

PRAJWALA Vs. UOI

TRAFFICKING

- By Madhulika Mohta, Advocate
and Editor The Verdict Today**

- Present Case deals only with the trafficking of
- a targeted group of vulnerable persons for a certain single purpose - the trafficking of
- women and children, in particular, for Commercial Sexual Exploitation (“CSE”).

Extracts from The Judgment

- *All persons involved in prostitution of others are traffickers.*
(Mentioned in Para 142)
- *Where a single woman practices prostitution for her own livelihood, without another prostitute, or some other person being involved in maintenance of such premises, her residence will not amount to 'brothel'. (Mentioned in Para 154)*
- *ITPA is not endorsing sex work but not abolishing it either, treating the institutions as exploitative while technically preserving individual's right to sell sex in isolation.*
(Mentioned in Para 319)

- India acts as a source, transit and destination country for the trafficking of women and children for CSE. CSE of women and children is largely carried out both in and out of brothels, houses and resorts, amongst other places. However, of late, there has been a trend of decentralization of sex trafficking activities away from the traditional brothels and therefore, “red light areas” are not the only centres for CSE. Moreover, the creation of sexual exploitative material and its widespread dissemination through the internet does not require either the victim or the perpetrator to be at a single physical location. Therefore, it was urged that coordinated efforts from
- different stakeholders and authorities is required to completely uproot any and all traces of CSE in the country.

- *All trafficking offences for sexual exploitation of others through prostitution falling under BNS would inevitably be covered by some offence creating provision of ITPA as well. Victim protection plan must necessarily take into account mechanism already established under ITPA. (Mentioned in Para 448)*

Who is considered “victim of trafficking for Commercial Sexual Exploitation”

- **Three categories; those trafficked into prostitution against their will –**
- **Those who were initially trafficked but have since continued to pursue prostitution voluntarily –**
- **Those who have entered and remain in sex work as a matter of their own choosing, however structurally constrained that choice may be – All three categories of persons are clumped together as ‘victims of trafficking for CSE’ and processed under same framework in Section 17 of ITPA Act.**

- **Whether, on combined reading of Articles 21 and 23, victims of trafficking for Commercial Sexual Exploitation (CSE) could said to be entitled to right to rehabilitation –**
- **Yes, trafficking victim's needs do not disappear when conviction is recorded – Rescue without rehabilitation returns victim to very same conditions of poverty and vulnerability that made her target in the first place – Constitutional right to rehabilitation obligates State to provide victims with means and support to pursue rehabilitation – It does not authorise State to impose rehabilitative process upon her against victim's will.**

- **When Magistrate concludes that adult victim should either be placed in protective home or restored to her family, can he proceed without taking into account victim's wishes and consent**
- **No, Magistrate must take into account victim's consent and wishes – This should not be construed to mean that victim's consent/wishes replace procedure prescribed under Section 17 – Departure from victim's expressed wishes must be exception, not the rule, and any such departure must be grounded on cogent reasons –**

- **Nothing stated in relation to consent, should be made applicable to period of interim safe custody under Section 17(3) – Such custody is necessary and temporary measure that enables inquiry to proceed – It is only for final orders passed by Magistrate relating to detention in protective home or restoration to family.**

- **Whether, there exists no need to enact separate comprehensive legislation after enactment of new Criminal Laws, along with ITPA and other schemes –**
- **No, what existed in 2015 continues till date and not much has changed in terms of both legislative and institutional framework – Guidelines to which UOI had expressed its agreement with have also not found their way into present framework in any manner.**

UOI to give some earnest consideration for enacting comprehensive legislation on trafficking, one that addresses not only trafficking for CSE but all other forms of exploitation.

- **Abuse of Authority – Sexual Misconduct – Public Servant – ITPA, 1956 – Sections 17-A and 17-B – BNS, 2023 – Section 127 –**

Whether there is a need for creating offence for abuse of authority by police officers ?

- **Yes, 64th Law Commission Report examined necessity of introducing special provision – Due to prevalence of complaints against police officers engaging in abusive behaviour towards rescued victims –**

- **First section would create specific offence for police officers who compel or seduce victim in their charge or custody to illicit sexual intercourse – Second would create rebuttable presumption that police officer who delays production of rescued victim before magistrate has wrongfully confined her within meaning of Section 127 of BNS – It is necessary that Respondent No. 1 reconsiders inclusion of aforesaid provisions within scheme of ITPA.**

- **Guidelines – Victim Protection Plan – Constitution of India, 1950 – Articles 32 and 142 – ITPA, 1956 – Section 19 – Directions pertaining to “Victim Protection Plan”**
- **The Victim Protection Plan, provides impetus for rehabilitation measures that are responsive to victim’s choices and reflective of present economic realities**

- Detailed guidelines passed while giving primacy of human rights and dignity, non-criminalization, informed consent, Right to Information and best interest of Victims – Guidelines shall be applicable from stage of pre-rescue, initiation of rescue, rescue, post rescue, proceedings before Magistrate, rehabilitation, repatriation and reintegration, prosecution and trial, prevention and training, application u/s 19 of ITPA by the victim –Additional
- Directions also passed to fulfill the Victim Protection Plan for strict compliance by all stakeholders.

VICTIM PROTECTION PLAN

- **Primacy of human rights and dignity:**
All measures taken under this plan shall be implemented in a manner that places the victim's human rights at the centre. No action taken in the name of care, protection, or rehabilitation shall compromise the dignity of the victims or adversely affect any of their human rights.

- **Non-criminalisation:**
- **Victims shall not, at any stage, be treated as criminals or subjected to measures associated with criminal liability.**
- All actors shall at all times accord them the status of a crime victim.

- **Informed consent: No measure of care, protection, or rehabilitation**
- under this plan shall be imposed upon victims without their free and
- informed consent, except in exceptional circumstances concerning their
- safety and protection, and only upon a specific and reasoned finding to that effect.
- Consent once given may be withdrawn in accordance with lawful procedure.

Non-stigmatisation & Non-Discrimination:

All actors implementing this plan shall remain conscious that victims belong to sections of society that are deeply stigmatised and marginalised and shall conduct themselves in a manner that does not reinforce or perpetuate such stigma.

Victims and their involvement in prostitution shall not be the basis for any discrimination, adverse judgment or diminished respect.

Every victim shall be protected from further exploitation and harm and shall be provided with adequate basic care at every stage of this plan.

Protection shall not be made conditional upon the victim's willingness or capacity to cooperate with law enforcement or to participate in any legal proceedings.

NODAL OFFICER

- For that purpose, a dedicated officer from each State could be put in charge of registering complaints on that common portal with regard to missing children and also for the purpose of disseminating information on the said portal which could be perceived by all nodal officers from each of the States as well as Union Territories and in coordination with the dedicated officer in the Home Ministry of the Union of India, the tracking of the missing children could be better facilitated.

- We say so for the reason that presently there is a lack of coordination and a coordinated network amongst the police units who are in charge of tracking and recovering missing children in the States and Union Territories across the country. As a result, the recovery of the missing children, who are kidnapped for illegal trafficking and other illegal purposes are not recovered in time and/or not at all recovered and the investigation is tardy.

- There shall be a consultation between the Nodal Officers of the Ministry of Home Affairs, Government of India with the Nodal Officers of each of the States and Union Territories for the purpose of collection of up-to-date statistics of the number of missing children and restoration of children to their parents/guardians or to the childcare homes, as the case may be

- Nodal Officers of each State and Union territories referred to above shall also collate from the Director of Prosecution in each State/Union Territory, the statistics and details with regard to the prosecution of the cases in the matter of missing children and submit those details to the Nodal Officers to be appointed by the Central Government in the Ministry of Home Affairs.

- Fourteen different stakeholders are participating in the Mission Vatsalya portal which reads as under:
- Special Juvenile Police Units (SJPU)
- District Crime Record Bureau (DCRB)
- Criminal Investigation Department.
- State Crime Record Bureau
- Railway Protection Force (RPF)
- Ministry of Home Affairs (MHA)
- District Child Protection Units (DCPU)
- Child Welfare Committees (CWC)
- District Magistrates
- Anti Human Trafficking Units
- Juvenile Justice Boards (JJB)
- Child Care Institutions (CCI)

- 13. State Adoption Resource Agency (SARA) 14. Central Adoption Resource Authority (CARA)
- Any citizen who accosts a missing child or a parent or guardian, who wants to give a complaint regarding a missing child can access the portal.
- However, there is a difficulty with regard to dissemination of information to the concerned stakeholders and other relevant persons concerned with the missing child.

- Once any complaint regarding a missing children is received on the said portal, there would be simultaneous dissemination of information to the nodal officers, who could in-turn take steps for tracing of the missing child, investigation of the perpetrators such as kidnappers and for registering further complaints in the matter and taking all other necessary steps.

- Whether, there is an entrenched network which is operating in the country either region-wise or State-wise where an attempt is being made to kidnap children for various illegal purposes ?
- Court has called for Data from various States of missing children, traced children etc. To understand from a particular region children are missing , particular gender, particular State etc.

Why?

- Children become soft targets who fall prey to the clutches of these predators constantly in search of an easy catch offline and online.
- The children they exploit are extremely vulnerable. With family members, bread-earners deceased or affected by disaster, land and livelihoods destroyed and food and shelter hard to come by, dysfunctional families, children are more inclined than ever to take desperate actions.
- Often the predators are known people from within the community and/or village and operate by means of allurements of children in the guise of good education, employment and better life.

Initiatives at the Level of Child Welfare Police Officer as mentioned in Section 107 of JJ Act

- The Child Welfare Police Officers of Thana/Police Station of trafficking prone areas should hold a discussion with Village/Town/ Mohalla Safety Committee to keep a tab on all suspected persons, trafficking convicted persons, previously accused in trafficking etc. SJPU, based on their existing mechanism, should alert the Safety Committees regarding such persons who are under scanners of police with regard to trafficking related activities.

Hotspots

- Traffickers are also found to be in the guise of placement agents promising lucrative jobs or education, leveraging online technological platforms for targeting children. Hence, as preventive measures, it should be ensured that vulnerable children at their *Source and Destination States are mapped and they receive the benefits and entitlements enlisted in various schemes provisioned by the Government of India or State Government* .

TRANSIT HOTSPOTS

- The Transit Hotspot areas are typically the route through which the victim is taken to the place of intended exploitation by the trafficker. It is also possible that some of the Hotspots maybe treated as Source. and/or Destination as well apart from being Transit Hotspot. As preventive strategy at Transit Hot Spots, following could be undertaken;

Destination Hotspot

- Is the area or place where the victim of trafficking is brought to be exploited for economic gain and other forms of exploitation. Trafficking is a basket of crimes; hence, while the victim maybe being trafficked for the end exploitation, he/she maybe the victim of many crimes even before reaching the destination.
- The crime starts at a source area where the first actor in the chain of trafficking takes an action to recruit a victim, follows through transit areas through which the victim is transported to the destination where he/ she is exploited for some form of economic gain. However, exploitation may happen at various stages by multiple traffickers during the chain of the crime of trafficking. Some of the Destination Hotspots may also qualify to be Source and Transit

AHTU

- It is certified by Bureau of Indian Standards (BIS), it is a recognition of testament to the units exceptional work in rescuing and rehabilitating thousands of minors and missing children over the years.
- The unit is monitored by NHRC, Delhi Commission for Protection of Child Rights besides Delhi High Court and Supreme Court

- It conducts regular raids in red-light areas and also industrial areas where minor children work as labourers.
- It keeps a watch on gangs involved in child begging etc.
- In cases, where the missing child is not recovered after 4 months from the date of filing of FIR, the matter may be forwarded to Anti-trafficking unit in each state

Transit Points

- Transit points such as railway stations and bus stops be kept under continuous surveillance and any one taking a child or woman along with him/herself who does not appear to be comfortable in his/her company should immediately be checked/questioned by GRP personnel or men from the District Police.
- ☐ In case of inter- State and intra State transit hotspot, Deputy Commissioner/District Magistrate (DC/DM) may ensure that adequate information sharing on the rights of migrants, how to reach out to help, details of the help-lines and contact person etc. in various languages should be displayed through posters, electronic display of messages etc.

PREVENTION

- Proactive action needs to be undertaken to prevent trafficking by involving other stakeholders apart from those identified here. Form networks with transit service providers and law enforcement agencies in transit route and destination areas. Ensure meticulous collection of intelligence to ensure that the crime of trafficking is prevented before it occurs.

Database

- Centralized database to be created to organize all the information collected overtime for speedy sharing of information and tracking of accused persons, transit routes and detection of multiple offenders. Store information regarding the profile of the victim, the convicted persons and placement agencies, massage parlors, begging rings, escort agencies etc. Also use existing databases such as 'track the missing child', 'PENCIL', etc

Face Recognition Software (AFRS)

- Following a Delhi High Court order, Automated Facial Recognition Software (AFRS) was acquired by police in March 2018 to identify missing children by matching photographs. Since then, it has been used to scan crowds for suspects during high-profile events.
- **AI smart glasses in R-Day crime fight for the first time in 2026**

Glasses scan people in the crowd, match their faces with criminal records, and flag individuals whose facial matches exceed 60% with profiles in the police database.

Pinki vs. State of Uttar Pradesh (2025),

- 20-point action plan from the **Bharatiya Institute of Research and Development (BIRD)** report dated April 12, 2023, to combat **child trafficking**
- Key Directions for BIRD Report Implementation
- The Supreme Court mandated that all State Governments implement the 20-point BIRD report, focusing on:
- **Law Enforcement:** Immediate investigation of missing children, creation of district Anti-Human Trafficking Units (AHTUs), and strengthened railway surveillance.
- **Victim Protection:** Prioritizing victim dignity, implementing child-friendly court procedures, and robust witness protection.

- **Systemic Reform:** Enforcing child protection laws, ensuring active Child Welfare Committees (CWCs), and mandating FIRs for child labor.
- **Rehabilitation:** Utilizing NGOs for rescue, rehabilitation, and education under the Right to Education Act. Testbook +1
- Other Major Directions in the Pinki Case
- **Speedy Trials:** The court directed that cases should ideally conclude within six months of framing charges.
- **Accountability:** The ruling included strict measures against involved institutions and ordered the surrender of accused individuals.

Law Enforcement & Investigation

- o Missing children to be treated as trafficking/abduction cases initially

- . o Establish independent AHTUs (Anti-Human Trafficking Units) in every district.
- o Police must undergo capacity-building and gender sensitisation training.
- o Mandatory use of material and forensic evidence, digital videography, and witness protection measures. o Involvement of RPF and GRP at railway stations for preventive actions. o Victim-Centric Approach o Victims to be treated with dignity, privacy, and provided with interpreters. o Child-friendly courts and video conferencing for victim testimonies. o Strong witness protection to be institutionalised. o Legal and Administrative Reforms o Enforce relevant laws: JJ Act, Child Labour Act, BLSA, IPTA, IPC

- The list of previously identified traffickers and suspected persons should be shared by local Thanas and AHTUs who in turn share the same with stakeholders like police thanas, GRPs, Railway Police, Transport Commissioners etc. SCPCR's in coordination with the State Police and DCPUs should ensure that a confidential system of sharing information/intelligence regarding such traffickers is undertaken.

- Involvement of NGOs/CSOs active in the District working on child rights/human trafficking issues is desirable to assist the office of DC/DM/SP in coordination work and any other assistance as indicated by DC/DM/SP or the concerned District Level Authority

- A Missing Report should be lodged in the Daily Diary at once, clearly mentioning the date and probable time when he/she was noticed to be missing. In this Report, all the details of the missing person including name, parentage, age, height, complexion, sex, clothes worn and any special mark of identification etc should be incorporated. The photograph of the missing person and the contact number of the complainant/relative should be obtained and placed on file.

- Police Control Room, State Crime Record Bureau (SCRB), National Crime Record Bureau (NCRB) and ZIP NET should be informed immediately.
- A W.T. Message will be flashed on all India Level with the detailed description of the victim.
- Information will also be shared with the CBI, where a Cell relating to missing children/persons has been set up in CBI as per the directions of the Hon'ble High Court.
- A copy of the DD entry should be sent to the District Missing Persons Unit (DMPU) and Missing Person Squad (MPS), PS Kotwali, Delhi

- Hue and Cry notices should be prepared and issued.
- I.O. should immediately begin enquiries from persons present at the scene or last seen, collect the details of possible suspects and question them without loss of time
- Cell phone details, if any, of missing person should also be immediately obtained for further investigation as to his/her whereabouts.
- Photographs of missing person should be given wide publicity at all the prominent outlets concerned-that is, at the railway stations, inter-state Bus Stands, Airport, Regional Passport Office and through law enforcement personnel at Border Check Posts. This should be done promptly and in any case not later than one week of the receipt of the complaint.

- Border Check Posts should be alerted immediately.
- In case of a missing minor, Check Post staff should also be sensitized to question unaccompanied minors/children or adults carrying children and behaving with them abnormally, during checking of vehicles/public transport.
- Publicity should be given in surrounding areas using loud-hailers, if necessary.
- All necessary publicity should be given in News Papers/Electronic Media. Publicity should also be given through local cable TV Network.¹³ The parents/family members/friends and relatives should be examined to find out the probable cause of disappearance of the person.

- It will be important to scrutinize the missing person's computer, diaries etc. if any, and his personal belongings for any clue. This exercise, of course, should be done with the concurrence of the family members/complainant.
- In case of missing minors, areas/spots of interest such as Malls, Amusement Parks, Games, Parlours etc. should also be searched. If available, surveillance/security cameras(CCTV) in the vicinity of the scenes or last seen should also be scanned.
- Any person having terms with the missing person should be examined.

- The Police Officer handling the Missing Report should remain in touch with the complainant/family members to ascertain if any demand for ransom has been received.
- Whenever should play is suspected a case shall be registered under relevant sections of law and investigated.
- Enquiries should be made from the neighbouring police stations about any unidentified dead body found or information about missing persons admitted in the hospitals.
- Enquiries should also be made from the hospitals about unidentified injured persons admitted in the hospitals.

- Poor House, Children Home, Rain Baseras, Nari Niketan, Mortuaries in hospitals. NGOs record, etc. should be checked for the missing person.
- In appropriate cases, a declaration of reward for furnishing clue about the missing person should be announced within a month of her/his disappearance.
- The investigating Officer of the Missing complaint should periodically keep in touch with the complainant to update him on the efforts made, ascertain further clues, if any, and also to find out if the missing person has since returned on his/her own.
- In case the missing person is traced, the Police Control Room, District Missing Persons Unit (DMPU) and Missing Persons squad (MPS) should be informed immediately for updating the record and for discontinuing the search.

- **REGISTRATION OF A CRIMINAL CASE** As regards further action on the complaint regarding a missing person, registration of a case will be mandatory in case of all missing children on the age of 12 years and below, and in case of all missing cases of minor girls irrespective of age. Further, in case of male children above 12 years, a case will be registered when a suspicion is voiced by the complainant or arises otherwise. A lady officer should preferably be entrusted with the investigation of a case related to a minor girl."

Bachpan Bachao Andolan v. 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.
- Inform the Child Welfare Police Officer and forward the FIR to the Special Juvenile Police Unit for immediate action for tracing the child.
- The police shall also: Collect a recent photograph of the missing child and make copies for District Missing Persons Unit, Missing Persons Squad, National Crime Records Bureau/Media etc.; ii. Fill the form "M" on the designated portal www.trackthemissingchild.gov.in

- Fill the specific designated "Missing Persons Information Form" and immediately send to Missing Persons Squad, District Missing Persons Unit, National Crimes Records Bureau, State Crimes Records Bureau, Central Bureau of Investigation, PCRs, Railway Police and other related institutions;iv. Send the copy of the FIR by post/email to the office of nearest Legal Services Authority along with addresses and contact phone numbers of parents and legal guardians of the missing child or the child care institution, after uploading the relevant information onto the designated portal; v. Prepare sufficient number of Hue and Cry notice containing photograph and physical description of the missing child to be sent for publication;

- Invoke the services of District Legal Services Authorities through empanelled lawyers and the paralegal volunteer (PLV) appointed at the police station or the district authority.
- Upload information on the www.trackthemissingchild.gov.in portal. In case the information is already uploaded, match the complaint with case details uploaded on the portal.

Open-Source Intelligence (OSINT)

- **Open source intelligence (OSINT)** is the collection and analysis of data gathered from open sources (overt sources and publicly available information) to produce actionable intelligence. OSINT is primarily used in [national security](#), [law enforcement](#), and [business intelligence](#) functions.

- Sources can include websites, social media, news articles, public records, forums, and more. OSINT is used by various groups, from government and law enforcement to cybersecurity professionals, journalists, and even criminals, to identify threats, gather evidence, monitor brand sentiment, and answer specific intelligence requirements.

How it works

- Process involves gathering data, processing it by filtering and verifying information, and then analyzing it to draw conclusions, often using specialized tools and techniques to identify patterns and hidden connections.

- 1. Collection
- **Identify the objective:** Traffickers
- **Leverage public sources:**
 - Gather data from publicly accessible channels, including:
 - **Websites and media:** News articles, blogs, forums, company websites, and public filings.
 - **Social media:** Profiles and activity on platforms like Twitter, Facebook, and LinkedIn.
 - **Public records:** Government databases and official documents.
 - **Geospatial data:** Satellite imagery and map data.
 - **Deep and dark web:** Content that isn't indexed by search engines but is still publicly accessible.

- **Detecting signs of trafficking recruitment and smuggling advertisements**
- Investigators can monitor the web for keywords and phrases associated with trafficking and smuggling activities. They can analyze suspicious profiles for posts, images and other indicators that may suggest victim recruitment or smuggling services.
- **Identifying perpetrators**
- Although traffickers and smugglers often use fake profiles, they inevitably leave behind real traces. Contact details such as phone numbers and email addresses – often shared for potential victims to get in touch – can help identify those behind the illegal operations.

- **Detecting signs of trafficking recruitment and smuggling advertisements**
- Investigators can monitor the web for keywords and phrases associated with trafficking and smuggling activities. They can analyze suspicious profiles for posts, images and other indicators that may suggest victim recruitment or smuggling services.
- **Identifying perpetrators**
- Although traffickers and smugglers often use fake profiles, they inevitably leave behind real traces. Contact details such as phone numbers and email addresses – often shared for potential victims to get in touch – can help identify those behind the illegal operations.

