

A REVIEW OF THE IMMORAL TRAFFIC PREVENTION ACT, 1986

NOVEMBER, 2017

Kiran Bhatta

INTRODUCTION

Human trafficking, a form of organized crime that extends across borders, covers various forms of human rights violations, ranging from commercial sexual exploitation to forced labour and organ donation.¹ Over the years it has taken on more complex and diverse forms making it necessary to reform laws and strategies geared towards its eradication and control. Tragically, the involvement of children, especially girls, has also grown. According to the United Nations Office on Drugs and Crime (UNODC) in its 2012 Report the share of minor girls trafficked increased from 13% in 2006 to 17% in 2009. The Report also shows that trafficking for commercial sexual exploitation accounts for 57-62% of all victims of trafficking. In order to deal with this growing menace the United Nations Convention against Transnational Organized Crime developed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000), to provide the international legal framework through which trafficking could be combatted world-wide. Countries, like India, who have ratified the protocol, are obligated to amend their domestic laws accordingly to deal with the problem at the national level.

In the most recent Global Report on Trafficking in Persons 2016 released by the UNODC, it has been observed that the profile of detected trafficking victims has changed. Although most detected victims are still women, children and men now make up larger shares of the total number of victims than they did a decade ago. In 2014, children comprised

28 per cent of detected victims. These shifts indicate that the common understanding of the trafficking crime has evolved. A decade ago, trafficking was thought to mainly involve women trafficked from afar into an affluent country for sexual exploitation. Today, criminal justice practitioners are more aware of the diversity among offenders, victims, forms of exploitation and flows of trafficking in persons, and the statistics may reflect this increased awareness.

With the rise of trafficking as a global phenomenon India's involvement in it has also grown. More worrying still is the rising share of children² in the total trafficked population in India. In fact, India is seen as a source, transit and destination country for trafficked children, with an estimated 1.2 million children trafficked in India every year (US Department of State, 2010). While the bulk of trafficking in India takes place internally and is believed to be targeted mostly at forced labour, lack of consistent and credible data makes it hard to establish the precise numbers especially as far as children and their destination are concerned. According to the National Crime Records Bureau Report (NCRB, 2015)³ – the only credible government data source on trafficking – a total of 6877 cases were recorded in that year, up from 5466 in 2014. Of these, the cases pertaining to child trafficking were 3490 in 2015, which is about 50% of all trafficking cases. Unfortunately, similar data is not available for previous years to enable comparisons, but we do know from the same report that the conviction rates for child trafficking in 2015 were an abysmal 14.3%.

While India signed the Palermo Protocol in 2002 and ratified it in 2011, it has yet to frame a comprehensive anti-trafficking law.⁴ The current legislation specifically dealing with trafficking is the Immoral Traffic (Prevention) Act, 1986 (ITPA 1986) that covers just one aspect of it, namely prostitution or commercial sexual exploitation. Given that forced labour constitutes the largest trafficking problem in India, this seems surprising. However, it is believed that the presence of separate laws dealing with the other aspects of trafficking allow for all aspects to be covered. For instance, a host of Labour laws that deal with child labour and bonded labour;⁵ State Anti-Beggary laws;⁶ the Prohibition of Child Marriage Law; Sections of the IPC⁷ and several Constitutional provisions⁸ to name a few. However, despite the multiplicity of these laws the problem remains intractable. One reason for the difficulty lies in the fact that laws fall under different departmental and state or central government control, resulting in lack of clarity over territorial jurisdictions.⁹ However, anomalies in the law itself such as a lack of consensus on definitions (what constitutes trafficking or exploitation), lack of clarity on the rights of victims,¹⁰ weak punitive measures against perpetrators, and poor enforcement mechanisms impede their justiciability resulting in low conviction rates.

While the gaps as mentioned above in the structure of the legal system have contributed to the ineffective enforcement of law, the weak linkages between law and policy have compounded the problem, especially at the rehabilitation end. For instance, the quality of protective homes provided or the quality of training given to law enforcement officers or the calculation and allocation of compensation for victims, are all determined by policy decisions. Unfortunately, extremely low resources allocated towards these ends have contributed to inadequate capacities within the system to deal with the range and scale of issues involved. Hence, relief or compensation is not properly applied on behalf of the victims or even determined or paid in time or paid in full; homes are run dis-satisfactorily and in some instances in violation of the specifications mentioned in the Juvenile Justice Act and other laws, counseling of victims is inadequate and opportunities for sustainable livelihoods that would enable the victim to transit into mainstream society are largely absent. All these shortfalls greatly increase the risk of victims relapsing into their older lives and frustrate the rescue and prosecution process.

In sum, gaps in the law and law enforcement machinery coupled with poor convergence across departments have meant that the situation of trafficking in India remains far from reigned in. In addition, allegations of corruption and a nexus between law enforcement agents and perpetrators have also grown, without necessary steps taken to curb this trend. This policy brief is an attempt to evaluate the ITPA, 1986 with special reference to the recent changes in law such as the amended Section 370 and 370A of the Indian Penal Code (IPC), in 2013. In particular it makes a case for a comprehensive new law that takes into account the changing scenario and its imperatives.¹¹

Recommendations of the Parliamentary Standing Committee in its 182nd Report released in 2006 and some positive features of new draft Bill [Trafficking of Persons (Prevention, Protection and Rehabilitation) Draft Act, 2017] being contemplated by the Ministry of Woman and Child Development (MWCD) are included in the section of recommendations.

THE INTERNATIONAL CONTEXT AND INDIA'S RESPONSE TO IT

By way of providing the broader legal framework, it would be useful to say a few words on the international context and covenants that India is signatory to. The most important and pertinent international instrument in the context of trafficking is the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, commonly known as the Palermo Protocol.¹² It marks a significant milestone in

international efforts to control the trafficking of persons and is the base document for efforts across countries to combat trafficking.

India signed on to the Palermo Protocol in 2002, and ratified in 2011, but it was codified in national law in 2013, through the enactment of the Criminal Law (Amendment) Act, which resulted in changes in several sections of the IPC, especially 370¹³ and 370A. While it is not necessary for domestic legislation to use the precise language of the Protocol its adoption into domestic legal systems is expected to give effect to the concepts contained in the Protocol. The amended sections have brought a fairly comprehensive definition of trafficking into the Indian legal system, but despite these changes the framework for trafficking falls short of meeting the Protocol requirements on at least three counts.

One, it does not “explicitly recognize and penalize all forms of labour trafficking ...as it excludes forced labour from its definition”. This is a rather large gap, as labour constitutes the bulk of the trafficking problem in India.¹⁴ **Two**, it does not provide for sufficient safeguards aimed at preventing trafficking. The ones that do exist are for the purposes of commercial sexual exploitation and not trafficking for other purposes. **Three**, it does not provide for an effective system for the safety, recovery and compensation of trafficked victims.¹⁵

Each of these omissions, while being in contravention of the requirements of the Palermo Protocol, has also contributed to the inability of the system to deal effectively with the problem. At the same time the ITPA, has remained unchanged with no reference to the amendments in the IPC. As a result the two main legal instruments for trafficking remain somewhat at variance with each other. This dissonance in the law and the impact that it has had on the failure to curb trafficking led to the Ministry of Woman and Child Development (MWCD) proposing the Immoral Traffic (Prevention) Amendment Bill, 2006, as amendments to the ITPA 1986. This Bill was then placed before a Parliamentary Standing Committee in 2006 for review. The Committee submitted its Report the same year with suggested amendments to the ITPA.

The Committee held wide ranging consultations with various actors and agencies working on trafficking, including voluntary groups and activists, academics, government officials and police personnel. These deliberations led the Committee to note that the Act had “failed to meet its objectives on several counts” (p.5). It therefore proposed several amendments to the ITPA. However, even as it recognized that by focusing solely on commercial sexual exploitation, the Act was limited, the Standing Committee refrained from expanding its scope. Instead, it took the decision to confine its recommendations

to prostitution alone stating that there was a strong case for bringing separate legislation(s) to cover other forms of trafficking. The Committee did however make several recommendations, some of which are included in the last section of this report.

THE IMMORAL TRAFFIC (PREVENTION) ACT, 1986

The Immoral Traffic (Prevention) Act, 1986, originally the Suppression of Immoral Traffic in Women and Girls (SITA), 1956, is the Central legislation dealing with trafficking in India.¹⁶ However, even though the name refers to immoral trafficking of persons, the ITPA's scope is limited to commercial sexual exploitation or prostitution and penalizes those who facilitate and abet commercial sexual exploitation, including clients and those who live off the earnings of prostitutes. It also provides for welfare measures towards rehabilitation of victims in the form of protective homes to be set up and managed by state governments. Unfortunately, even as a law dealing with sexual exploitation it leaves a lot to be desired. Discussed below are some of the gaps.

a) Definitional inconsistencies and Conceptual loopholes

i) A basic deficiency in the ITPA is the lack of a definition of trafficking, even though the title of the Act specifically refers to trafficking.¹⁷ In fact, even commercial sexual exploitation is not adequately defined in the Act.¹⁸ Instead the focus is on defining brothels as the site of commercial sexual exploitation and thus penalizing the facilitators of commercial sexual exploitation in brothels. What remains unclear therefore is the actual offence, particularly in the context of trafficking. Is engaging in prostitution the offence or is trafficking for prostitution the actual offence? This ambiguity serves to leave out a plethora of offenders involved in the transport and harboring of potential victims of commercial sexual exploitation.

ii) The assumption that prostitution takes place in brothels alone is also a limitation in the Act. In other words, sexual exploitation in private premises, other than a brothel, is not covered by the Act. In fact with the emergence of newer technologies and the changing global scenario, commercial sexual activity has emerged in diverse forms and can take place in residences, hotels, clubs, or involve mobile locations. Soliciting or use of public spaces within a certain proximity to public places is however included in the Act. These distinctions, in addition to making it harder to provide evidence, also have implications for a range of punitive actions involving persons who rent, lease, own premises used for prostitution/trafficking, but which are not "brothels", as well as for those who facilitate, propagate or encourage, the process of trafficking or sexual exploitation, in the said premises.

iii) The treatment of victims as offenders, as reflected by their detention in "corrective" homes, implies a contradiction in terms, as a victim cannot at the same time be an offender. This contradiction reflects the confused position on prostitution inherent in the law. While prostitution per se is not outlawed in India (only when using public spaces), all women in prostitution are routinely treated as offenders under the ITPA. Further, the term corrective institution has been considered offensive for victims when in fact they have been forced into commercial sexual exploitation against their will.

iii) The existing practice of recruiting girls for prostitution under the garb of religion, as in the case of devdasis is not covered in the Act. Explicit mention of socio-religious practices, which are not exempt from prosecution under the law, would go a long way in ending this form of sexual exploitation.

iv) The definition of prostitution as 'commercial sexual exploitation' or 'abuse of persons for commercial purposes' is too wide and does not allow for commercial sexual activity as part of legitimate sex work. However, in the case of children, it cannot be considered a legitimate activity under any circumstances. Hence, a distinction is required in the definition of prostitution that excludes children altogether.

v) Rights of the victims have not been defined clearly in the law. This too is a basic lacuna in the ITPA, wherein welfare measures have been prescribed without first clarifying how they adhere to specific rights inherent in victims. For instance, while victims may be sent to protective homes, this is not a statutory requirement. The rights under rehabilitation, which should include legal, psychological, health and educational support and thus enable them to join the mainstream of society, are woefully absent from the law. This gap has contributed to the poor implementation of the rehabilitation process.

vi) Lack of a witness protection programme or the option of in-camera proceedings prevents many victims, especially children from testifying.

vi) Composition and powers of the Central or State Authorities for preventing and combatting trafficking have not been defined in the ITPA and neither has a time frame been set for when the authorities should be formed. As a result, the authorities remain far from adequately prepared for the roles envisaged for them.

b) Punishment and its Enforcement

i) Punitive measures

The punitive measures currently in the ITPA do not accurately or adequately reflect the import of the offences they cover. For

instance, the punishment of 7 years for offences of trafficking in the ITPA is low, especially in the context of children, even though a provision for extending to life does exist in certain cases. At the same time punishment for anyone “frequenting” (Section 5) a brothel seems extreme, as not all visits to a brothel need involve trafficked persons. And not all visits to the brothel may even involve sexual exploitation. For instance, health workers or other service providers who visit may be implicated in the process, as under the current dispensation simply visiting a brothel invites punishment. Similarly, there is also routine misuse of the punishment for solicitation by the police (Section 8). “This has resulted in harassment and punishment of women in prostitution instead of conviction of perpetrators of trafficking and pimps” (Standing Committee Report, p6). The problem however seems to be that the punishment is restricted to women. If it were extended to pimps, agents, procurers etc., the section would target the offenders more accurately. Ideally, the women in prostitution should be dropped from the clause and it be retained only for the other perpetrators of the crime.

ii) Convictions

The Indian record on arrests, convictions and punishment is disheartening, as noted earlier. It has also been suggested that complicity between law enforcement officials and traffickers could be contributing to the low numbers on this account.¹⁹ However, without rigorous investigation, it is hard to corroborate the veracity of such claims. There are nevertheless other structural constraints in the law enforcement machinery that can more easily be cited for the low conviction rates. For instance, the absence of a witness protection programme makes it harder to proceed with an investigation, as victims are fearful of deposing. Similarly, the lack of a single specified and special agency to deal with investigations implies that evidence gathering is dependent on local police, greatly slowing down the process at the initial stages itself.

Further, since different laws are implemented through different authorities, with lack of clarity on roles of each actor/agency, there is an overlap of responsibility for action often falling in between stools. For instance, the local police, specialized police of the Anti Human Trafficking Units, Special Juvenile Police Units, Special Police Officers (SPOs), Missing Persons Bureau (MPB), District Missing Persons Unit (DMPU) and the Missing Persons Squad (MPS) all have overlapping jurisdictions. This leads to confusion about who is to be held responsible, eventually impacting action.

Other anomalies in the ITPA, include:

- i) Detaining a trafficked woman in a corrective institution as an alternative to punishment. This amounts to her detention (and then release) in an arbitrary manner without her consent and thereafter without being provided any counseling or opportunities for rehabilitation.
- ii) Presence of a trusted person during depositions involving children. This requirement, missing from the Act, makes it hard for children to feel safe and free to depose especially in the presence of the police and the accused.
- iii) Punishment for living off the earnings of prostitutes (Section 4), without a caveat for children, legal heirs and other dependents of the women in prostitution, penalizes the dependents. In many instances, these women may be the only bread earner in the family. For the children involved it implies a real travesty of justice. A distinction between living “on” the wages and “off” the wages was therefore needed.
- iv) Cross-border dimensions of trafficking (including inter-state trafficking) remain severely neglected in the Act.

c) Rehabilitation, Compensation and Protection

Perhaps the most glaring anomaly in the law related to rehabilitation and compensation is the absence of a specified set of right for the victims. This includes their detention in protective or corrective homes without their consent as mentioned above, but extends to the entire gamut of rehabilitation, including relief and compensation. Instead of specifying rights the ITPA gives state governments the option of making provisions for corrective and protective institutions. What this implies is that state governments comply with these provisions only to the extent that their budgets or capacities allow. Invariably budgets for such matters tend to be deficient. As a result, these areas have been grossly underserved, with state governments taking arbitrary and cursory measures to bring relief to the victims. This is evidenced from the fact that protective and corrective homes are poorly equipped. Counseling, including legal counseling is completely absent as are provisions for health and education. Providing livelihood opportunities, that would go a long way in sustaining rehabilitation are also absent. It is no surprise then that after a period of what has aptly been described as ‘detention’ victims are released, and more often than not fall back into their older lives. Similarly, the lack of a coherent policy to guide finalization of the minimum and maximum amount of compensation or the procedures to be followed means that victims have to wait long periods before they receive anything, if at all.

CONCLUSION

An examination of the ITPA 1986 and the recent efforts to bring amendments to it clearly point to a felt need for large-scale changes in the law dealing with trafficking. The fact that trafficking is a complex crime involving both process and outcomes and spanning several areas of human rights violation does make it difficult to adjudicate and may require an incremental process, as evident from the changes in the international regulations surrounding trafficking. Unfortunately India, thus far, has not been able to keep pace with these changes. Apart from the amendments to Section 370 and 370A of the IPC, little other concrete action has been taken to bring law in line with the reality. Even the amendments to ITPA proposed by MWCD and reviewed by the Parliamentary Standing Committee remain untouched. The growing and evolving nature of the problem, calls for a single a comprehensive law that takes into account the particularities of the Indian context and the concepts of the Palermo Protocol.

In addition, the lack of coordination and convergence between the departments and agencies involved impedes further the efficacy of the law. Severe capacity constraints in the law and policy apparatus, reflected particularly in shortages of trained and dedicated staff for prevention, protection and rehabilitation purposes, need to be urgently, as they have the potential to unravel the best-intentioned and drafted legislation.

Given below are some specific recommendations with regard to the law as well as policy.

RECOMMENDATIONS

1. Specific changes in the ITPA²⁰ :

- i) The ITPA to be substituted with an overarching Bill covering all aspects of trafficking.
- ii) Definition of trafficking to follow Section 370, but with the addition of forced labour, and brought under the purview of the new Bill. The Parliamentary Standing Committee's recommendation of adding the words "inducement of religious and social nature" may also be added to the definition, to cover the Devdasi issue.
- iii) Distinction to be made between sex work per se and commercial sexual exploitation following trafficking. It is therefore recommended by that the term "commercial sexual exploitation" and "trafficked victim" be clearly defined. Further, since sex work is not out-lawed in India, dependents of women in prostitution (for instance children and parents)

should not be penalized along with those that facilitate commercial sexual exploitation through trafficking. Thus, a distinction must be made between living "off" the wages and living "on" the wages of a prostitute, as also recommended by the Standing Committee.

- iv) The minimum punishment to be increased to 7 years for adult trafficking and 10 years for trafficking in children.
- v) Deletion of Clause 8, which deals with soliciting is believed to lead to further harassment of the victim and should be replaced instead by one that specifically deals with all other agents of trafficking only.
- vi) Concept of "corrective" homes to be replaced with rehabilitation homes, which are fully equipped to provide support and the means of sustained livelihood to the victims once they leave.
- vii) Creating a special fund for the welfare, rehabilitation, health care and education of women in prostitution and their children to overcome the severe resource constraint in this regard.

Other recommendations, some of which have been mentioned in the new Trafficking of Persons (Prevention, Protection and Rehabilitation) Draft Act, 2017] as well, are:

- viii) Punishment for Dereliction of Duty. The punishment would extend to all personnel involved in the omission to provide care, protection and rehabilitation to a victim as well as to causing physical or mental injury or hardship or trauma to the victim while performing such duty.
- ix) Applicability of Punishment. If more than one law is involved, the law with the harsher punishment to prevail.
- x) Provisions for hiding the identity of victims and a Witness Protection Programme
- xi) All offences made cognizable and non-bailable.
- xii) Repatriation of cross-border victims provided for in the law.
- xiii) Establishment of a National Anti-Trafficking Bureau to coordinate and monitor all aspects of trafficking. A National unit would also be able to tackle the issue from the perspective of organized crime with international ramifications.

POLICY RECOMMENDATIONS:

i) Building a comprehensive data base

Data on trafficking are inadequate, irregularly collected by different agencies using diverse methodologies, leading to diverse and unverifiable sources of data on trafficking. This makes response mechanisms difficult and ineffective. Most of all it impedes the identification and prevention aspect of the problem. It is recommended therefore that a comprehensive, collated single database be created that is updated regularly by the district authorities. In developing such a database, the involvement of the Panchayati Raj institutions could be elicited. This would require developing a single methodology across local units and training of personnel to manage the system. Such training of panchayat members (as well as at the block or district levels) would assist in building the capacity of these local units of governance with spill over benefits to other areas of child tracking as well. A local database while useful for tracking the scale of the problem, but would also go a long way in identifying the source and destination of the victims as well. This would make it easier to identify offenders as well as repatriate children back to their homes or communities.

ii) Convergence across departments

Different statutes and departments deal with different aspects of trafficking, with virtually no convergence mechanisms. Joint review meetings held at periodic intervals and joint action committees set up with concerned departments to follow up on the judicial process would allow for such convergence to take place. The reports of these meetings or action taken by the committees could form the basis of a review at the National level. Another aspect of convergence, especially related to children involves coordinating with programmes and schemes meant for children such as the ICDS, ICPS and basic education programmes. The officials involved with these programmes must also be included in the fight against trafficking in preventing the problem by ensuring all children remain in school and by assisting in rehabilitating victims.

iii) Building State Capacity

In addition to increasing resources devoted to fighting trafficking, government must also develop standards for the training of responsible personnel, especially those dealing with children. Further, strengthening the processes of rigorous and regular review and monitoring at all levels with mandated response mechanisms included in the review process would greatly aid in maintaining control over the situation as well as in planning for shortfalls as they appeared.

NOTES

1. Other forms of trafficking include cheap or unpaid labour, illegal adoption, forced marriage, child soldiers and use of children in sports and entertainment.
2. See for instance, the following documents: i) Trafficking In Persons (TIP) Reports, brought out annually by the Department of the US Government; ii) HAQ Child Rights Centre and Campaign Against Child Trafficking (CACT) Report, "Child Trafficking in India" (2016); and iii) Population Council Report, "Trafficking of Minor Girls for Commercial Sexual Exploitation in India: A Synthesis of Available Evidence" (2014).
3. Crime in India, Statistics (2015), National Crime Records Bureau, Ministry of Home Affairs, Government of India.
4. Even though the Constitution specifies prohibition of trafficking in Article 23, which states: "Traffic in human beings and 'begars' and other similar forms of forced labour are prohibited and any contravention of this prohibition shall be an offence punishable in accordance with law".
5. The Child and Adolescent Labour (Prohibition and Regulation) Act of 1986, The Factory's Act , 1948, The Bonded Labour System (Abolition) Act, 1976, and the Juvenile Justice (Care and Protection) Act 2015
6. Various state anti-beggary laws.
7. See, Sections 362, 363, 370, 370A, 372 and 373
8. Article 21 (Right to life with dignity); Article 21 A (Right to education); Article 24 (Prohibition of employment in Factories) Article 39 (f) related to children's health, Article 45 and 51A both related to right to education.
9. Some laws are Central laws, some state and each law is under different Ministerial control. For instance child labour laws fall under the Labour Ministry, while kidnapping and abduction, being criminal activities fall under the Home Ministry. Cross border issues on the other hand fall under the purview of the Ministry of External Affairs. Similarly beggary laws and Devdasi laws -Devdasi Prohibition of Dedication Acts, of 1982 and 1988- passed by Karnataka and Andhra Pradesh governments respectively are state laws, while the child marriage law is a Central Act. This results in confusion over roles and responsibilities impeding action.
10. While rehabilitation is part of the ITPA, details of specific rights under it, such as the form, nature, processes, time

frames by which a victim may expect to be rehabilitated are not clarified. For instance, is livelihood training part of the rehabilitation process, or the provision of legal counsel or even the issue of taking consent before the victim is sent to a protective home? What can a victim expect as a right when rescued is not clear.

11. A caveat is in order: While the problem of trafficking is complex and multi-layered, for reasons of brevity and expediency, not all issues will be dealt with here. The selection in no way implies that the omitted issues are not of importance and worthy of consideration.
12. In this dispensation, Exploitation includes prostitution or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. And, Child refers to any person under the age of 18 years.
13. Section 370: Whoever, for the purpose of exploitation, (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by (i) using threats, or (ii) using force, or any other form of coercion, or (iii) by abduction, or (iv) by practising fraud, or deception, or (v) by abuse of power, or (vi) by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking. Further, it states that :1. The expression “exploitation” shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs. 2. The consent of the victim is immaterial in determination of the offence of trafficking.
14. It is believed that physical exploitation and slavery would cover the issue of forced labour. However groups working on bonded labour are not convinced.
15. See Avon Global Center for Women and Justice at Cornell Law School, Centre for Health Law, Ethics and Technology at Jindal Global Law School, Cornell Law School International Human Rights Clinic, and International Human Rights Clinic at the University of Chicago Law School Report (2016), “India’s Human Trafficking Laws and Policies and the UN Trafficking Protocol: Achieving Clarity”. It has a clause-by-clause evaluation of the Indian laws in relation to the UN Protocol.
16. SITA was amended in 1986 and renamed ITPA.
17. While many attempts have been made at defining trafficking by various organizations, the most commonly used and accepted definition is the one coined by the UNCTOC. According to this, definition, “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.
18. “Prostitution” means the sexual exploitation or abuse of persons for commercial purposes..”
19. See USDOS Trafficking in Persons Report, 2017, especially its narrative on India.
20. These have been recommended by the Standing Committee as well.