



# SARIO

## **Regional Victim/Witness Protection Protocol to Combat Trafficking, Commercial Exploitation and Sexual Abuse of Women and Children in South Asia**

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**Regional Victim/Witness Protection Protocol  
to Combat Trafficking, Commercial  
Exploitation and Sexual Abuse of Women and  
Children in South Asia**

**Regional Action Forum  
on  
Improving the Implementation of Laws Protecting  
Women and Children**

Supported by



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The authors' views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

## Acknowledgment

The Regional Action Forum, supported by the SARI/Equity Program, is a platform for dedicated individuals from civil society, government, the judiciary and academia to address, and act upon, common issues of effective law implementation in South Asia. This Protocol is a collective effort of the entire membership of the Forum and its National Core Group members<sup>1</sup> to establish norms for Victim Witness Protection commonly acceptable in the region.

SARI/Equity acknowledges with gratitude the valuable contributions of each and every expert in developing this document and the many hours of precious time devoted to this exercise. Particular thanks go to Dr Asha Bajpai (Reader, Tata Institute of Social Sciences, Mumbai) who, as a member of the Forum, was instrumental in bringing together the various national components of the Protocol into a comprehensive set of legal rules and regulations for the protection of women and children victims of trafficking and other forms of violence. These standards extend from the time of rescue by the police, through trial proceedings, to the reintegration of the victims in society.

The AED-SARI/Equity Team

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1. For the list of members of the Forum and the National Core Groups please see the back page of this document.

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# INTRODUCTION

## Preamble

Even though official data are lacking in the South Asia context, it appears to be widely accepted that (a) incidents of violence against women and children (including trafficking) have considerably increased in the last decade; (b) few cases are reported to the law enforcement agencies and even fewer reach the trial stage; and that (c) 15 to 20% of the accused are convicted - most cases resulting in acquittals. One of the main reasons for the low rates of complaints and convictions appears to be the reluctance of victims to come forward in filing complaints against those who have violated their rights or to testify in court for fear of humiliation and threat to their own life and property or that of their families. Strong legal instruments for the protection of victim witnesses are therefore needed. Women and children who are victims of crime are uniquely vulnerable to threats and intimidation, far more so than the average witness.

Their human rights are violated both in the course of the crimes committed against them and in their subsequent persecution by their assailants when they attempt to do their duty as citizens and testify. Violations of human rights are both a cause and a consequence of violence against and commercial sexual exploitation of, women and children. Accordingly, it is essential to place the protection of all human rights at the center of any measures taken to prevent and combat these crimes.

The testimony of a victim in a crime of violence is often the best and the only evidence that can be obtained against an accused. It is therefore incumbent upon the State, in fulfillment of its duty of meting out justice, to ensure that victims who would be witnesses are protected against

the threats and the intimidation, psychological and physical, of the associates of the accused. The victim-witness special status needs to be recognized. The State is best equipped to provide protection and security to victim-witnesses and thereby protect their human rights.

Currently, neither India, Bangladesh, Nepal or Sri Lanka have a distinct law, policy, guidelines or programs to protect victim witnesses before, during or after the trial. Though some existing laws (penal codes, criminal procedure codes and constitutions) refer to witness protection, provisions appear to be insufficient to adequately protect women and children victim witnesses who have been trafficked for sexual exploitation.

There is thus a need for a more rights based and regional level protocol to combat violence against and commercial sexual exploitation of women and children in South Asia and to protect and promote certain rights of victims and witnesses of crimes in proceedings where their lives, psychological and physical security and property are endangered due to their contribution to the collection of evidence in order to meet ends of justice.

Having considered the need for a common outlook and for common principles to inspire, guide and protect the victim of and witness to a crime in the protection and enhancement of the human environment, and to meet the end of justice.

## *Therefore*

*Concerned that discrimination against children and women who are both the victim of and witnesses to crime continues to exist, recognizing that women and children are*

*uniquely vulnerable to threats and intimidation, that violence against witnesses is a violation of human rights and fundamental freedoms in that it impairs or negates a woman's or child's enjoyment of recognized rights and freedoms;*

*Desiring to restate laws, policies and measures on victim/ witness protection that have been realized and set down new commitments and standards;*

*Desiring that the rights, principles and policies specified in the protocol shall be respected by and shall guide the actions of all persons, institutions, organizations and enterprises;*

*Determine to ensure justice and equity and the realization of victim/ witness protection in all areas of life in the region of South Asia including India, Bangladesh, Nepal and Sri Lanka.*

*This Regional Victim/ Witness Protection Protocol to combat violence against and commercial sexual exploitation of women and children, prescribes basic guidelines on the standards of prosecution of all offenders profiting from the misery of the victims. The Protocol recommends specific measures to be taken by the State and wherever applicable in collaboration with non-governmental organizations.*

## 1. Objectives

- ? To protect and safeguard the rights of women/children victims and witnesses of trafficking and commercial exploitation and sexual abuse of children and women against intimidation, retaliation and secondary victimization.
- ? To amend, review and implement the SAARC Convention on preventing and combating trafficking in women and children for prostitution.

- ? To recommend amendments to national legislations.
- ? To attempt better interpretation and enforcement of laws.
- ? To provide an advocacy tool for organizations and NGOs.
- ? To create an official support system for women and children within the police and court systems.
- ? To facilitate bilateral agreements within the region.
- ? To initiate Public Interest Litigations.

## 2. Definitions

**In this Protocol unless the subject or context otherwise requires:**

- 2.1 Authority** means the competent authority dealing with the issue of trafficking, commercial exploitation or sexual abuse in the respective country in the region of South Asia.
- 2.2 Child** means any person who has not completed 18 years of age.
- 2.3 Child sensitive** means an approach, which takes into account the rights of the child as stated in the Convention on the Rights of the Child (CRC) and allied protocols.
- 2.4 Court** means and includes High Court or Magistrates Court or District Court or a competent authority, whichever is appropriate, where a proceeding relating to trafficking or sexual abuse and commercial exploitation is pending or is to be instituted.
- 2.5 Database** is a statistical compilation or formation which is accompanied by a quick-response tracing mechanism along with a coordinating structure for missing

children and women – intra and inter State - within the police system which will be necessary to prevent trafficking or commercial exploitation or sexual abuse and also includes the list of profiles of persons convicted for trafficking and related crimes.

**2.6 In-camera proceedings** are those in which no person, other than the victim/witness, presiding officer, the defense counsel, the prosecutor, investigating officer and the next friend of the victim/witness and the accused or any other person authorized by the Court, are present in the court or in any other location where the proceedings are held.

**2.7 Experts** means and includes but is not limited to child and victim advocates, support persons, child care professionals, councilors, prosecutors and defense lawyers, judge, law enforcement officials, medical and mental health professionals, trained social workers and counselors.

**2.8 Intimidation** means any manner of pressure, threat, coercion, tampering or undue influence, that is directly, indirectly or potentially exercised or used by any person upon any witness or victim with a view to influence his/her testimony that will subvert, manipulate, mislead or misdirect the course of justice.

**2.9 Judicial processes**, in case of victim/witness, for the purpose of this protocol, include investigation, prosecution, bail or any summary or other proceedings, pre trial, trial and post trial procedures.

**2.10 Live link** means a live television/computer link or other arrangement whereby a witness may testify, while being physically

absent from the courtroom or any other place or location where any judicial or any other proceedings are being held and can none the less be viewed and cross-examined.

**2.11 Multidisciplinary teams** means a professional unit of experts from health, social work, law enforcement and legal services trained to handle child sexual abuse and exploitation cases.

**2.12 Place of safety** means a place or a location including a private home, community center, institution or an NGO, with a child friendly environment, the security procedures of which ensure that if the victims or witnesses are placed there, they will not be re-trafficked or exploited or abused or harmed in any way, either physically or mentally or financially.

**2.13 Repatriation** means to send back the victims of inter-country or cross-border trafficking of persons, to their country of origin.

**2.14 Residential Facility** means shelter home maintained and administered by the competent Authority or by the NGOs or by any person duly authorized by the Authority to provide shelter to the victims/witnesses.

**2.15 Special police officer** means the designated police officer or any other designated enforcement official dealing with the offences related to trafficking or commercial sexual exploitation or abuse and includes the metro police, border police, railway police and airport police.

**2.16 State** for the purposes of this protocol means combined efforts by the administrative, statutory, and judicial arms of the Government.



### **2.17 Trafficking in persons shall mean:**

- a) The recruitment, transportation, transfer, harboring or receipt of persons by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor, or services, slavery or practices similar to slavery servitude.
- b) The consent of a victim of trafficking in persons to the intended exploitation set forth in (a) shall be irrelevant where any of the means set forth in (a) have been used<sup>1</sup>

### **2.18 Victim** means and includes the following three categories:

- a) Children who have not completed the age of 18 years (“verified minors”), as verified by a judicially-recognized age-verification specialist, who are performing sex acts under the management, direction or control of adult persons, regardless of whether or not the children claim that they are voluntarily engaging in such acts;
- b) Similarly-situated adolescents whom the judicially-recognized age-verification specialist has determined might or might not be a minor<sup>2</sup> regardless of whether the adolescents claim that they are voluntarily engaging in such acts (“possible minors”);

- c) Women above the age of 18 who claim that they, through force or threat of force, were required to perform sex acts without their consent, by any person(s) (“verified majors”).

**2.19 Victim/witness protector** includes the State, the law enforcement agencies, and civil society including the media and non-governmental organizations recognized by the State for their contribution towards survivors and witnesses of sexual exploitation and abuse.

**2.20 Witness** means any person including a child, who has witnessed or has knowledge or information on the commission of a crime relating to trafficking or commercial exploitation or sexual abuse and has testified or is testifying or about to testify before any judicial or quasi-judicial body, or before any investigating authority.

## **3. Scope & Applicability of the Protocol**

The State Parties to provide that in any criminal proceedings relating to trafficking or commercial sexual exploitation or abuse any victim/ witness of trafficking or commercial exploitation or sexual abuse may be given protection upon an application filed before the court by the said person or any members of her/his family or any other person associated with the case or the Court on its own motion or *suo motu* or in those cases in which the Court thinks fit to do so and gives appropriate directions. A risk assessment and decision to be made by the Court on the necessary level of protection in each case.

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1. UN Protocol to Prevent Suppress and Punish Trafficking in Persons, Especially Women and Children-Article 3.  
2. For instance when such specialists suggest that a girl might be between 17 ½ and 19 ½ years old.

#### 4. Responsibilities of Witnesses of trafficking or commercial exploitation or sexual abuse<sup>3</sup>

The State Parties to provide that the responsibilities of the witnesses include:

- (a) to testify before and provide information to all designated law enforcement officials in appropriate proceedings in connection with or arising from the activities involved in the offense charged;
- (b) to comply, as far as practicable, with legal obligations against her/him;
- (c) to cooperate with respect to all reasonable requests of officers and employees of the Government and be accessible to the law enforcement agencies, who are providing protection under this Protocol; and
- (d) to regularly inform the appropriate officials of her/his current activities and address.

#### 5. Protection to Witnesses

The State Parties to agree to provide the following protection to witnesses of trafficking and commercial exploitation or sexual abuse

- a) **Residence Facility:** To be placed in a residence facility which is also a place of safety, until he/she has testified or until the threat, intimidation or harassment disappears or is reduced to a manageable or tolerable level. When the circumstances warrant, the victim/witness shall be entitled to relocation and/or change of personal identity at the expense of the Authority. This right may also be extended to any member

of the family of the witness, at the discretion of the competent authority.<sup>4</sup>

- b) **Special Protection:** To have special protection from the authorized law enforcement agency or any authorized Government agency including an NGO police station for herself/himself for her/his family until the threat, intimidation or harassment disappears or is reduced to a manageable or tolerable level.
- c) **Economic Support:** The Competent Authority/Authorities shall, whenever appropriate, assist the Witness in obtaining a means of livelihood. The Witness shall be entitled to financial assistance from the Competent Authority for his/her support in such amount and for such duration as the Court shall determine.
- d) **Travel Expense:** To be provided with reasonable traveling expenses and subsistence allowance by the Authority in such amount as the Court may determine for his attendance in the court, body or authority where his/her testimony is required, as well as interviews with prosecutors or investigating officers. Wherever appropriate, the support person accompanying the witness, to be also provided with travel and subsistence allowance.
- e) **Medical Treatment:** To be provided with free medical treatment, hospitalization and medicines for any injury or illness incurred or suffered by him/her because of witness duty, in any private or public hospital, clinic, or at any such institution at the expense of the Authority.

3. Please refer to the Regional Protocol on Minimum Standards of Care and Support for the Victims of Trafficking and other forms of Violence in South Asia (under preparation by the Regional Action Forum on Strengthening the Care of Survivors).

4. Please refer to the Regional Protocol on Minimum Standards of Care and Support for the Victims of Trafficking and other forms of Violence in South Asia (under preparation by the Regional Action Forum on Strengthening the Care of Survivors).

## **6. Termination of the Witness Protection**

State Parties to ensure that any witness given protection who fails or refuses to testify or to continue to testify without just or reasonable cause, when lawfully obliged to do so, may be prosecuted for contempt. If he/she testifies falsely he/she shall be liable to prosecution for perjury. Moreover, the enjoyment of all rights and benefits under the protocol shall be deemed terminated. Provided however, that before terminating such protection, the court shall inform the person involved of the termination of the protection provided, stating therein the reason for such termination.

### **PART - A**

## **7. Protection of Victims of trafficking and commercial exploitation and sexual abuse**

The State parties to provide that the special rights and status which should be accorded to trafficking victims must be preserved whether or not they act as witnesses.

### **7.1. Victim Protection during a Rescue Operation**

The State Parties to provide for the following practices during a rescue operation

- I. Crimes of trafficking for commercial sexual exploitation and sexual abuse to be well-documented. Record of the copies of these complaints should be maintained and accessible to the competent authorities.
- II. The First Information Report or the first report at the police station, as far as possible and practicable, be comprehensive and must include location of crime, description of offence, victim and accused, chronology of crime preferably from the date the victim was trafficked, surveillance report. Surveillance video content can be recorded in the first information report to the police. The surveillance report may be withheld from the others with the exception of judiciary.
- III. Counseling to be immediately provided to the rescued victims.
- IV. The identity and the location of the decoy customer should remain confidential and should not be disclosed by the investigating officer when the rescue of the victim girl has been effected.
- V. In identifying the main culprits immediately after rescue the identity of the victim/decoy customer/complainant should be kept strictly confidential. Their faces should be concealed or a screen should be set up during the identification parade. Victim(s) who have assisted the police to be given concealed identity, if required.
- VI. Relevant sections of the Penal Code and other local and special laws, pertaining to the peculiar circumstances of the crime to be added to the first information report at the police station, if the victims have given concrete statements against the accused, indicating the applicability of the said sections or laws.
- VII. The presence of social workers from registered non-governmental organisations or representatives of local government bodies during a police raid on a brothel or other place of prostitution to be mandatory, as far as possible and

practicable. These female social workers need not be from the same locality.<sup>5</sup> Every police station must have a list of such social workers.

VIII. The State Parties to notify that it is mandatory for the special police officer to initiate and personally be present during the search.

## 7.2. Victim Protection – Post-rescue Operation

The State Parties to provide for the following practices after the rescue operation and during the legal procedure post-rescue:

- I. Victims must be separated from the accused after the rescue operations, at all times by sight and sound - from the point of rescue to the end of the period of appeal for the accused. It is to be ensured that a social worker or a support person, preferably a female, is present when the girls are being interviewed by the police officers after the rescue.
- II. The statement of the victims to be taken by persons trained in victim/witness interviewing.
- III. The victims should be treated with respect and dignity by the police and other authorities.<sup>6</sup> Victims are not accused persons and should not receive the same treatment as the accused. Counseling to be provided immediately to the rescued victims.
- IV. To ensure that the victim is immediately taken to a certified place of safety after the raid.<sup>7</sup>

V. The concerned/relevant magistrate or judicial officer or the members of the competent authority, as the case may be, to visit and supervise the rescue home periodically, preferably once in a month to ensure adherence to court orders and directions.

VI. Access to victims must be under the supervision of the Child Welfare Committee or organization or any other competent authority dealing with the issues of women and/or children, of the area, as the case may be. A social worker must accompany the victim whenever she leaves the place of safety.<sup>8</sup>

VII. Legal representation for the rescued victim must be with her voluntary and informed consent and in consultation with the support person, if any.

VIII. The judicial system must conduct the remand proceeding in-camera. The remand proceeding, if possible, to be undertaken by closed circuit television.

IX. All victims, apparently or suspected to be minors, should be kept at a special facility for juveniles in need of care and protection, and to be produced before the competent authority within twenty-four hours.

X. Serious efforts should be made to procure for the purposes of evidence the entry on the Register of Deaths and Births as it is the best evidence, followed by a high school or a primary school leaving certificate. In the absence

5. The presence of two independent witnesses, one of them, being a female social worker, to assist in the raid, rescue and search operation to be strictly implemented.

6. The victim should not be made to huddle in a corner of the police station and treated as a criminal. Necessary refreshments and counseling should be immediately provided.

7. The victims should never be kept overnight in the police station.

8. Any messages, drugs, additives, gifts, money or inducement in any form to the victim, being given by the offender/accused at any location, particularly outside the court, during the period of trial or remand, must be prevented.

of the above, the opinion of the medico-legal expert is relevant.

- XI. The detailed evidentiary statement of the victim, in the place of safety, should be recorded in the presence of the next friend and/or lawyer or superintendent of the home or probation officer or social worker and submitted to the Police/Court for use in the court proceedings, against the accused.
- XII. Every care must be taken that all the accused should be arrested within as short a time as possible after the crime has taken place and the charge sheet filed within 60 days. The victim's help may be taken to trace the criminal.
- XIII. Grant of bail under stringent conditions.

### **7.3. Victim Protection during the Process of Age-verification**

For the process of age-verification, the State Parties to ensure that after producing the victims before the appropriate authority the registered medical officer, preferably a female gynecologist / pediatrician / forensic expert, shall examine the person for

- I. Determination of age.
- II. Detection of any injuries as a result of sexual abuse.
- III. Sexually transmitted diseases.
- IV. Female social workers/probation officers/police constables, should be present, when the victims are medically examined.
- V. A second opinion should be sought for benefiting the victim when any foul play is suspected.

- VI. The States must ensure adequate medical facilities for age verification and also in the long run setting up facilities for conducting the above tests, at the first rescue home/reception center, where the victims are brought initially.<sup>9</sup>

### **7.4. Victim Protection during the Stage of Trial**

The State Parties to ensure the following victim protection at the Stage of Trial:

- I. All victims willing or necessary to testify should be given a full witness protection program. They must be kept in the safe custody of a well-guarded rehabilitative institution. Those wanting to meet them must be monitored and carefully supervised.
- II. During a trial the victims should be protected at all times and separated at all times from the accused. Victims should be made familiar with the proceedings of the court system.
- III. The trial to be held in-camera and through full close-circuit camera. Court may order to take evidence at a place other than the court premises. Special Courts having screens to shield the victims from the hostility or glare of the accused should be set up.
- IV. The Court may provide for the victim/witness to give evidence by means of a live link or recorded video tape. The State Parties to provide that where a special measures direction provides for a live link, or recorded video tape or communication to be admitted as evidence in chief of the witness, the direction may also provide

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9. Such facilities will go a long way in improving the results of age verification.



for any cross-examination of the witness, and any re-examination, to be recorded by means of a live link, or recorded video tape or teleconference or communication through interpreter or other person appointed by the Court.

- V. Where a direction provides for the witness to give evidence by means of a live link, or by recorded video tape or teleconference or through interpreter or other person appointed by the Court, the witness may not give evidence in any other way without the permission of the court.
- VI. The examination in chief and the cross-examination of the victim should be conducted as expeditiously as possible. Day to day continuous trial to be held. Long drawn adjournments should be avoided and strongly resisted.
- VII. Victims crucial to a case not to be arbitrarily removed from protective custody.<sup>10</sup>
- VIII. If required, evidence may be taken through an interpreter or other person approved by the court.
- IX. Questions relating directly to the evidence of the crime to be given to the presiding officer of the court and not be directly posed to the victim.
- X. Reasonable breaks may be given to the child victim during the period of cross-examination, if requested and found necessary.
- XI. A next friend or legal counsel for the victim to be present in the court to protect the interest of the victim during the trial

XII. Special measures for children to be ensured in accordance with the best interest of the child. The Court may use multidisciplinary teams of experts whenever necessary.

## **8. Admissibility of Evidence Taken By Special Measures**

For admissibility of evidence taken by special measures, the State Parties to provide that evidence taken by special measures or by direction of the Court to be made admissible under the Evidence Laws and any other applicable law of the country.

## **9. Credibility of Victim/Witness**

The State parties to provide that in all criminal cases the fact of the entitlement of the victim/witness to the protection and benefits provided shall not be admissible in evidence to diminish or affect his/her credibility.

## **10. Harassment of Victim/Witness**

Harassment of Victim/Witness to be an offence under the protocol and the State parties to provide that any person who harasses a victim/witness and thereby hinders, delays, prevents or dissuades a victim/ witness from:

- a) Attending or testifying before any judicial or quasi-judicial body or investigating authority;
- (b) Reporting to a law enforcement officer or judge, the commission or possible commission of an offense, or a violation of conditions or probation, parole, or release pending judicial proceedings;
- (c) Seeking the arrest of another person in connection with the offense;

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10. Since they are often kidnapped or murdered by the accused to prevent justice.

- (d) Causing a criminal prosecution, or a proceeding for the revocation of a parole or probation under code; or
- (e) Performing and enjoying the rights and benefits under this Protocol or attempts to do so, shall be punished as prescribed by the law.

## 11. Confidentiality of Proceedings/Actions

The State Parties to provide that:

- (a) All proceedings involving application for securing protection and the action taken thereon by the persons (Court Officials, Police Officers, Technical Support Providers or any person involved with the protection procedure) shall be under obligation to keep all the information and documents confidential. No information or documents given or submitted in support thereof shall be released except upon written order of the court.
- (b) Violation of the confidentiality of the said proceedings/actions to be an offence.

## PART - B

## 12. Prevention

The State Parties to ensure that the Survivor/Victim/Witness Protection Protocol covers the following in the area of prevention of

trafficking and commercial exploitation or sexual abuse :

- a) **Identification and prioritization of vulnerable areas and groups:** In consultation with the various agencies of the state and concerned non-governmental organizations, source locations, areas and transit points will to be identified, to reduce or eradicate the possibilities of trafficking of women and children.<sup>11</sup>
- b) **Database:** State will provide for the creation and maintenance of statistical database on missing persons at the regional, national, district/taluka level, which will facilitate its dissemination with other stakeholders. The database to include persons convicted for an offence related to trafficking in the region.<sup>12</sup>
- c) The State Parties may in consultation with the law enforcement agencies formulate rules relating to the notification of previously convicted offenders of trafficking and commercial sexual abuse and exploitation.
- d) The victim should not be released until there is a broad understanding of the circumstances covering his/her trafficking.<sup>13</sup>
- e) The State Parties to associate with the special police officer of an area a non-official advisory body consisting of not more than five leading, vetted social

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11. A greater understanding of vulnerable periods of the year wherein larger number of victims are trafficked from the source areas will help in the concerted action. This shall be reviewed periodically and the same program will be implemented in a rotating fashion. A greater understanding of vulnerable periods of the year wherein larger number of victims are trafficked from the source areas will help in the concerted action. The various agencies of the state will conduct in partnership with concerned non-governmental organization a resource mapping exercise to map existing resources and players in the above identified priority zones which will help in the program planning and implementation.

12. A database be maintained of any person (including pimps) containing their profile, fingerprints, photographs along with other details of those who have been charged or convicted of an offence under laws dealing with prostitution, trafficking, sexual abuse and exploitation or any other special or local laws with an imprisonment for a term of two years upwards; or by a court or tribunal in any country of an offence which would if committed in the country have been punishable under any of the aforesaid laws with imprisonment of like terms.

13. The custody/identity/location of the victims should not be handed over or made public until an effective home study has been submitted by the competent authority. The involvement of the victim's neighbors and family should be investigated before a victim is released in the safety of his/her family. At no point should a victim of trafficking rescued at the stage of prevention be released back into the custody of those who put her/him in a harmful place to begin with. The missing person's report, local police station's report, statement of parents and letter from the State Parties must be taken.

welfare workers of that area to advise them on questions of general importance regarding the implementation and enforcement of laws for commercial sexual abuse and exploitation of children. State Parties to give support and recognition to women's self help groups at the village level or to the local bodies unit level watch-dog system to prevent trafficking and ensuring safe migration.

- f) Vigilant squads should be set up at prominent transport locations as a preventive measure.<sup>14</sup>
- g) The State must take effective measures to battle those social customs, traditional practices that are fostering and feeding directly into the trade of trafficking of persons.
- h) The State Parties to ensure the immediate implementation of the laws at the grass-root levels to combat trafficking of persons by such practices.
- i) State along with its partners shall ensure assistance, guidance and direction to trafficked women particularly with regards to the vulnerability of their children to trafficking and abuse to avail facilities such as sponsorship, foster care, night and day care shelters and residential care for their children, especially girl children, and preference to be given to these vulnerable children in hostels/institutions and educational institutions. In certain circumstances, the children of prostitutes need to be protected from their own family/guardians.

### 13. Effective Law Enforcement

For effective law enforcement the State Parties must ensure that:

- a) Compensation by exploiters to the victims to be considered. The assets and funds confiscated during anti-trafficking operations and investigations should be used to fund future anti-trafficking programs and operations.
- b) Proceedings should be initiated for ensuring that the accused person does not continue to commit fresh offences after the first crime against a child/woman.
- c) A bond of a sum should be undertaken from habitual offenders in the category mentioned above.<sup>15</sup>
- d) The State parties may, if they consider it expedient to do, confer upon any retired police or military officer not below the rank of an inspector or the rank of a commissioned officer all or any of the powers conferred by or under this Act on a special police officer with respect to particular cases or classes of cases or to cases generally.
- e) State Parties will establish special cell and its officers be notified as Special Police Officers in major cities and in districts which are identified as high supply areas.<sup>16</sup>
- f) Strengthening the capacity of law enforcement agencies to arrest and prosecute those involved in trafficking as a preventive measure. This includes ensuring that law enforcement agencies comply with their legal obligations.

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14. Keeping in mind the use of various public and private modes of transport (air, sea and road) used by the traffickers to traffic victims from source areas to destination points, the law enforcement agencies and the employees of transport groups should be trained and monitored to be more vigilant to identify vulnerable victims and question the people they are traveling with and rescue them at the slightest suspicion of them being trafficked.

15. Surety should only be accepted from qualified and experienced social workers, teachers, doctors, psychologists, academicians, for the bond of the above-accused persons.

16. These cells will consist of specially trained, vetted and sensitized Police Officers at every level who will ensure that the laws are enforced to apprehend the exploiters and provide humane treatment to the victims.



- g) The identity of victims should be protected; and if required, the identity of the victims/witnesses to be changed.

## PART - C

### 14. The State Parties to ensure the following measures for Repatriation

- a) State will ensure that repatriation should be carried out depending on how safe and nurturing the family environment is for the victim. If and when the victim chooses to return to an abusive family situation the State would need to intervene and repatriate the victim to an institution which can protect and care for the individual. Repatriation will be done after their stay in a protective home.
- b) State will provide adequate financial assistance for meeting the needs of rescued victims during travel while repatriating them to their families or institutions in source areas.
- c) State will also make adequate provision for dearness allowance for the police escort or any other authorized escort during such travel.
- d) Repatriation to be done only with the consent of the victim. While making the decision about repatriation of the rescued victim, informed consent of a trafficked person to be sought by appropriate authority.
- e) The survivor being repatriated should be counseled and prepared to return to the

country of origin by way of medico-psycho-social care and basic life-skill empowerment so that the survivor is enabled to be reintegrated in mainstream life.

- f) The Government of the country of origin to be informed and necessary formalities and steps to be taken by the Government to receive the repatriated survivors.
- g) Repatriation to involve taking the victim girl from the transit home to the place of birth or last known stay of the victim girl.<sup>17</sup> The appropriate Committee/Magistrate should enquire with the victim girl whether sufficient care, protection was accorded to the victim as any prudent person would give.
- h) State will also reimburse emergency expenses incurred by the police or other authorized escorts. The State will assign to an appropriate authority the responsibility of adequate follow up.<sup>18</sup>

## PART - D

### 15. The State parties to provide survival, developmental, psychological, reintegration support and legal aid to the survivors for their Rehabilitation and Reintegration

- a) State Parties will ensure that the trafficked victims will be equally provided with access to *formal and non-formal*

17. Many of the victim girls at the stage of repatriation find themselves blackmailed by those who escort them. In some cases money also has been extracted from them.

18. Monthly follow-up for the first six months and then ensuring that the victim is provided with adequate support and that the victim does not return to prostitution. Adequate follow up of the victim supervised by the Child Welfare Committee or other competent authority dealing with women/children along with the close cooperation of other recognized organizations should be mandatory for a period of three years after the victim has been repatriated.

educational opportunities, depending on the child's need *and interest*.

- b) State Parties will formulate special schemes *like employment guarantee schemes, agricultural subsidies, and medical support* to provide assistance to the families of trafficked child victims.
- c) State Parties will ensure that alternate livelihood options are made available to the families of trafficked victims (women or children). State in collaboration with appropriate government or non-governmental organization will provide entrepreneurship development training, which will include skills, knowledge, and resources, marketing skills and micro-credit at district level.
- d) State Parties to ensure that no rescued victim should be sent back to family without ensuring social acceptance, family support, to prevent re-trafficking and further commercial sexual exploitation.
- e) In cases where rescued victims are from other states, the Department of Women and Child Development and National Human Rights Commission, Nodal Officers of the concerned states of such agencies along with the NGOs would jointly and collaboratively take action to ensure proper shelter, travel arrangements, medical and psychological treatment and reintegration with a humane approach in the best interest of the victim.
- f) All efforts would be made to persuade and motivate victims of trafficking and commercial sexual exploitation to be reintegrated and rehabilitated in society to lead a dignified life.

## **16. Extradition**

- I. The offences referred to in the protocol shall be regarded as extraditable offences in any extraditable treaty which has been or may hereinafter be concluded between any of the Parties to the Protocol.
- II. Extradition shall be granted in accordance with the laws of the State to which the request is made.
- III. If a State party, which makes extradition conditional on the existence of a treaty, receives a request for extradition from another State party with which it has no extradition treaty, the Requested State shall, if so permitted by its laws, consider this Protocol as the basis for the extradition in respect of the offences referred to in this Protocol.

## **17. Mutual Cooperation & Assistance**

The State Parties shall grant to each other mutual cooperation and assistance in the areas of investigations, inquiries, trial, extradition, legal help and exchanging databases and any other assistance that may be required in consistency with the objectives of the protocol.

## **18. Monitoring the Implementation of the Protocol**

The State parties should establish a Monitoring Body in each country within the region for the purpose of monitoring the implementation of the protocol.

## **19. Laws, Rules and Regulations**

Each country in the South Asian region including Bangladesh, India, Nepal and Sri Lanka who has ratified the above protocol may make appropriate laws, regulations and rules to give effect to the provisions of the protocol.

**Regional Action Forum  
on  
Improving the Implementation of Laws Protecting Women and Children**

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