APPROVED, Children to be provided with long term shelter (in case home/parent verification not verified)
13. Transfer case to DLSA for legal aid and assistance.
14. Make an individual care plan as per the above direction (with information on health and nutrition needs, special needs, educational, training, emotional, psychological, restoration, follow up, social mainstreaming, life skills, protection from all kinds of exploitation and abuse). This has to be reviewed after three months and modified as per progress.
15. Issue rehabilitation card to monitor progress of the individual care plan of the child, which needs to be maintained by the Rehabilitation cum Placement Officer (to be appointed in every CCI). Follow up within 1 month of final order, every month for first 6 months and then every 3 months for a year.
16. Confirm that the CCI is registered.
17. Assess proper economic compensation for victim.
18. Verify that minimum standards of care in CCIs as per JJ Act 2015 and corresponding rules are adhered to Identify Govt schemes supporting child homes are available to the child.
19. Ensure education through Sarva Shiksha Abhiyaan and mid-day meal scheme.
20. Ensure victims get access to appropriate Government schemes and benefits.
21. Get the child's Adhaar card, BPL card made and bank account as required for availing benefit under schemes.
22. Provision of consistent medical aid.

Department of Labour

1. Keep the areas in its jurisdiction where trafficking of children is likely to be hired under continuous active surveillance.
2. Take cognizance of complaints on trafficking.
3. Regular inspection of adolescents in child labour.
4. Identification of situations of bonded labour.
5. Document all details of the rescued child by obtaining details from him/her in an affectionate manner and furnishing a copy to the police department.
6. A complaint against the employer of the child labourer should be lodged with the police and the child's statement should be recorded as a matter of form.
7. Necessary action should be taken against employer/accused. In cases of child labour and bonded labour, ensure that factory is closed, back wages are returned, and legal action is taken for relinquishment of debt? In CSE, confirm that brothel is closed and offenders are evicted from premise as per Sec 18 of ITPA 1956.
8. While obtaining information from the child labourer, if it is found that the employer had paid any money as financial assistance, loan, advance, etc. to the parents, then an immediate report should be filed with the Sub-Divisional Magistrate for declaring the child labourer as 'forced' labourer and a copy should be endorsed to the Government through the concerned Deputy Commissioner.
9. Take due care of the liberated child labourers till they are sent to the Children's Home and see that they are provided with proper food, water and other facilities.
10. As per the definition specified in Section 2(K) of the Juvenile Justice (Care and Protection of Children) Act 2000, an individual who is below 18 years of age should be considered as a child. Therefore in the course of raid, if child workers above the age of 14 are found, then they should also be liberated from the clutches of the employer(s) and handed over to the police.
11. Ensure victim gets necessary compensation.

Education Department

1. Children should be offered free and compulsory

Health Department

1. Complete medical examination of rescued child after the

<p>education and the department should ensure that the children receive it through SSA and RTE.</p> <ol style="list-style-type: none"> 2. Various schemes sponsored by the Central and State Governments should be implemented for this purpose. 3. During the period of education, the rescued child should get the benefit of the free mid-day meals scheme of the State Government. 4. Child rights education in school curriculum and teacher's training content. 	<p>raid.</p> <ol style="list-style-type: none"> 2. Immediate medical treatment should be initiated, if required. 3. Certificate of age of the rescued child should be furnished immediately to the investigating police officer or Government labour officer as per their demand. 4. In case of child labour, expenses incurred towards the issuance of medical certificate and treatment should be met by the DC from the District Child Welfare Fund and should be recovered from the employer of the child labourer and reimbursed to the District Child Welfare Fund. 5. Medical examination as per Health Ministry guidelines. 6. If long term aid required, link with appropriate schemes.
<p>Sub-Divisional Magistrate (SDM)</p> <ol style="list-style-type: none"> 1. Victim statement collected by SDM as per CrPC Section 164. 2. As per Sec 357A of the CrPC, determine the quantum of compensation to be awarded. 3. Identify cases of bonded labour <ul style="list-style-type: none"> - Issue release certificate - Provide legal aid - Immediate medical assistance 	