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PART I : SECTION (I) — GENERAL

Government Notifications

STANDARD OPERATING PROCEDURES (SOP) FOR LAW ENFORCEMENT AUTHORITIES ON DETECTION, INVESTIGATION AND PROSECUTION OF TRAFFICKING RELATED ORGANIZED CRIMES AGAINST CHILDREN

THIS Standard Operating Procedures for Law Enforcement Authorities in Sri Lanka, on detection, investigation and prosecution of trafficking related Organized Crimes against children, is hereby published to enable systematic implementation by all relevant parties.

Ananda Wijepala (M. P.),
Minister of Public Security and
Parliamentary Affairs.

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This Gazette Extraordinary can be downloaded from www.documents.gov.lk

Standard Operating Procedures (SOP) for Law Enforcement Authorities on Detection, Investigation and Prosecution of Trafficking related Organized Crimes against Children

ACKNOWLEDGEMENTS

The Standard Operating Procedures for the detection, investigation and prosecution of trafficking related organized crimes against children was developed by the Ministry of Public Security, in collaboration with many stakeholders, subject specialists and experts, across many disciplines relating to law enforcement and child protection. We are grateful for the immense support provided by all Police units and divisions involved, such as the Women and Children's Bureau, and various units within the Criminal Investigations Department for their commitment and dedication to ensure that the SOPs are futuristic, but also contextually implementable. As our main technical partner, we are deeply thankful to Save the Children for working diligently with the Ministry to realize this achievement. In addition, the Technical Working Group (TWG) convened for this SOP, worked tirelessly for months to enable a comprehensive and consultative process. Many members of the TWG were representatives of the National Anti-Human Trafficking Task Force, and their support for this SOP is highly appreciated.

The main technical resource used for the cybercrime elements of this SOP was the Cybercrime Investigation Manual developed by the Data Security Council of India. We respectfully acknowledge the technical direction and guidance this resource provided in framing this SOP.

We are grateful to our consultants who dedicated time and efforts to enable a highly consultative process and documented this SOP. Finally, we render our heartfelt thanks to the staff of the Ministry of Public Security who supported in communication, coordination, administration etc to make this SOP a reality.

Financial assistance for this SOP was generously provided by US Department of State's Office to Combat Human Trafficking, through the International Organisation of Migration.

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ACRONYMS

AGD	Attorney General's Department
CCID	Computer Crimes Investigation Division
CID	Criminal Investigations Department
CRC	United Nations Convention on the Rights of the Child (1989)
CSAM	Child Sexual Abuse Material
CSEM	Child Sexual Exploitation Material
CSO	Civil Society Organization

CYPO	Children and Young Persons Ordinance
CWB	Children and Women's Bureau
EU	European Union
FIR	First Information Report
HC	High Court
HRC	Human Rights Council
ICSE	International Child Sexual Exploitation (database)
ILO	International Labour Organization
INTERPOL	International Criminal Police Organization
IO	Investigation Officer
IOM	International Organization for Migration
JMO	Judicial Medical Officer
MLEF	Medico-Legal Examination Form
MLR	Medico-Legal Report
MoPS	Ministry of Public Security
NAHTTF	National Anti- Human Trafficking Task Force
NCMEC	National Center for Missing and Exploited Children
NCPA	National Child Protection Authority
NGO	Non-Governmental Organization
PO	Probation Officer
SAARC	South Asian Association for Regional Cooperation
SC	Supreme Court
SOCO	Scene of Crime Officer
SOP	Standard Operating Procedure
TIP	Trafficking in Persons
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNCRC	United Nations Convention on the Rights of the Child

UNDHR	Universal Declaration of Human Rights
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Convention against Transnational Organized Crimes
VoT	Victim of Trafficking
WHO	World Health Organization

CONTENTS

FOREWORD

Child trafficking and organized crimes against children are among the gravest violations of human rights and require an unified, strategic, and collaborative response. In Sri Lanka, the growing recognition of the devastating impact of these crimes has led to an urgent need for robust frameworks to combat child trafficking effectively. This *Standard Operating Procedures (SOP) for the detection, investigation and prosecution of trafficking related organised crimes against children* represents a significant step forward in addressing these challenges.

Developed by the Ministry of Public Security in collaboration with Save the Children – Sri Lanka, these SOPs serve as a cornerstone of the broader national strategy to combat trafficking in persons. This document forms a critical component of the efforts undertaken by the National Anti-Human Trafficking Task Force (NAHTTF), which brings together a consortium of government and non-governmental stakeholders to bridge gaps in Sri Lanka's counter-trafficking mechanisms. Importantly, this initiative supplements earlier milestones, including the *Standard Operating Procedures on Identification, Protection, and Referral of Victims of Trafficking (2014)* and the *Guidance Note on Identification, Protection, and Referral of Child Victims of Trafficking (2021).*

The Ministry of Public Security, as the primary coordinating body for the Sri Lanka Police, plays an indispensable role in ensuring that law enforcement agencies across the country adopt an unified and efficient approach in detecting, investigating, and prosecuting cases of child trafficking. By empowering the Police Children and Women's Bureau (CWB) and other police units investigating Trafficking in Persons (TIP) crimes, the ministry reinforces its commitment to upholding child rights and ensuring justice for victims. The collaborative efforts under this SOP aim to integrate advanced investigative techniques, enhance cross-sector cooperation, and align Sri Lanka's procedures with international best practices.

This SOP also underscores the importance of distinguishing trafficking from other forms of crimes against children. It recognizes that the nuances of child exploitation—ranging from recruitment tactics to grooming and ensnaring methods—require specialized investigation strategies. By equipping law enforcement with the tools to tailor their responses to these specific dynamics, we can improve the identification and apprehension of traffickers and strengthen the prosecution of these heinous crimes.

The Ministry of Public Security and its allied institutions, alongside non-governmental service providers, recognize the critical need to protect the most vulnerable members of society—our children. These SOPs are designed not only to bring perpetrators to justice but also to ensure that every child victim is safeguarded and supported throughout the process. Through a structured, standardized, and child rights-compliant approach, this initiative seeks to create an environment where the best interests of the child remain at the forefront of every investigation and prosecution.

As we take this significant step forward, I extend my deepest gratitude to then Secretary of Ministry of Public Security, Mr. Viyani Gunathilaka, and the Additional Secretary (Development & Planning), Mrs. Damayanthi S. Karunarathna and her team of the Development Division, Mrs. Renuka Jayasundara, Deputy Inspector General of Women and Child Range also her team specially in the Women and Children Bureau in Sri Lanka Police. My special thanks goes to the Save the Children International – Sri Lanka and its team Buddhini Withana - Senior Technical Advisor – Child Protection and Child Rights in Business, Save the Children International – Sri Lanka and Sushetha Gopallawa, Senior Manager – Counter Trafficking, Save the Children International – Sri Lanka and all stakeholders who have contributed to this initiative. Let this SOP serve as a beacon of hope for victims and a powerful tool for law enforcement authorities to combat the menace of child trafficking in Sri Lanka.

D. W. R. B. Senevirathna
Secretary
Ministry of Public Security and Parliamentary Affairs,
Sri Lanka.

EXECUTIVE SUMMARY

This ***'Standard Operating Procedures (SOPs) for law enforcement authorities on detection, investigation and prosecution of trafficking related organized crimes against children'*** is developed by the Ministry of Public Security (MoPS) in collaboration with Save the Children - Sri Lanka with technical and financial support from the International Organization for Migration (IOM) and the U.S Department of State, under the project "Strengthening Government and CSO capacity to combat Trafficking in Persons and create greater Impact (IMPACT)". The SOPs form a key component of initiatives taken by the National Anti-Human Trafficking Task Force (NAHTTF) and its consortium of government and non-government stakeholders working in collaboration to address identified gaps in Counter-Trafficking in Persons.

These SOPs complement the existing ***'Standard Operating Procedures on Identification, Protection and Referral of Victims of Trafficking'*** developed and endorsed by the government in 2014 and the ***Guidance note on Identification, Protection and Referral of Child Victims of Trafficking*** developed and endorsed in 2021.

As part of efforts at increasing the identification, investigation and prosecution of trafficking crimes, distinguishing trafficking from other forms of crimes against children and the need to introduce effective and updated procedures for investigating trafficking of children, the Police Children and Women's Bureau (CWB) of Sri Lanka and other Police units that investigate Trafficking in Persons (TIP) reiterated the need to put in place such SOPs for law enforcement authorities to help screen and identify, investigate, and prosecute child trafficking cases.

A brief review of current investigation procedures relating to organized crimes against children in other countries also highlight the global recognition of the need to introduce advanced and complex investigation methods in line with the growth in technology to tackle these crimes as well as fill the gaps in Sri Lankan procedures relating to the same.

The ultimate goal is to present to law enforcement authorities in Sri Lanka with a clear process and procedure to effectively detect, investigate and prosecute child trafficking, whilst ensuring the safeguarding of vulnerable children throughout the process and the prosecution of perpetrators under TIP laws.

As each form of child exploitation would have different recruitment tactics, grooming processes, and ensnaring methods, law enforcement can improve the chances of identifying and apprehending traffickers by tailoring investigation strategies to these specific characteristics.

The primary role within these SOPs would be with the Police Children and Women's Bureau (CWB). However, in order to deliver an effective and efficient investigative function, the CWB would need to work to a structured and documented operational procedure that is standardized, in accordance with the laws governing the investigation of crimes, is child rights compliant and reflects international best practice. Also it is essential that CWB collaborate closely with other relevant police units, government departments and institutions and non-government service providers to ensure the success of the investigation, prosecution and the best interest of the child as the victim of the crime is upheld.

1. INTRODUCTION

1.1 Background

Trafficking in persons (TIP) or human trafficking is considered a form of modern-day slavery for the purposes of labour and commercial sexual exploitation, organ removal, begging, servitude, slavery like practices etc. which serve to undermine the basic human rights and dignity of persons. TIP has become a complex phenomenon, especially with the increased use of technology, global financial instability and onset of pandemics such as COVID. Thereby new forms of trafficking have emerged, with various actors and networks of criminals using this instability and increased vulnerability of people to trap them into exploitative situations.

The darker side of TIP is the trafficking of children, where children have become targets of criminal networks given their increased vulnerability. Countries are now focusing on addressing child trafficking as a priority and urgency which includes initiatives to prevent, protect and assist victims and the effective enforcement of the law against the criminals behind such crimes.

The following SOPs are aimed at putting in place standard procedures with specific steps to be followed by investigation officers and outlining the referral and collaborative processes and mechanisms which are to be utilized in the successful detection, investigation and prosecution of child trafficking cases. This is especially relevant in light of the increased use of technology by individual criminals and groups to trap children into abusive and exploitative situations.

1.2 The Crime of Child Trafficking

Trafficking in children is a serious crime that exists in every region of the world and violates almost every right of a child. Given the increasing international prominence given to child trafficking and the urgency in addressing the problem, initiatives are taken to prevent, protect and assist victims, and effectively enforce the law against the crime.

The exploitative objective of child trafficking is often for forced labour, sex work and other forms of sexual exploitation including the production of child sexual abuse material (CSAM), use of children in live online sex promotional platforms, child begging and adoption. Child labour can take many forms including domestic servitude, agricultural work, work in small scale factories and shops. Child labour is considered cheap and controllable, hence the demand.

Children are also used in the drug trade, where they are exploited as either drug couriers or dealers and are forced into using drugs so that they become addicted and further entrapped in the trafficking cycle of exploitation. Due to the illegality of drug trafficking, often children who are apprehended are treated as criminals and not identified as victims, resulting in re-victimization.

Child begging involves boys and girls under the age of eighteen being forced to beg through psychological and physical coercion. This issue is especially difficult to regulate given that begging is often imposed by family members due to economic hardship, with parental power leveraged over a child to ensure that begging is carried out. Organized begging is fast growing as a means of earning profits for 'begging masters' that control individuals to engage in begging and earn large profits and provide a small proportion to the victim.

Further, children may be procured and/or trafficked for the purposes of adoption. Children are often sourced from orphanages, hospitals or kidnapped, or parents may be tricked, cajoled or coerced into relinquishing custody of the child with the intention of exploitation of the child.

The **United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000)**[1], has defined trafficking in persons as:

"…the recruitment, transportation, transfer, harboring or receipt of persons, by means of 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".

It is the most widely accepted definition of Trafficking in Persons. Many countries have introduced domestic legislation setting out provisions to combat TIP in line with the above definition.

To determine whether an individual is in fact a child victim of trafficking, it is important to refer the legal definition of a "child". Article 3(D) of the Protocol defines a child as "any person under eighteen years of age."

Article 3C of Protocol defines trafficking of children as follows;

*"The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does **not** involve any of the **means** set forth in subparagraph (a) of this article".*

ACT		PURPOSE		
● Recruitment ● Transportation ● Transfer ● Harbouring ● Receipt of persons	+	Exploitation, including: ● Prostitution of others ● Sexual exploitation ● Forced labour ● Slavery or similar practices ● Removal of organs ● Other types of exploitation	=	**CHILD TRAFFICKING**

It must be noted that as per the above definition, only one or more elements of 'Act' and exploitative 'Purpose' need to be established in order to determine a case of child trafficking. As with adults, the 'means' used to obtain consent does not need to be established as the consent of a child victim is irrelevant if a trafficking crime has been established.

To assist with the identification of a case of human trafficking, it is useful to look for indicators, some of which are obvious and visible signs expressed by the child victims themselves. Other indicators are maybe less obvious and not revealed until further investigation. The Initial identification of indicators is important to determine if a victim has been trafficked or if the officer suspects circumstances of human trafficking. The presence or absence of initial indicators should not mean that trafficking has been established or not. All indicators should be considered cumulatively as none will provide the answer on its own. Together with the definition, indicators assist in the identification process of trafficking crimes and their victims.

1. https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons

As human trafficking is multi-dimensional, it may include several offenders and traffickers within any act in the process of trafficking. Any persons, who constitute as offenders in this crime could be:

- Recruiter
- Agents of recruiter
- Seller of a trafficked person
- Buyer of a trafficked person
- Transporter
- Conspirator
- Abettor
- 'Customer'/ clientele

An Investigating Officer (IO) has to scrutinize the process of trafficking to be able to understand all those who may be/ have been involved.

1.3 Policy Framework on Counter-Trafficking in Children in Sri Lanka

The foundation of children's rights in Sri Lanka is rooted in international laws and policies, most notably the **United Nations Convention on the Rights of the Child (UNCRC) 1989.**[2] These principles guide the nation's commitment to safeguarding the well-being of children. Further, the Sri Lanka Constitution's Directive Principles of State Policy solidify this commitment by requiring the government to prioritize the needs of children and youth.

The **National Policy on Child Protection of 2019** [3] was formulated by the National Child Protection Authority. The policy provides a wide framework for the prevention of violence, exploitation, neglect, delinquency, and all forms of mental, physical and sexual abuse of children. The policy reiterates the need for a government-led multi-sectoral and multi-stakeholder approach in the protection of children and the implementation of the principles and standards set out in the policy.

Similarly, the **Guidance note on the Identification, Protection and Referral of Child Victims of Trafficking**[4] specifies the principles and guidelines on child protection to be adhered to and specific steps to be taken by all stakeholders with regard to child victims of trafficking. The Guidance Note acts as a guideline to first responders including police officers, divisional and district level Child Rights Promotional Officers, National Child Protection Authority Officers, Probation Officer, Labour Officer, Women Development Officers and other relevant Development Officers when dealing with child victims of trafficking.

Further the **National Strategic Action Plan to Monitor and Combat Human Trafficking (2021 – 2025)**[5] developed by the National Anti-Human Trafficking Task Force (NAHTTF) sets out strategic interventions and efforts to curb human trafficking in all its forms and manifestation including addressing child trafficking.

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2. https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child
3. chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://childprotection.gov.lk/images/pdfs/acts-guidlines/2020.12.31%20National%20Policy%20on%20Child%20Protection.pdf
4. Backup_of_Backup_of_save the children Adhil edit.cdr (nahttf.gov.lk)
5. Microsoft Word - Final__NATIONAL ACTION PLAN_2021-2025.docx (nahttf.gov.lk)

1.4 Legal Framework on Trafficking in Children

At present Sri Lanka possesses legislation addressing numerous facets of child protection. Additionally, the country has ratified key international treaties and conventions resulting in a strong legal framework in place to shield children from violence, abuse, exploitation, and neglect. The crime of Trafficking in Persons including child trafficking has been introduced by **Section 360C of the Penal Code (Amendment) Act, No.16 of 2006.**

Earlier in 1995 by Act, No. 22, Section 360A was repealed and the offence of 'Procuration' was introduced where any male or female of any age either with or without the consent is procured for the purpose of being a prostitute either within Sri Lanka or outside Sri Lanka commits the offence of Procuration.

Section 360B sets out the offence of Sexual Exploitation of Children where anyone who permits a child to remain in any premises to cause such child to be sexually abused or to participate in any form of sexual activity or in any obscene or indecent exhibition or show, acts as a procurer of a child for the purposes of sexual exploitation.

The Penal Code (Amendment) Act, No. 29 of 1998 sets out further provisions with regard to offences against children.

The Hazardous Occupations Regulations No. 01 of 2021 (Gazette Extraordinary of the Democratic Socialist Republic of Sri Lanka, No. 2254/35) lists out work that a child (under 18 years) cannot be employed in. The Employment of Women, Young Persons and Children (Amendment) Act, No. 2 of 2021 raised the minimum age for the employment of children to 16 years.

However, it must be noted that the legal framework concerning children is observed to be antiquated and certain provisions of the law could have discriminatory implications on children. The principal procedural statute pertaining to children, the Children and Young Persons Ordinance, dates back to a colonial-era of 1939 and has undergone limited revisions since. Similar antiquity is observed in other statutes like the Orphanage Ordinance, Adoption Ordinance, and Vagrants Ordinance, which collectively exert adverse effects on children. The core documents that form the international legal framework dealing with the trafficking in children are the United Nations Convention on the Rights of the Child 1989, the **ILO Worst Forms of Child Labour Convention (C182) 1999[6], ILO Convention on minimum age (C 138) 1973[7]** and the **United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children 2000.** There is an optional protocol to the Convention on the Rights of the Child that relates to child trafficking: The **Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography formally adopted by the UN in 2000.[8]** Essentially, this protocol requires states to prohibit the sale of children, child prostitution, and child pornography.

1. THE STANDARD OPERATING PROCEDURES

Child trafficking takes place in both real and virtual environments. The procedures for their detection, investigation and prosecution have notable differences. The SOPs outlined below are applicable to all types of trafficking related organized crimes against children. If the crime involves the virtual/digital environment, procedures in Section 6.3 – 'Investigation of Cybercrimes Against Children' need to be followed in addition to the procedures outlined here.

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6. https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182
7. https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138#:~:text=The%20minimum%20age%20for%20admission%20to%20any%20type%20of%20employment,be%20less%20than%2018%20years.
8. https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-child-sale-children-child

02. THE STANDARD OPERATING PROCEDURES

Objectives

- To introduce an effective investigation procedure for child trafficking cases that aligns with current laws, policies and procedures.
- For expeditious and effective law enforcement, including the conviction of offenders in child trafficking cases.
- To ensure effective coordination and institutionalization of specific steps to be followed by law enforcement in the detection, investigation and prosecution of cases of child trafficking
- To prevent the re-victimization of victims and ensure appropriate steps are taken for the care and protection of child victims

Phases of the Standard Operating Procedures

Phase 1 Detection and rescue → Phase 2 Investigation → Phase 3 Trial

2.1 PHASE ONE – Detection and Rescue

In order for a potential case of child trafficking to be detected, a 'first information report' or complaint needs to be received by a first responder agency or law enforcement. Proactive investigations or search operations conducted by the police would also help detect potential cases of child trafficking.

2.1.1 First Information Reporting (FIR) / Complaints

The first information or complaint is the initial step in the identification of a potential trafficking case and needs to be streamlined in order to ensure crucial information required for identification and further investigations are recorded.

A police officer may take down first information relating to the commission of an offense either given orally or in writing as per the provisions of Section 109 of the Code of Criminal Procedure Act, No. 15 of 1979.

Information or a complaint of potential child trafficking may be given orally or in writing by **any party** who has information of an offense committed against a child. First information may also be received via first responder officers based at the Divisional Secretariat and District level.

First information can be received by the following databases as part of the daily monitoring of such databases and information requests made to the institutions running these databases with regard to missing / exploited Sri Lankan children;

(1) National Center for Missing and Exploited Children –NCMEC
(2) International Child Sexual Exploitation (ICSE) image and video database – INTERPOL

Responsible officers to record a first information:

Police – Any officer of a police station can record the first information. It is however strongly recommended that an officer attached to the Children and Women's Bureau to record such information of a case in relation to a crime against a child or woman. The first information once recorded should be read out to the complainant in the language he or she understands. Assistance of interpreters should be obtained when necessary.

The Officer-in-charge (OIC) is to be informed of the complaint and offence, thereafter the Assistant Superintendent of Police (ASP).

NCPA- The OIC of the Police Unit and the Director - Law Enforcement Unit can record the first information. The Police Unit is a branch of the Children and Women's Bureau.

**Note: This step is considered one of the most critical stages of a crime investigation. The police are required to set to work immediately at this stage when the greatest opportunities to recover evidence occur. As time progresses, the opportunities for evidence recovery will decrease, potential witnesses will be lost, crime scenes will deteriorate and suspects will escape.

The first Information or a complaint will not generally be identified as a trafficking crime at this stage. It might 'on the face of it' be identified as a crime of child sexual exploitation, sexual abuse, rape, physical abuse, child labour or any other offence in relation to a child. The child or the complainant often may not understand that trafficking has taken place, in order to report it as a trafficking crime. At the time of taking the first information or complaint, if it is apparent to the officer that the child is with a form of disability that hinders communication (difficulty understanding and being understood due to behavioral or development disability/sensory or speech impairment etc.) necessary assistance should be provided and reasonable time period permitted for the child to give their information.

Further, Section 20 of the Children and Young Persons Ordinance No.48 of 1939 prohibits the publication of names, addresses, school, picture or any particulars which may lead to the identification of any child or young person participating in any legal proceedings. This is important in the prevention of re-victimization of the child once the case details are reported to law enforcement.

If the first information received is a child labour related incident, then the relevant officers of the Department of Labour need to be informed to ensure that information with regard to the child labor incident is recorded and labour officers can work in collaboration with the police to identify whether it is a case of child trafficking for labor exploitation.

2.1.2 Rescue

A rescue is any intervention made to remove a victim from an exploitative situation and end a trafficking situation. Potential child victims of trafficking must be rescued as soon as information is received of such situations, especially if they are children and/or in immediate danger. If it is necessary to rescue a potential child victim, the police should then set out to map the rescue plan and coordinate with the necessary officers.

If a victim or witness contacts the police and files a complaint – either directly or through a guardian – a rescue operation may be conducted. The primary objective of a rescue operation is to end the exploitation of the victim and initiate the assistance process. If there is an immediate threat to the life of a potential victim, immediate intervention is required. In the event there is no immediate threat to a potential victim, the police can also conduct surveillance following the identification of the location, which may yield necessary evidence.

The police should develop a pro-active rescue plan, conduct rescue operations and are expected to coordinate with representatives of the relevant investigation units and key stakeholders that provide services such as shelter, medical and legal directives, in accordance with the SOP Guidance Note on the Identification, Protection and Referral of Child Victims of Trafficking.

In the event of the need for a rescue operation, the following steps should be taken:

The rescue team:

1. A female officer from the Children and Women's Bureau
2. The closest police mobile team should be informed
3. Officers from the SOCO team should be brought in if specialized evidence collection is needed
4. The team should be divided into two sections – one team to deal with the victims and another to arrest and process the suspects.

When planning the rescue, police have to keep the following officers informed in order to obtain assistance with regard to the child;

Authorized by the Police Officer-In-Charge (OIC):

- Relevant Labour Officer should be informed in the event of a child labour exploitation incident
- Relevant Probation officer to be informed (Under Section 17 of the Children and Young Persons Ordinance 1939.
- One police officer who has IT knowledge
- Officers from relevant Divisional Secretariat (working for children) E.g Child Rights Promotion Officer, Child Protection Officer
- Closet government hospital
- Ambulance (if necessary)
- Child Psychologist

Where necessary, information of the planned rescue to be shared with following;

- Judicial Medical Officer
- Forensic finger print expert of the Police
- Government Analyst
- Head- Police Financial Intelligence (if a place of business suspected of money laundering, illegal assets..etc)

Steps in a rescue operation

1 Identification of the location and visit the scene as soon as possible

2 At least one female officer, Sub Inspector (SI) and above ranking officer to lead the team

3 Employ a decoy where necessary

4 Visitor's register to be examined (if a hotel, lodge, spa..etc) where available and relevant

5 Identify the victims and the relevant suspects

6 Take child into police custody for protection purposes

7 Arrest suspects

8 All persons should be removed from the crime scene as soon as possible to secure the scene of crime and restrict the traffickers' opportunity to intimidate any victims, either visually or verbally.

9 Escort/transport child victims separately from other adult suspects / convicts.

10 Ensure the child's and his/her family's identities are strictly concealed from the public and media at all times.

11 Do not separated the child from his/ her parents or guardian if the child is accompanied, unless there are reasons to suspect the parents'/ guardians' involvement in the trafficking or exploitation. If there are reasons to suspect the above, the child should be separated from the suspected parent/ guardian.

**Note: Section 33 of the National Child Protection Authority Act, No. 50 of 1998 gives power of authority to the Chairman to appoint an authorized NCPA officer to enter and inspect any premises without a warrant where there is reason to believe that any form of child abuse is taking place on any premises and an application for a search warrant through court may prejudice the investigation into such child abuse. This inspection too may lead to a rescue operation of a child victim.

At the END of rescue operation, the following steps should be taken:

- Prepare accurate field notes, take photographs, record video evidence
- Identify parent or legal guardian of the child and accompany the child to the police station
- Organize a temporary safe shelter / place of safety for the child to be placed if necessary. (Most often the best place of safety is the closest hospital)
- Child victim should be referred to a JMO for medical examination/ medical assistance
- Check any other needs/ requirements of child including special needs/requirements of children with disabilities.
- Take all measures to trace the family and reunite the child with parents/ guardian, especially if the child is unaccompanied **unless** there is reason to believe the complicity of the parents/ guardians to the offence. The best interests of the child to always be considered and measures taken to protect these interests in making decisions with regard to the placing of child or handing over to parents / guardians the child.
- Take steps to ensure the protection and security of the child (in consultation with Probation Officer / NCPA Officer / National Authority for Victims of Crime and Witnesses)

Sharing information about the case AFTER the rescue operation:

- Probation and Child Care Services as soon as the child is identified
- Children and Women's Bureau Head Office to ensure directions and guidance are obtained for initial screening and investigation
- Crimes Division of Police Head Quarters
- Criminal Investigations Department
- National Child Protection Authority under Police Circular CRTM 1978 of 31st August, 2020.

2.1.3 Preliminary Screening

The preliminary screening is conducted AFTER the first information is recorded. This should be as simple, comprehensive and as brief as possible for child victims of trafficking. This is to prevent multiple interviewing/ continued providing of case details that usually lead to re-victimization. The screening should be done through a standard screening form with indicators that help the preliminary identification of a case of trafficking.

Important Considerations:

- Officers who record first information and conduct initial screening should be adequately trained and equipped with necessary screening skills and a standard screening tool to make the preliminary identification of a case of child trafficking. Based on the nature of the case and the best interests of the child, the IO should be a female officer or male officer. When and where necessary, the OIC can give instructions /guidance to police officers.

- If it is apparent that the child is with a form of disability that hinders communication (difficulty understanding and being understood due to behavioral or development disability/sensory or speech impairment etc.) reasonable support should be provided at the time of taking the first information/ screening. For example:

  - o The child should always have the support of a non-offending caregiver or trusted adult, who can communicate their special needs on behalf of the child.

  - o Effort must be taken to understand the child's preferences for communication, including choice of language.

  - o Breaks during the taking down of the first information, interview or phased interviews.

  - o Use of interview aids such as anatomical dolls, anatomical diagrams and drawing material

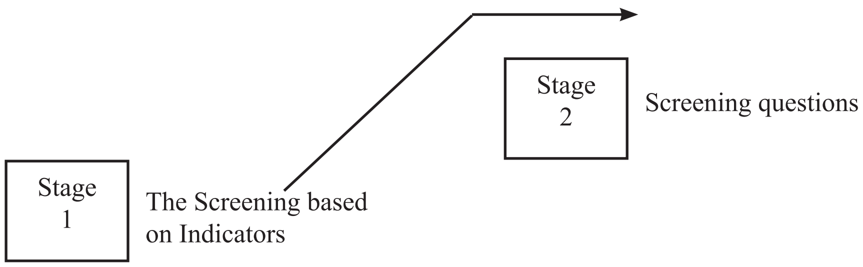
- It is important that an officer that records the first information/ initial screening of a potential child trafficking victim adopt a victim/survivor-centric approach in handling the child, given that they could be emotionally distressed at the time of providing the first information/ screening. In order to ensure the child is always interviewed in a child friendly manner, considering the rights of the child and the prevention of re-victimization, please refer to the NCPA Guidelines for Law Enforcement on Interviewing Victims of Child Trafficking.[9]

- Further, the initial identification should provide a preliminary indication of the status of the child victim, which will initiate an investigation and access to further assistance and protection.

- At the end of the initial screening, the investigation plan should be developed to support further investigations.

The Screening Process

The preliminary screening can be done in two stages:



9. Guidelines for Law Enforcement Officials on Interviewing Child Victims of Trafficking.pdf (savethechildren.net)

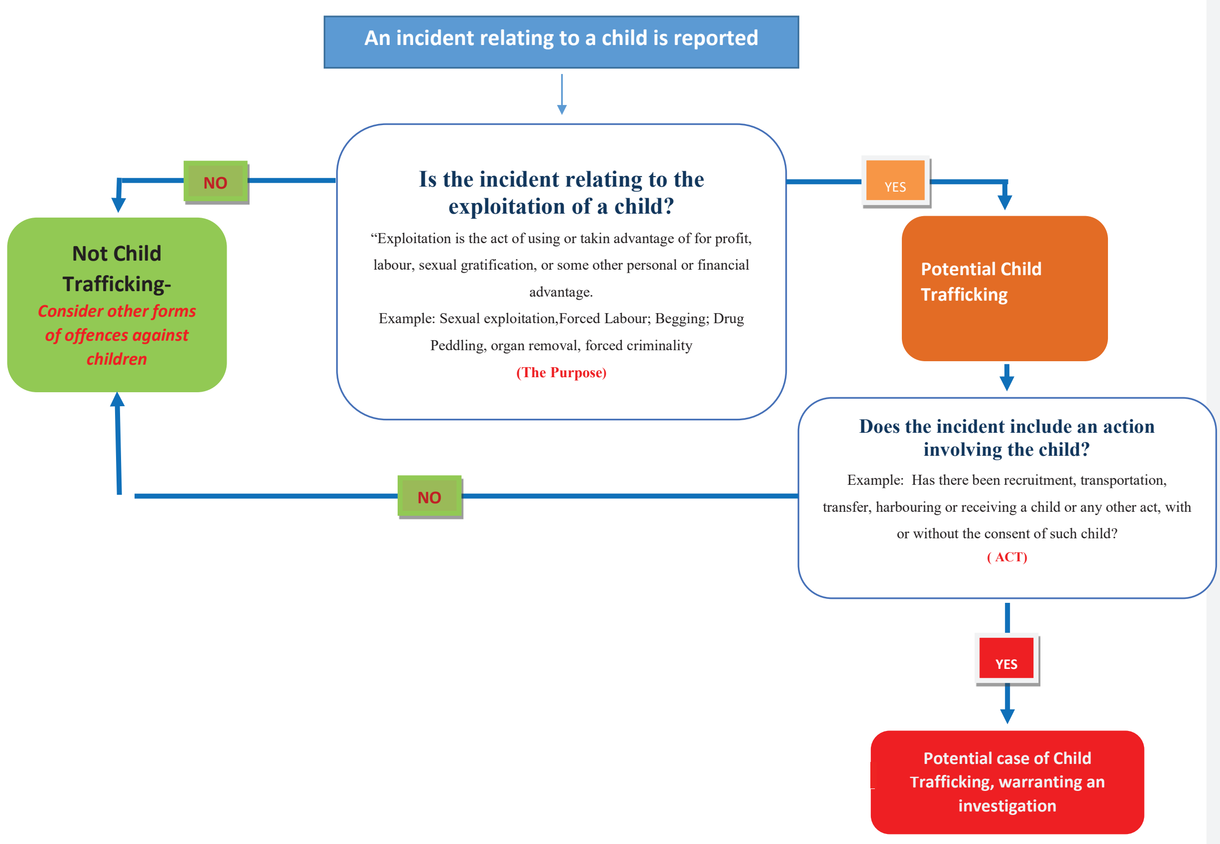
Stage One: Screening based on Indicators

There are "prima facie" indicators that should always be considered in any likely trafficking situation. It is these indicators that will establish whether an individual is potentially a victim and will therefore require further screening. [10] They are:

- **Signs of abuse**: Characteristically, traffickers subject their victims to persistent physical and psychological abuse. Signs may be visible and invisible (psychological), and, in some instances, may even be self-inflicted.
- **Signs that the child is not from the area:** Child victims are often not from the area they are found.
- **Context:** It is important to carefully examine the context in which victims are found. It is a myth that all victims are abducted. Though some are forcibly taken, many victims are actually lured into accompanying someone willingly, but often under false pretenses (example by older "boyfriends")
- **Documents:** Having no identification documents or falsified documents.

Note: The presence of one or more indicators DOES NOT confirm that an individual is a victim of trafficking. It simply means that additional screening will be required.

Stage Two: The Screening questions



Please see *Annex 1* for further information on elements of a crime of child trafficking.

10. IOM Handbook on Direct Assistance. https://publications.iom.int/system/files/pdf/iom_handbook_assistance.pdf

2.1.4 Identification of urgent needs/sharing of information with victim service providers (including shelter)

Police officers who receive the first information or conduct a rescue operation should assess the immediate needs of child victims during the initial screening process to ensure that any urgent support is provided. This assessment of the immediate needs can be carried out by the officers of the Women and Children's Bureau of the Police during the preliminary screening process. These needs *inter alia* include safety and security, physical or psychological needs. If the child victim is a foreigner or speaks a language not understood by the Police officers, interpretation services may be required. If it is a child with disabilities, necessary services and accommodation need to be provided with the assistance of relevant service providers such as the Department of Social Services.

Whenever possible the identification of needs of child victims should be carried out by a police officer in consultation with a probation officer. This is because the needs assessment would form the basis of the subsequent care plan of the child, which will be managed primarily by Probation and Child Care Services. This preliminary screening process would also help assess any immediate risks or security concerns to the victim and be addressed accordingly.

Subsequent actions and decisions relating to children at risk, including unaccompanied and separated children, must be based on a thorough assessment of the child's protection needs. The United Nations High Commissioner for Refugees (UNHCR) has introduced an assessment tool for the protection of individual children, which is referred to as a Best Interests Assessment (BIA). [11] A similar BIA can support and guide child protection actors to ensure actions taken are in line with the best interests of the child.

There are several decisions for which a BIA should be carried out:

- Initiating family tracing
- Providing temporary care
- Developing care plans for children at risk
- Return and reintegration of the child

A BIA should be conducted as soon as possible after a child at risk has been identified. For a child at imminent risk of harm, the assessment should be carried out immediately, together with actions to ensure the safety of the child in collaboration with the relevant probation officer and other child protection officers.

2.1.5 Referral to Health Services

The police who have detected or rescued a victim of child trafficking need to refer the victim to the closest government hospital or Judicial Medical Officer (JMO) for necessary medical examination and treatment.

The JMO will conduct the preliminary medical examination of the child victim. A Medico-Legal Examination Form (MLEF) should be completed once the child victim has been examined. The JMO would then issue a Medico-Legal Report (MLR) for the purpose of court proceedings. Police should request court to issue an order to obtain the Medico-Legal Report from the JMO office without delay.

If the child is placed in hospital, a Clinical Case Conference(CCC) is initiated by the hospital and relevant medical officers including JMO, Psychiatrist, Paediatrician and any other relevant clinicians. The objective is to addressing the immediate medical needs of the child. The Clinical Case Conference is chaired by the JMO.[12]

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11. https://www.unhcr.org/media/unhcr-guidelines-determining-best-interests-child
12. Chromeextension://efaidnbmnnnibpcajpcglclefindmkaj/https://medicine.kln.ac.lk/depts/forensic/images/LearningMaterials/Guidelines/National_Guideline_on_Child_Abuse_and_Neglect.pdf

An Institutional Case Conference (ICC) will thereafter be held with key stakeholders such as Police, the NCPA and the Probation Officer and medical officers as required for the care and protection of the child and overall well-being of the child. The outcome of the Institutional Case Conference is to ensure that a comprehensive assessment of the child is conducted, to identify his or her psychological, medical, social and educational needs. The reports from the Case Conferences are tabled in court for consideration by the relevant Magistrate. Magistrates are required to take the Case Conferencing reports into serious consideration when making decisions about the child's care and protection, including granting of 'Fit Person' Orders.

2.1.6 Presenting the child to court

Police officers should notify relevant Probation Officer (PO) as required under Section 17(1) of the Children and Young Persons Ordinance (CYPO) in the event a child or young person is to be brought before a Magistrate at the investigation stage. The Probation Officer should be provided the following information in writing or verbally through the telephone as per the schedule of the ordinance.

(1) The name of the child
(2) Age
(3) Sex of the child
(4) Offence

Child should be presented to court together with the Police A report.

Special considerations:

- Child friendly procedures should be used at all times. Special needs/requirements of children with disabilities should also be take into consideration.

- Considering the gravity of the incident/ case, the OIC should follow stipulated guidelines with regards to matters relating to child victims as per the Supreme Court rules for law enforcement (Annex 4) and in accordance with the Children and Young Persons Ordinance (CYPO). Decision with regard to the child's custody should be decided by court upon the submission of Probation officer's report.

Note: In terms of section 17(2) of the CYPO, upon receiving notification from a police officer, the PO is required to investigate the background of the child and prepare a report to be submitted to court. Inclusion of this process is crucial to ensure that child victims who are in need of care and protection are provided specialized support through the Department of Probation and Child Care Services.

2.1.7 Fit Person Order

Sections 35- 38 of the Children and Young Persons Ordinance stipulate provisions that provide for the placing of a child in a place of safety and the supervisory powers of a probation officer.

Section 35 -If a Magistrate court sitting as a juvenile court is satisfied that a child or a young person is in need of care and the child has attained 12 year of age, the following steps should be taken;

- Commit him/her to the care of a fit person either a relative or a guardian who is willing to undertake his care.

- to release the child to the parent or guardian on strict instructions to exercise proper care for the child

- to place the child under the supervision of a probation officer for a period not exceeding 3 years

- Have him/her sent to an approved or certified school, The investigation officers must work together with the probation officers and relevant officers of the National Authority for the Protection and Victims of Crimes and Witnesses to ensure the best interests of the child is upheld and provide protection to children placed in institutions.

2.1.8 Co-ordination with the National Authority on the Protection of Vitims of Crime and Witnesses

The special Victims of Crime and Witness Assistance Division of the Police established under the Assistance and Protection to Victims of Crime and Witnesses Act No.10 of 2023 would provide assistance to Investigation officers in instances where there is a threat or security risks to the child victim or family.

Sections 27 and 28 of Part IV of the Act stipulate the entitlement of a victim of crime or witness to seek protection. The nature of protection that may be provided to any victim of crime or witness under this Act may include:

- provision of security to the person or property;
- provision of temporary accommodation including facilities for sustenance;
- permanent or temporary re-location with the consent of the victim of crime or witness
- conducting of either the entirety or part of the proceedings in camera
- concealment of the identity of the victim of crime or witness
- adoption of special measures to ensure the best interests of the child and to protect his/her rights including the right to education
- prevent the victim of crime or witness from being harassed, intimidated, coerced, or influenced by encountering the presence of the accused
- prevent the disclosure of the identity and background information of the victim of crime or witness, including in the print media or electronic media
- adoption of appropriate measures to prevent the disclosure of evidence that may be provided by the victim of crime or witness

The investigation officers need to coordinate and collaborate closely with officers of the National Authority for the Protection of Victims of Crime and Witnesses and the Police Victims of Crime and Witness Assistance Division that child victims receive the necessary protection services.

2.2 PHASE TWO – Investigation

This section outlines the steps for the investigation or trafficking related organized crimes against children. Please refer to Section 3.3 for additional procedures to be followed if the case involves the cyberspace and/or trafficking related cybercrimes against children.

There are three stages to an investigation:

1. Planning the Investigation

2. Interviewing the victim / witnesses

3. Review of the Plan of Investigation (POI)

2.2.1 Planning the investigation

At the early stage of the investigation, the Officer in Charge (OIC) should ensure that there is a formal planning meeting with the investigation officers. Thereafter the OIC should document and compile a summary of the evidence collected to date and sort the material into victim and witness evidence statements and the supporting evidence exhibits. Draw up a list of what further investigations need to be undertaken and break this list down into 'urgent' lines of enquiry, i.e. those that need to be prioritized for immediate action, such as:

- Identify and interview key witnesses
- Identify further victims
- Identify other potential crime scenes
- Identify locations that need to be searched for evidence
- Search and arrest suspects

The relevant senior police officers and divisions - ASP District / CWB Head Office /CID should be informed of the progress of the investigations and the OIC should liaise with the Attorney General's Department where necessary.

** Note - Please see section 5.2.4.1 for information on liaising and conducting investigation discussions with the Attorney General's Department to help identify offences.

Resources: Senior officers must ensure the right number of investigating officers are assigned to each case depending on the nature and extent of the crime. This should include trained officers. Logistic considerations must be taken into account such as providing each investigation with the necessary transport and other administrative support to be able to complete the investigations.

Inter-agency communication is important, following clear protocols in place to communicate with the relevant institutions that work on child protection such as NCPA, DPCCS, National Authority for the Protection of Victims of Crime and Witnesses and hospitals to ensure the success of the case through close collaboration and to uphold the best interests of the child.

Collaboration: As and when necessary Police should communicate with the relevant probation officers and staff of institutions where the child is placed for protective care. Once a month, the case should be discussed with the relevant probation officer and NCPA officer, to assess the progress of the investigations and other matters relating to the case management of the child.

Please see section 5.2.4.5 on collaborating with INTERPOL / Ministry of Justice / Ministry of Foreign Affairs with regards to locating missing persons including minors, identify persons or suspect locations overseas, issuing of notices for arrests, mutual legal assistance and extradition.

2.2.2 Interviewing child victims and witnesses

In order to ensure the child is interviewed using a child friendly and victim-centric approach, considering the rights of the child and the prevention of re-victimization, please refer to the **'Guidelines for Law Enforcement Officials on Interviewing Child Victims of Trafficking** [13] developed by NCPA in collaboration and technical support from Save the Children Sri Lanka and the International Organization for Migration.

Use of Interpreters:

Where an interpreter's assistance is required, police officers are able to request interpreters from a language faculty of a University accepted by the Department of Official Languages or Judicial Services Commission. If there is a

13. Guidelines for Law Enforcement Officials on Interviewing Child Victims of Trafficking.pdf (savethechildren.net)

child using sign language, then the OIC should arrange the required sign language interpretation from relevant departments or institutions such as the Social Services Department. Interpretation and sign language services should be obtained through approved and formal channels to ensure there is no conflict of interest or influence by the perpetrators.

Contemporaneous video recording

The statement of victims of child trafficking should be recorded as soon as possible. The statement can be recorded through Audio/Video Recording, which is admissible in court as per the provisions of the Evidence Ordinance Special Provisions Act, No.14 of 1995.

A statement of a child can be taken through video recording via facilities available at the Video Recording Unit of the National Child Protection Authority and 'Lama Piyasa' managed by a multi-disciplinary team under the Colombo North Teaching Hospital, Ragama.

Special considerations in video recording of a child victim's statement

Follow Guidelines for Law Enforcement Officials on interviewing child victims of trafficking.

1. Don't ask leading questions

2. Respect the child and the child's needs

3. A parent/ guardian may be permitted to be present when it is a very young child (5 years of age or below) or if the child has needs or disabilities

4. Ensure the parent / guardian / interviewer does not coach or prompt the child on what to say. The parent/guardian should not be directly facing the child when the interview is progressing. In exceptional circumstances, the Police officers may use their discretion based on the specific needs of the child.

5. Ensure the transcription is noted down as per the child's statement and sections are not omitted or deleted

6. The police officer who provides technical assistance for the video recording is also required to give evidence in court

7. A notice period is given under Section 7 of the Evidence Ordinance (Special Provisions) Act, No. 14 of 1995 – Video recording to be available for inspection. **Evidence in relation to the video interview must be in consideration of the provisions set out under Section 163 A of the Evidence (Special Provisions) Act, No. 32 of 1999.

2.2.3 Review of Plan of Investigation

The investigating officer should review the plan of investigation and determine what further investigations need to be conducted.

The review process should include the following;

Next steps of the investigation

Determine the most effective and efficient means for investigating the matter, with timeliness and resource availability.

Investigation processes

Ensure that the investigation is proportionate to the matter being investigated and the associated risks, and that there is a plan to properly manage incidents or issues to prevent further impact to the victim and mitigate risks to the integrity of the investigation. Best practices in investigation procedures should be followed and should be within relevant legal provisions and police regulations. Also avoid the risks of investigating irrelevant matters.

2.2.4 Further Investigations

The relevant investigation officer should submit to court a summary of facts gathered during further investigations. Thereafter the IO should request court to issue orders for the following as required:

1. Medico-Legal Report (MLR)
2. Government Analyst's Report
3. Order for care and protection of the child
4. Remanding of relevant suspects
5. Video recording of evidence where necessary

2.2.4.1. Freezing/ confiscation of assets

During further investigations special considerations should also be given to the freezing or confiscation of assets obtained through proceeds of crime. This is to ensure evidence is gathered with regard to illegally obtained assets as a result of the trafficking crime, deprive criminals from the ill gained assets and help compensate victims of the crime.

1. Confiscation of assets

Specific laws such as the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 (Sec. 6 (1) (d)), the Financial Transactions Reporting Act, No. 6 of 2006 (Sec. 24, 25, 26), laws relating to banking (*e.g.* sec. 57, 67 of Banking Act, No. 30 of 1988), Criminal Procedure Code and the Customs Ordinance 1870 (*e.g.* sec. 125 of Customs Ordinance) deal with the seizure of assets. The Criminal Procedure Code sections 60 and 61 allows the court to seize assets of a person against whom an arrest warrant has been issued and is absconding.

2. Money laundering

In the case of the offence of money laundering, the Prevention of Money Laundering Act, No. 5 of 2006 provides for the freezing of assets (Section 6 -12)

Section 13-16 of the Prevention of Money Laundering Act deals with the forfeiture of assets in relation to which the offence of money laundering has been committed.

Apart from the above, provisions under sections 29, 426, 431, 433 of the Code of Criminal Procedure Act, (No. 15 of 1979) apply in the confiscation of the proceeds of crime.

An investigation officer may seek the assistance of the Police Illegal assets and Intellectual Property Investigation Unit for investigations into criminal proceeds obtained by those suspected in a child trafficking case.

2.2.4.2 Identification of offences - Establishing the elements of child trafficking

The investigation Officer who will question and interrogate the suspects needs to consider the following in order to help establish the elements of the trafficking crime;

1. Facts to help understand the entire process of child trafficking: the demand–supply patterns, 'push and pull factors', *etc.* which will not only help in locating evidence against the offenders but also provide intelligence in prevention of crimes of TIP:

1.1 According to the complaint/s made by the victim/s, how did the victim/s get to know suspect/s? The relationship between the victim/s and the suspect/s should be revealed.

1.2 According to the statement/s given by the suspect/s, how did the suspect/s get to know the victim/s?

1.3 The above should be mentioned separately to identify any differences and to conduct further investigations

1.4 If the victim/s or suspect/s declare that additional parties are involved in this incident, there should be a brief summary of the statement/s of those person/s attached to the B Report.

2. Facts to uncover the entire organized linkage of trafficking (source-transit-destination) where relevant

3. Explore contacts, sources and witnesses in the source-transit-destination areas where applicable.

4. Locate the means, routes and methods used for transportation of victims.

5. Discover the communication channels (cell phones, internet, *etc*.) used by traffickers.

6. Investigate the modus operandi of traffickers (all operational ways and means, strategies and tactics, such as, promise of jobs; lending of money, intimate relationships, use of social media *etc*.).

7. Ascertain any previous criminal convictions, arrests of the offenders and locate and rescue victims trafficked earlier by the same offenders (existence of Previous convictions for the same/ similar offences would be criteria that will be considered as an aggravating circumstance at the sentencing stage if the offenders are convicted).

8. Understand the motives/ intentions/ incentives of the traffickers.

9. Ascertain the financial transactions between the offenders.

10. Locate illegal assets and take steps accordingly.

11. Conduct further investigations on the aspect of money laundering.

The investigation officer at this stage need to identify the different offences that have been committed within the process of the child being trafficked and the relevant legal provisions should be included in the charges against the suspects in the Police 'B report'. The officer must ensure that there is sufficient evidence available to prove the offences. Please refer to Annex 1 for further understanding of the elements of a crime of child trafficking.

The advice of the Attorney General's Department (AGD) could be requested if necessary even prior to the conclusion of investigations if the investigations involve complex legal issues. Section 393 of the Criminal Procedure Code empowers the AGD to direct or advice on any investigations.

In cases where elements of organized crime is suspected or the investigation is complex in nature, the Director Children and Women's Bureau, Director CID, ASP of the Anti-Human Trafficking Unit may contact the AGD for legal advice and discuss special facts of a potential TIP / child trafficking case.

Once the basic elements of the child trafficking crime have been identified by the investigating officer, gaps in evidence can be evaluated and further investigations that need to be conducted to strengthen the proof of the elements of the trafficking crime can be considered. Further, police can request for the advice of the Hon. Attorney General regarding the procedure to be followed to obtain mutual legal assistance from foreign jurisdictions.

**Other Offences that are often committed along with the offence of trafficking* :

Penal Code

Section 285	–	Sale of obscene books
Section 286	–	Having in Possession obscene books, &c for sale or public exhibition
Section 286A	–	Obscene Publication exhibition relating to children
Section 286B	–	A person who provides a service by means of a computer shall take all such steps as necessary to ensure that such computer facility is not used for the commission of an act constituting an offence relating to the sexual abuse of a child
Section 286C	–	Any person who having the care, care control or possession of any premises has knowledge of such preemies being used for the commission of an act constituting the abuse of a child, shall forthwith inform the officer in charge at the nearest police station of such fact
Sections 310 – 329	–	Causing hurt
Sections 330 -339	–	Of wrongful restraint and wrongful confinement
Sections 340 – 349	–	Criminal force and assault
Section 350	–	Kidnapping
Section 352	–	Kidnapping from lawful guardianship
Section 353	–	Abduction
Section 356	–	Kidnapping or abducting with the intent to secretly and wrongfully confine a person.
Section 358 Section 358 A	–	Kidnapping or abducting in order to subject a person to grievous hurt, slavery. Debt bondage, serfdom, forced, or compulsory labour, slavery and recruitment of children for use in armed conflict
Section 360 A-	–	Procuration
Section 360B-	–	Sexual Exploitation of Children

Vagrants Ordinance No. 51 of 1941

Section 9 (1) -	–	(a) Knowingly lives wholly or in part on the earnings of prostitution
		(b) systematically procures person for the purpose of illicit or unnatural intercourse, shall be deemed to be an incorrigible rogue
Section 11 -	–	Causing the seduction or prostitution or unlawful carnal knowledge of a girl

Brothels Ordinance No.05 of 1889

Section 2	-	Keeps or manages or assists in the management of a brothel

Offences under other laws that can be investigated along with the offence of Child Trafficking:

Sri Lanka Bureau of Foreign Employment Act, No. 21 of 1985

Section 62 (1)	–	Unauthorized recruitment
Section 62 (2)	–	Operating without a license
Section 63 (b)	–	Forgery or Inducement to leave
Section 64	–	Unauthorized fees

Section 67 A	–	General Penalty
Section 67 B	–	Aiding and abetting an offence under the Act
Section 68	–	Repeat offending under sec. 63 and 64

Immigrants and Emigrants Act, No. 20 of 1948

S.45 A (1)	–	Offense of bringing persons into Sri Lanka in contravention of the Act
S.45 (1) (B)	–	Leaving Sri Lanka in contravention of provisions of this Act
S.45 (C) (1)	–	Facilitating persons to leave Sri Lanka (amended by Act, No. 31 of 2006)

2.2.4.3 Interrogation of suspects and arrests

A police Officer should arrest suspects as per the provisions under the Code of Criminal Procedure Act, No.15 of 1979.

Special considerations;

- The investigating Officers are likely to deal with two categories of individuals – the *suspects* and the *victims.*
- It is important for the child victims to be separated at all times from the suspects.
- As per Section 76 of the Penal Code Amendment Act, No. 10 of 2018, nothing is an offence which is done by a child above eight years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequence of his conduct on that occasion.
- Criminal responsibility is deemed on a child above the age of 12 years. In the event the child is aged between 12 -14 years the judge would refer the child to a special medical board to ascertain the child's physical and mental status to assume such criminal responsibility.
- Section 122A of the Code of Criminal Procedure (Amendment) Act, No.11 of 2018 stipulates provisions with regard to the medical examination in case of an offence alleged to have been committed by a child of, or above twelve years of age and under fourteen.

However, it must be noted that in cases of trafficking in persons, suspected child offenders are in fact coerced, tricked, threatened, forced into committing trafficking related offences and police officers should make all possible efforts to gather information to assess if the child offender in fact did not have adequate knowledge or intention to commit such crimes.

Planning the interrogation of suspects

Determine:

- The number of suspects to be interrogated;
- The number of interviewers available to conduct them;
- The number of alleged offences to be examined;
- The time frame of the crime to be covered;
- The complexity of the evidential issues that will need to be examined.
- The time period the suspects can remain in police custody.

*****Suspects to be detained for minimum 24 hours but can be extended to 72 hours under a detention order.***

2.2.4.4. Prepare B report with summaries of evidence

The B report that is submitted to the Magistrate should contain:

- A brief summary of the complaint
- Summaries of the evidence which have been collected by the Police, which includes information if a child has been found to have been trafficked, exploited, procured, raped or subject to grave sexual abuse.

2.2.4.5. Produce before Magistrate (with 'B' report)

Suspects should be produced before the Magistrate if sufficient evidence is available of the suspects committing an offence. Procedures under the provisions of the Code of Criminal Procedure should be followed (Section 116-120).

2.2.4.6. Remand and Bail

Code of Criminal Procedure Act, No. 15 of 1979 Section 264 stipulates procedures for the remand of suspects.

Every warrant of detention, commitment or remand issued under section 115, section 159, section 239, or section 263, shall be in the prescribed form and shall be signed by the Judge and such warrant shall be delivered to an officer of the Prisons Department.

Bail should be granted as per the provisions of Code of Criminal Procedure and the Bail Act No.30 of 1997. A Schedule to the Code of Criminal Procedure Act sets out bailable and non-bailable offences. A request should be made to court to remand the suspect if the one or more criteria set out in Section 14 of the Bail Act are applicable.

2.2.4.7. Detection and Arrest of Suspects overseas

If a suspect/s in relation to a child trafficking case is found to be overseas, and his/her location needs to be identified, INTERPOL via its network is able to facilitate such identification.

Under Police circular No. CRTM_1478 (RTM 890 dated 24th October 2019), any police station or law enforcement entity could seek assistance via SSP Division (Senior Superintendent) to DIG CID or Director CID should consult INTERPOL Colombo for their investigations. As per this circular, law enforcement officials and/or authorities can seek assistance in the following instances;

1. To collect/find information on a 'Wanted Person',
2. To arrest, detain or to restrict movements of such 'Wanted Person'.
3. In relation to investigations, to trace/find the location of a person or a thing
4. To share/ provide information or to receive information regarding criminal investigations or criminal activities of a person
5. To inform or issue a warning of a person or an incident or a thing or any plan/strategy/tactic connected to criminal activities
6. To identify/ trace about an unidentified dead body or alive person
7. To conduct forensic analysis

8. To carry out security related searches

9. To identify criminal networks, trends and threats

10. To Obtain the assistance of NCMEC and ICSE databases

INTERPOL is able to issue the following notices which enable countries to share alerts and requests for information worldwide. These are international requests for cooperation or alerts allowing police in member countries to share critical crime-related information. Notices are colour-coded based on different purposes of issuing those:

Red notice -	To seek the location and arrest of persons wanted for prosecution or to serve a sentence.
Blue notice -	To collect additional information about a person's identity, location or activities in relation to a criminal investigation.
Green notice -	To provide warning about a person's criminal activities, where the person is considered to be a possible threat to public safety.
Yellow notice -	To help locate missing persons, often minors, or to help identify persons who are unable to identify themselves.
Black notice -	To seek information on unidentified bodies.
Orange notice-	To warn of an event, a person, an object or a process representing a serious and imminent threat to public safety.
Purple notice -	To seek or provide information on modus operandi, objects, devices and concealment methods used by criminals

Mutual Legal Assistance

**Note: Mutual Legal Assistance is requested in writing to the Secretary Ministry of Justice who will forward such request to the Secretary Ministry of Foreign Affairs for next steps. This request should be coordinated with the assistance of the Attorney General's Department.

If suspects or victims are overseas and need to be repatriated, procedures under the provisions of the Mutual Assistance in Criminal Matters Act No. 25 of 2002 should be followed.

However, under the provisions of the Assistance to and Protection of Victims of Crime and Witnesses Act, if a statement of a victim located overseas is necessary, this statement maybe recorded via video recording in coordination with the relevant embassy or consulate.

Section 2 (1) of the Mutual Assistance in Criminal Matters Act, No. 25 of 2002 amended by Act, No. 24 of 2018, has prescribed following countries/organizations in which MLA could be requested:

- Parties to the United Nations Convention against Corruption

- Parties to the Council of Europe Convention on Cybercrime

- Members of the Commonwealth

- A country which has entered into an agreement with Sri Lanka for mutual assistance in criminal matters

- A country which has not entered into any agreement with Sri Lanka, where the Minister may determine that it is in the best interests of the sovereign nations that Sri Lanka extends and obtains assistance on the basis of reciprocity

- An intergovernmental organization combating corruption, money laundering or financing of terrorism, on such terms and conditions as may be necessary and on the assurance of reciprocity.

Section 3 of the Act sets out the objective of this Act, which is to facilitate the provision and obtaining by Sri Lanka of assistance in criminal and related matters, including:

(a) the locations and identification of witnesses or suspects;

(b) the service of documents;

(c) the examination and interviewing of witnesses or suspected persons;

(d) the provision and obtaining of evidence, documents, other articles or information;

(e) the execution of requests for search and seizure;

(f) the effecting of temporary transfer of a person in custody to appear as a witness;

(g) the facilitation of the personal appearance of witnesses;

(h) the criminal infringement of intellectual property including copyright infringement;

(i) the information relating to the location of a computer system or any other property connected with any criminal activity;

(j) the enforcement of any orders for the payment of fines;

(k) the forfeiture or freezing of property pursuant to the relevant laws on such matters;

(l) the tracing of crimes committed via internet, information communications technology, cloud computing, block chain technology and other computer networks including the trading of any digital currencies;

(m) the bribery of any foreign public official or official of a public international organization and their respective proxies and beneficiaries;

(n) the expedited preservation of stored computer data and expedited disclosure of preserved traffic data and data retention;

(o) the location of proceeds of a criminal activity;

(p) the use of documentary evidence obtained in a specified country or specified organization through specific authorization to be made admissible in a judicial proceeding; and

(q) the admissibility and applicability of evidence led from a specified country or specified organization through video conferencing technology.

Extradition

The substantive extradition law in Sri Lanka is the Extradition Law No.08 of 1977. The Ministry of Defence is the Central Authority for extradition in Sri Lanka in terms of the *Gazette* Notification No. 2289/43 dated 22.07.2022. Accordingly, extradition requests should be submitted to the Ministry of Defence through diplomatic channels.

2.3 PHASE THREE – Trial

2.3.1 Framing of charges – Instructions from Attorney General's Department

The formal procedure to seek advice on a potential TIP case is to inform the Attorney General in writing, by the Director - Legal of the Police.

Once the IB Extracts are received by the AGD, if the officer entrusted with the file in the AGD considers it necessary to have a consultation with the investigating officers, the investigators may be summoned for a consultation.

**Note: Section 393 of the Criminal Procedure Code – AG can direct / advice on any investigations.

In cases where elements of organized crime is suspected or is complex in nature, the Director, Children and Women's Bureau, Director CID, ASP of the Anti-Human Trafficking Unit may contact the AGD for legal advice and discuss special facts of potential TIP / child trafficking cases.

Role of the Attorney General's Department

• Advice of the AGD may be provided with regard to the following matters depending on the facts and circumstances of each case:

1. The trafficking elements of the case that need to be investigated / relevant legal provisions
2. Other crimes that have been committed
3. Request for expert reports: CCTV / SOCO / JMO/ DNA/ Voice identification etc
4. Types of evidence to gather according to the crimes committed
5. Obtaining phone records (Director CID can obtain without a court order)
6. Taking additional statements from the victim / witnesses if necessary
7. Upon review of available material, the AGD will advice the police to conduct further investigations if necessary.

- If the available evidence is sufficient to establish a charge of trafficking, the AGD will forward indictment to the relevant High Court.
- If the material in a concluded investigation is insufficient to indict any person for trafficking and is insufficient to charge any person for any connected offences, Discharge papers will be forwarded by the AGD to the relevant Magistrates Court.

Role of the investigation officer

Submit complete file to AGD on facts of the case.

Keep AGD informed on any special concerns, such as if the victim is under stress or showing any mental health problems, is under threat, having any organized crime linkages or any special care and attention needed by the victim up until the time of the trial and subsequently.

If there is any threat or intimidation against any victim or witness of the case by the suspect/s facts should be separately reported under the Assistance to and Protection of Victims and Witnesses of Crime Act, No. 10 of 2023.

** During the trial process if further suspects are identified by the police then Government Analyst should be referred to for any necessary DNA reports to confirm identity of such suspects where necessary.

2.3.2 Indictment

The crime of Trafficking in Persons (TIP) and Child trafficking are indictable offences, with proceedings instituted by the Attorney General in the High Court.

As per Section 162 of the Code of Criminal Procedure Act, No. 15 of 1979, every indictment forwarded to the High Court should contain -

1. a list of witnesses whom the prosecution intends to call;

2. a list of documents and things intended to be produced at the trial (productions);

3. where there was a preliminary inquiry, a certified copy of the record of the inquiry and of the documents and of the inquest proceedings if there had been an inquest;

4. where there was no preliminary inquiry, copies of statements to the police made by the accused and the witnesses listed in the indictment;

5. copies of all reports and sketches listed in the indictment;

6. copies of the notes of any identification parades that may have been held during the investigation of the case;

7. copies of any statements made to the magistrate under Section 127 of the Code of Criminal Procedure by: the accused; and any witness listed in the indictment.

An open warrant may be issued for an indicted suspect via a Red Notice to seek the location and arrest such person wanted for prosecution.

2.3.3 Private legal representation / Legal Aid

In Sri Lanka, every child has the right have legal assistance provided by the State at State's expense in criminal proceedings affecting the child, if substantial injustice would otherwise result in terms of Section 5 (*c*) and 5 (*d*) of the International Covenant on Civil and Political Rights Act, No. 56 of 2007.

Child victims of trafficking may obtain legal counsel and legal aid to ensure their interests and rights are protected throughout the judicial process. Section 5 (*d*) of the Assistance to Victims of Crime and Witnesses Act, No. 10 of 2023 further recognizes the victims right to seek legal aid from the State if necessary. Legal aid may also be received *via* international and non-government organizations that provide specialized victim assistance.

Such private legal representation may also support the investigators and prosecutors in informing of any threats or other protection needs of the child victim or their families. The accused also have a right to legal representation and can seek legal services from the State through the Legal Aid Commission if the accused is unable to pay for it.

2.3.4 The trial process

Victim preparation :

It is important that the child victim is well prepared for the trial stage. The victim can be supported through this process with the assistance of counselors, probation officers and child protection officers.

It is important that the whole justice process of a case of child trafficking ensures the response and protection provided is victim centered and in the best interests of the child. Police and all other officers involved in the investigation and prosecution of the case must make special efforts to ensure that the investigation and court process do not re-traumatize and re-victimize the child victim and cause additional harm.

Steps to follow:

Inform victims of their legal status:

- provide identified victims with information about their legal position as a victim and available services.

- confirm the legal status of foreign victim-witnesses (with regard to their visa status in Sri Lanka) to allow them to remain without being detained or deported.

Protect victims from intimidation and threats [Victims of trafficking who are cooperating in the criminal justice process can be at a higher risk of retaliation and intimidation]:

- The Police and National Authority on Victims of Crime and Witnesses should work to identify and address risks to victims' safety and well-being, including through protecting their privacy. Not only are privacy and confidentiality key in protecting victims/witnesses, but protecting privacy and confidentiality also builds feelings of safety and trust.

  Facilitate the safe and meaningful participation of victims in the criminal justice process [Victims of trafficking will be often reluctant and afraid to give evidence if this means the risk of being identified by the media or standing up in a public courtroom in view of their trafficker /exploiter, and talk about their traumatic personal experiences].

- The police and other officers of court need to find ways to assist trafficking victims to participate safely and meaningfully in legal proceedings age appropriately. This includes recognizing and being sensitive to their experiences of distress in all interactions and actions taken.

- Children should be informed of their rights, protection processes and legal proceedings in a language and manner/ method that is appropriate for their age and stage of development.

- If it is determined that being a witness is in the child's best interests, child victims should be provided with a support person to safeguard their best interests in the legal process and ensure the child receives the protections available, such as alternatives to direct testimony and interviewing in court where possible.

- The assistance of non-government organizations that provide protection services to be approached and coordinated with to ensure a victim receives necessary assistance and support.

In-camera proceedings :

Article 106 of the Constitution of Sri Lanka provides for *in camera* judicial proceedings when charges of sex-related crimes are involved.

Further, Section 19 (1) of the CYPO allows for a court to direct all or any persons not being officers of the court or parties to the case, their attorneys or persons directly concerned in the case to be excluded from the court during taking of evidence of a child.

Section 28 (1) (*d*) of the Assistance to Victims of Crime and Witnesses Act, No. 10 of 2023 also provides provision for the victim to request conducting of either the entirety or part of the court proceedings in camera. Sections 82, 83 and 87 of Part X of the Act which relates to 'Testimony through contemporaneous audio-visual linkage' contain provisions for evidence to be given by any victim of crime, witness or law enforcement authority through contemporaneous audio-visual linkage from a remote location within or outside Sri Lanka.

Protection of child victims :

The police investigation officers play an important role at the stage of the trial with regard to the protection of the victims. The police officer can brief the prosecutor of any special facts of the case that may arise during the pre-trial and trial stages such as if there are any threats or other intimidation of the victim by the accused/s. The victim or witness can make a direct complaint to the National Authority for the Assistance to Victims of Crimes and Witnesses.

Provisions under Part II and Part IV of the Assistance to and Protection of Victims of Crime and Witnesses Act, No. 10 of 2023 stipulate the rights and entitlements of victims of crimes, as listed below. *In Section 34 (6), a 'vulnerable victim of crime' includes a victim of crime or witness under 18 years of age as well as a person who is a victim of trafficking under Section 360C of the Penal Code.*

Part II

Section 3	–	Rights of a victim of crime to a fair treatment
Section 4 – 6	–	Right of a victim of crime to receive information on assistance protection and remedies made available to him
Section 7	–	Entitlements of a victim of crime to receive financial assistance.
Section 8	–	Victim Impact Statement

Part IV

Sections 27 – 29	–	Entitlement of victim of crime or witness to see protection
Section 34	–	Special measures for vulnerable victims of crime
Section 35	–	Continuous needs assessment by a Protection Officer
Section 59	–	Adopting a specific programme for a victim of crime

Provisions under Part III of the Assistance to and Protection of Victims of Crime and Witnesses Act, No. 10 of 2023 stipulate which offences committed against victims and witnesses can be charged and prosecuted in the Magistrate court under the Act.

Part III

Section 14	–	Intimidation of a victim of crime or witness
Section 15	–	Causing hurt to a victim of crime or witness
Section 16	–	Restraining a victim of crime or witness
Section 17	–	Compelling or inducing a victim of crime or witness to leave any place, or causing loss or damage to the property of a victim of crime or witness
Section 18	–	Harassment to a person in the place of employment
Section 19	–	Providing gratification to prevent legal proceedings

** *Note*: Sections 14 – 23 are cognizable offences and is bailable within the meaning of the Bail Act, No. 30 of 1997. The Magistrate when giving bail for such offences has the power to set out conditions to the bail order such as prohibiting communication with or coming into close proximity with the victim of crime or witness with such other person as may be specified in such order.

** Further, under Section 14 (*j*) of the National Child Protection Authority Act, No. 50 of 1998 a main function of the Authority is to ensure that all appropriate steps are taken where necessary to secure the safety and protection of children involved in criminal investigations and proceedings.

Officers of the Department of Labour can be contacted with regard to presenting evidence on labour exploitation of the child.

Interim relief and Compensation :

Part IX of the Assistance to Victims of Crime and Witnesses Act, No. 10 of 2023 states that the payment of any compensation or making an interim award to a victim of crime under the Act shall be based on just and equitable basis. Section 61 stipulates that court may, on conviction of an accused, in addition to any penal sanction that may be imposed on the convicted person in respect of the offence for which he is convicted, order the convicted person to pay to the court such amount of compensation.

2.3.5 Return of child victim to and from Sri Lanka

Child victims who are accompanied by parents or guardians should not be separated from them, unless it is in the best interests of the child to do so. When there is an unaccompanied child, the investigation officer should refer the case to court under the Children and Young Person's Ordinance and obtain an order to place the child in a safe home temporarily.

If the child victim is a foreigner, there should be an assessment in the country of origin or nationality to ascertain whether it is safe for the child to return, considering risks to the child's protection against armed violence, trafficking, abuse, exploitation etc, as well as the level of safety within the child's family. This should be done via a court order[14]. Until (and if) the child is returned to his/ her country of origin, the child (and family if applicable) should be treated with dignity and the child should have appropriate access to services to meet basic needs, such as nutrition, health, shelter, education and protection. The return / repatriation of victims has to be done in coordination with the Department of Immigration and Emigration.

If the child victim is overseas and the exact location needs to be identified and/or assistance is needed with regard to taking over the custody of the child, the assistance of INTERPOL could be requested.

There should also be an assessment of the level of protection that can be provided for the child in Sri Lanka, to determine the best environment that protects the rights of the child victim.

2.3.6 Preventing re-victimization and further harm to the child victims

Coordination and referral to victim support service providers :

It is important that the police identify relevant agencies for referral for victim support services and is based on the preliminary assessment of the immediate needs of each victim. Referral agencies could include a combination of government agencies and NGOs, and will likely include transitional shelters and medical services at a minimum.

Shelter :

A child victim of trafficking may need short term safe shelter until a risk assessment is done and 'fit person order' is obtained in consultation with the probation officer. The police investigation officer should make interim arrangements to refer the child to a place of safety such as Shelter Homes run by either the government or by non-government organizations. It is important that the relevant police officer has access to a list of ministries or institutions running such Homes, including their contact numbers.

Acknowledging the delays that arise throughout the judicial process, there may be a need to provide long term shelter for a child victim of trafficking. In these instances, all efforts must be made in the best interests of the child to remain with his /her family and only if a risk or further harm is anticipated as a result of the child returning home that placing the child in long term shelter should be considered.

14. The investigation officer should refer the case to court. Based on the court order, the officer need to conduct the investigation including the coordination work to obtain child's family details from the child's country of origin and to decide on returning the child

Psychosocial Support :

A child victim of trafficking may have suffered extreme trauma as a result of the exploitation he or she faced as result of being trafficked. The police must make all efforts to facilitate psychosocial help and intervention through the services of relevant stakeholders such as counselors to reduce the child's trauma and distress. Psycho-social support should continue to be provided even after post-trial and throughout any planned reintegration process of the child victim.

Locally available government services :

Divisional Secretariats provide a variety of support services for vulnerable children's protection and empowerment, which can prevent further harm or revictimization of child victims. The police can request such services for children in need of protection, by way of referral:

Title of officer	Services provided
Child Rights Promotion Officer	Identification, prevention and mitigation of child rights violations through case management
Child Protection Officer	Identification, prevention and mitigation of child protection issues, support for investigations on crimes against children
Social Services Officer	Support for vulnerable children with disabilities, children in street situations and provision of social welfare services
Skills Development Officer	Skills development and training services
Early Childhood Development Officer	Identification, prevention and mitigation of child development concerns of children under the age of 5 years
Women's Development Officer	Identification, prevention and mitigation of protection and welfare issues of women
Development Officer of the Ministry of Foreign Employment	Identification, prevention and mitigation of protection and welfare concerns of children of migrated parents
Counselling Officer	Provision of basic counselling services for children and women
Youth Service Officer	Provision of programmes targeting empowerment and skills development of youth
Preventative Education & Training Officer of the Dangerous Drugs Control Board	Provision of drug prevention programmes targeting schools, youth, families and communities

*This is not an exhaustive list, and available services will vary according to location.

03. CYBERCRIMES AGAINST CHILDREN

Cybercrimes are criminal activities that either target or use a computer network or a networked device. Most cybercrimes are committed with the objective of earning money.

Hence, any activity that uses the medium of internet such as email, chat, websites, apps etc. to conduct unlawful financial transactions, harassment, online child sexual abuse, produce or publish Child Sexual Abuse Material(CSAM), cyber terrorism, stealing or leaking personal information can be considered a cybercrime.

A cybercrime can be categorized into two, as **'property crimes'** and **'crimes against a person'**.

Property crimes - can be illegal transactions, identity theft, scam, fraud and copyright infringement **Crimes against a person -** can be stalking, cyber bullying, CSAM and sharing of private pictures or videos without the consent of a person.

Given the complexities involved in the fast paced development of technology and related cybercrimes, traditional investigation experience alone will not suffice to solve such cybercrimes. A structured approach with both investigation and technical expertise is required to address such crimes. In order for law enforcement to adapt and face challenges in the investigation of cybercrimes, it is important that resources and expertise of the IT industry and collaborative partnerships with key stakeholders are built. A significant step in this regard would be to put in place standardized procedures in cybercrime investigations.

3.1. Types of cybercrimes against children

Cybercrimes against children require special considerations due to the vulnerability of this group. Special attention is needed to ensure their protection online.

Some of the cybercrimes committed against children are identified as cyber sexual exploitation, cyber bullying and extortion, online grooming and cyber/digitally enabled extremist/violent radicalization of children. There are also crimes of children exploited for the production and display of Child Sexual Abuse Material (CSAM) and Child Sexual Exploitation Material (CSEM). At present there is no universal definition for CSAM and CSEM, however this refers to media that depict children in a sexualized and exploitative manner.

Addressing cybercrimes against children requires a concerted effort from governments, law enforcement, technology companies, educators, and parents. The goal is to create a safer online and virtual environment that protects children from exploitation, harassment, and other forms of harm.

The following sections help understand and guide an investigation officer (IO) on the different types of cybercrimes specifically in relation to children, relevant legal provisions in relation to cybercrimes and step by step process of cybercrime investigations.

- **Online sexual abuse and/or exploitation** - the use of information and communication technology as a means to sexually abuse and/or sexually exploit children. This involves the contact or interaction between a child and an older or more mature child or adult where the child is being used as an object for the older child's or adult's sexual needs. These contacts or interactions are carried out against the child using force, trickery, bribes, threats or pressure.

- **Cyberbullying** - the process of using the Internet, cell phones or other devices to send or post text or images intended to hurt or embarrass another person. The increasing misuse of social media and devices among children and young people has led to increased incidents of cyberbullying. These involve posting rumors about others online, making threats, making sexual remarks, disclosing private information, hate speech or creating fake profiles to harm another person.

- **Online grooming** – a practice where an adult 'befriends' a child (often online, but offline grooming also exists) with the intention of sexually abusing her/him. Research and available data show that grooming is predominately perpetrated by males to solicit children for sexual purposes and/or to groom them. The perpetrators choose a victim based on the victim's appeal/ attractiveness, ease of access and vulnerabilities. The perpetrator then seeks to form a friendship with the targeted victim and get information about the victim from online sources and then deceive them.

- **Child Sexual Abuse Material (CSAM) and Child Sexual Exploitation Material (CSEM)** - primarily refers to media that depict children in a sexualized or exploitative manner. CSAM is the preferred term of choice to child pornography and refers to material depicting acts of sexual abuse and or focusing on the genitalia of the child. CSEM can be used in a broader sense to include all other sexualized material depicting a child.

3.2 Legal framework in Sri Lanka in relation to cybercrimes

The Convention on Cybercrime, also known as the Budapest Convention on Cybercrime or the Budapest Convention, is the first international treaty seeking to address internet and computer crimes by harmonizing national laws, improving investigative techniques, and increasing cooperation among nations on cybercrimes and collecting evidence. Sri Lanka has been a member of the Budapest Convention from 2015.

In Sri Lanka, investigations are initiated under the Computer Crimes Act No.24 of 2007. The key agency that works against Cybercrimes is the Sri Lanka Police Computer Crime Investigation Division (CCID) of the Criminal Investigation Department.

The following sections of the Act stipulate acts that are considered as offences :-

Section 3	–	Securing unauthorized access to a computer
Section 4	–	Doing any act to secure unauthorized access in order to commit an offence
Section 5	–	Causing a computer to perform a function without lawful authority
Section 7	–	Dealing with data unlawfully obtained
Section 8	–	Illegal interception of data
Section 9	–	Use of illegal devices
Section 10	–	Unauthorized disclosure of information enabling access to a service

*It is important to understand that an investigation into child trafficking and/or cybercrime against a child, need to be investigated and prosecuted together with the provisions of the Penal Code and its provisions on crimes against children and the Computer Crimes Act.

3.3 Stages of a cybercrime investigation

3.3.1. First Information

A first information of a cybercrime committed against a child can be reported in the following manner :-

1) Potential victims / Family members / Guardians / Relatives ;
2) Helplines/hotlines –NCPA, Police, Non -government organizations (NGOs) ;
3) Written complaints (including anonymous) – letters, emails, fax…etc. ;
4) Through civil society organizations/ community based organizations ;
5) Journalists / media / social media reports ;
6) Police databases / ICMEC/ ICSE databases.

** Special Note: **International Child Sexual Exploitation (ICSE) image and video database**

This database helps victim identification specialists worldwide analyze and compare child sexual abuse images. This is an intelligence and investigative tool, which allows specialized investigators to share data on cases of child sexual abuse. A special software named, “image and video comparison software” is used in this database and using this software, investigators are instantly able to make connections between victims, abusers and places. The database is featured in a way that, it avoids duplication of effort and saves precious time by letting investigators know whether a series of images has already been discovered or identified in another country, or whether it has similar features to other images. Further, it allows specialized investigators from more than 68 countries to exchange information and share data with their colleagues across the world. By analyzing the digital, visual and audio content of photographs and videos, victim identification experts can retrieve evidence, identify any overlap in cases and combine their efforts to locate victims of child sexual abuse.

Bureau for the Prevention of Abuse of Children and Women of the Sri Lanka Police has signed a Memorandum of Understanding (MoU) with Interpol to use the ICSE Database for its investigation purposes.

3.3.2 Pre-investigation assessment

It is very important for every Investigating Officer (IO) to do a pre-investigation assessment for each cybercrime including child trafficking / incident that is reported. It should be generally remembered that, before the complainant approaches the police officer or any agency for addressing their problems, there may have been attempts to set things right all by themselves or with the help of their friends or others. However, these very acts may result in destruction of crucial digital evidence(s). Similarly, sometimes the criminal act may be a crime in progress, which can potentially cause further damage. It is also possible that the complainants in their anxiety or ignorance may not disclose the full facts at the outset. All these factors will have an impact on the outcomes of the investigations.

Depending on the nature of each incident reported, the IO should collect necessary information from complainant(s) / victims as part of the pre-investigation assessment, to understand the full scope of the incident and, the possible outcomes. This will help the IO to build the plan of action/next steps in the investigation. Investigators and technical personnel understand that digital evidence is very critical and volatile; hence it is necessary to protect and collect the right evidence for the pre-investigation assessment. The pre-investigations assessment should consider various aspects of the crime including the location and the circumstances.

An investigation officer should conduct a pre-assessment based on the following steps. It will help the IO decide on the priority actions that are necessary in the interest of the securing all the digital evidence without giving scope for their destruction, loss or tampering.

The pre-investigation assessment should commence by eliciting all the right and relevant information which will give the IO an idea about the full scope of the incident / crime.

3.3.2.1 Identify the crime

As described above, Section 6.2 defines the acts that are considered as offences under the Computer Crimes Act, No. 24 of 2007. A crime against a child under the penal code may have been committed through the use of computers and other digital devices.

Once the information reveals the commission of an offence, the IO should -

- elicit the information regarding the act reported in detail and, ensure that the details of the offences are captured in the complaint in full ;

- indicate the nature/modus operandi of the cybercrime in detail (include the e-mail, address, systems, time zones etc);

- indicate all the details that can be identified from the complaint, such as -

  — IP address in case of e-mail and Internet;
  — Profile name or user name in case of social networking abuse;
  — Bank details/Internet banking, branch, etc., in case of online fraud;
  — Credit card details and nature of purchase, etc., in case of card fraud, etc.;

- include the time and date in the exact format the complainant mentioned or noted in any of the documentation attached with the complaint (such as e-mails) and, time zone conversion will have to be observed during the course of investigation.

3.3.2.2 Technical Assessment

Preliminary Review of the Scene of Crime

Typically, the scene of crime can be in any of the following settings:

1. Home of individuals with one or more computers.

2. Cyber Café/Public places.

3. Companies/organizations, with one or more computers and in some cases with vast and complicated network of systems.

4. Virtual spaces

Scene of Crime: Home

- Identify the type of connection (Wi-Fi/Ethernet).
- How many computer systems are used by the Internet connection?
- Location of the system and details of persons with access to system(s).
- Obtain the details about the removable storage media (including external hard disk) used/owned by the user.
- Obtain details about the network topology and architecture (client — server), if any.
- Obtain the details about other computer peripherals (printer/scanner/modem, etc.).

Scene of Crime: Cyber Café

- Identify number of computer systems present in the cyber café.
- Identify number of computer systems connected to Internet.
- Obtain details about the network topology and architecture (client — Server).
- Obtain the CCTV/Web camera clippings, if any.
- Whether any user management software is used by the cyber café owner?
- Obtain the log register of Internet users for the relevant period.
- Check the formatting of storage devices policy adopted by the cyber café owner.
- Check the hardware replacements done by the cyber café owner.
- Check the policy regarding removal media usage on the cyber café systems.

Scene of Crime: Corporate Environment

Gather basic information to assess the crime:

- What is the nature of the incident that occurred?
- Who discovered the incident and when? What alerted the person of the incident?
- What is the extent of loss, if any?
- Who are the people working when the incident took place/discovered?
- Who are the team members that are usually present?
- What applications and software, databases are being used by the organization?
- Who are the developers of the applications that are used?
- Who provides the support and maintenance for the applications?
- Where are the actual servers located?
- Who has the administrative and super user privileges?
- What is the backup policy of the organization?
- What kind of backups is taken and how long they are retained?
- What are the services offered by the organization?
- Who are affected by the incident occurred? Were they informed?
- What kind of security measures are being used (Antivirus, Firewall, and IDS/IPS)
- Is logging enabled by any of the applications that are being used?
- What levels of access are given to employees?

- What is the information security policy of the organization? How frequently this audited / checked for compliance?
- What are the physical security measures in place?
- Is there an e-mail server present if so where is it located?
- What are the HR Policies of the organization and, any suspects from the recently left employees?

Scene of Crime : Virtual spaces

1. Local Storage:

- Hard drives, SSDs, USB drives, and other physical storage media.
- Locations such as desktops, document folders, downloads, and application-specific directories.

2. RAM (Random Access Memory):

- Volatile memory where active processes and open files may store temporary data.
- Capture of memory dumps to retrieve running processes, encryption keys, and unsaved data.

3. Operating System Artifacts:

- System logs, event logs, registry entries, and system files.
- Information about system activities, software installations, user activity, and configurations.

4. Network Artifacts:

- Network logs, packet captures, and traffic analysis.
- Data related to network communications, including IP addresses, URLs, and protocols used.

5. User Activity:

- Browser history, cookies, cached files, and bookmarks.
- Information on user interactions, visited websites, and online activities.

6. Application Data:

- Files and logs specific to installed applications (e.g., chat logs, email clients, office applications).
- Data related to the usage and interaction with various software applications.

7. Cloud Storage:

- Data stored on cloud platforms such as Google Drive, Dropbox, OneDrive, and others.
- Documents, spreadsheets, photos, backups, and other files saved in the cloud.

8. Cloud Service Logs:

- Access logs, usage logs, and activity logs provided by cloud service providers.
- Information on login attempts, file access, modifications, and deletions.

9. Virtual Machines (VMs) and Containers:

- Instances of VMs or containers running on cloud infrastructure.
- Configuration files, snapshots, and activity logs of virtual environments.

10. Cloud Applications and Services:

- Web-based applications and services used by the suspect.
- Data generated by SaaS (Software as a Service) applications, including CRM, ERP, and other business tools.

11. API Interactions:

- Logs and data from interactions with cloud service APIs.
- Details on how applications and services interact with the cloud infrastructure.

12. Authentication and Identity Management:

- User accounts, roles, permissions, and identity provider logs (e.g., AWS IAM, Azure AD).
- Data on user authentication, authorization, and activity within the cloud environment.

13. Metadata:

- Metadata associated with files, emails, and documents.
- Information such as creation dates, modification dates, author details, and file paths.

14. Encryption and Security:

- Encryption keys, certificates, and security tokens.
- Data related to how information is secured and accessed.

15. Backup and Redundancy:

- Backup files and redundancy solutions.
- Copies of data that might exist in backup storage or mirrored environments.

16. Inter-Cloud Communications:

- Data transfers and communications between different cloud environments.
- Information on cross-cloud activities and collaborations.

At the scene of crime (irrespective of the type of the scene of offence), the IO should carefully survey /analyze the scene, observe and assess the situation and/or determine the virtual space and decide on the steps for proceeding further.

The pre-investigation assessment will help the IO to understand the local situation, circumstances and technical details of the systems / network at the scene of the crime before proceeding to seize / preservation of evidence. Digital evidence is highly fragile and volatile. It will be available in a number of devices, locations and in various formats. For example, the copiers, fax machines, routers, hubs etc., apart from the standard storage / computer devices can also contain vital information relevant to the case / incident. Hence, it is utmost important for the IO to do a preliminary review of the entire scene of offence and also take some additional steps before identifying the evidence and conduct search and seizure. As a matter of practice, IO should video/ photograph and draw a network architecture sketch in 'as is where is' condition of the crime scene and document it.

The above steps in the pre-investigation assessment will help the IO(s) to understand the incident in totality and decide how to proceed with investigations.

3.3.3 Collection of Evidence

A cybercrime scene is completely different from a conventional crime scene. The digital evidence is highly fragile, and it can be tampered easily and stealthily. Utmost care and, precautions are required during search, collection, preservation, transportation and examination of evidence.

3.3.3.1 Secure the Scene of Crime

After identifying the scene of crime, IO should secure it and, take note of every individual physically present at the scene of crime and, their role at the time of securing the scene of crime.

- From the information gathered and based on visual inspection of the scene of crime, IO should identify all the potential evidence. These physical evidence may include conventional physical evidence like the manuals, user guides and, other items left behind like passwords on slips, bank account numbers etc. it is also important to note the position of the various equipment and items at the scene of crime. For example, a mouse on the left hand side of the desktop possibly indicates the person operating the computer is a left-handed user.

- While identifying the digital evidence, IO should make sure that, the potentially perishable evidence is identified and, all the precautions are put in place for its preservation. At the time of review, disturbing or altering the condition of electronic evidence should be avoided.

- If the systems are OFF, they should not be turned ON for the inspection. If systems are ON, it is advised to leave them ON.

- If systems are ON at the scene of offence, IO should take appropriate steps to photograph it, plan for the seizure of the evidence at the earliest and document it. IO should notify appropriate technical personnel to support during the seizure process, so that the perishable evidence (volatile data) are appropriately recovered without loss. Make sure each device is photographed before starting of the investigation process at their original place along with respective reference like cubicle number or name room soundings, etc.

- IO should make note of the attached network cables and power lines to the systems. With the help of the complainant or the technical personnel at the agency, make a note of all the network connections, modems, telephone lines and, mark them both the equipment connection end and, from the source in the walls.

3.3.3.2 Containment of the incident / crime

- Incident containment refers to the determination of the nature and scope of the incident and then minimizing the damage, if any. Containment steps may include having more rules on the firewalls to block access, taking the affected machines off the network, disabling user access controls, or creating a black hole for the affected machines. These measures are taken by the victim or organization, in consultations with the investigators / agencies.

- In case of financial frauds, the IO should immediately contact the concerned branches of the banks to freeze the beneficiary/suspect/accused person's bank accounts in case of fraudulent money transfers.

- The IO should request the Service Providers to block/remove and at the same time preserve the access details of the fake/defamatory profiles in social networking/community websites. The IO should also notify the Service Providers to preserve the access details of the defamatory/obscene contents.

- If the targeted system is to be restored by the affected party immediately for commercial reasons or in public interest, the IO should obtain the services of technical personnel who have expertise on Cyber Forensics and, obtain the image copy of the affected system and permit restoration of the system, only after that. These actions need to be documented with enough justification and should be used under rarest of the rare circumstances.

Normally, the restoration is done after the seizure of the evidence and not at the immediate stage of the reporting of the crime.

3.3.3.3. Labelling and documentation of evidence

- Cross verify notes made during the pre-investigation assessment and correctly documenting the technical information regarding equipment, networks and other communication equipment at the scene of crime.
- Document the Chain of Custody and Digital Evidence Collection forms. (Production Register –PR Form)
- A serial number should be allotted for each device and the same should be duly noted in the Chain of Custody and Digital Evidence Collection forms.
- Make 'As is where is' documentation of the scene of offence. (Photo image)

3.3.3.4 Avoiding alteration of evidence

- The primary aim of the pre-investigation assessments is to "avoid alteration of evidence", crucial in the successful prosecution of the cybercrimes. Please reach out for forensic examiner's assistance from any regional forensic labs as quickly as possible, if you are not clear or have any doubt regarding incident and, the understanding of the networks.

3.3.3.5. Seizure, storage and transportation of devices

Seizure

- **Brief the witnesses** regarding the tools used to perform search and seizure of the digital evidence.

- **Disconnect Power:** For powered-on devices, once documented, disconnect the power supply to preserve the current state.

- **Label and Bag:** Label the device with a unique identifier. Place it in an antistatic bag or evidence bag, and seal it with a tamper-proof seal.

- **Use Faraday Bags:** For mobile devices and other wireless-enabled devices, use Faraday bags to block any wireless signals and prevent remote wiping or tampering.

Storage

- **Secure Storage:** Store the seized device in a secure, access-controlled environment. Use safes or lockable storage cabinets.

- **Environmental Controls:** Ensure the storage environment is free from extreme temperatures, humidity, and electromagnetic interference.

Transportation

- **Secure Transport:** Transport the device in a secure, climate-controlled environment to prevent damage. Avoid electromagnetic interference.

- **Monitor Conditions:** Ensure the device is protected from physical shocks, extreme temperatures, and moisture.

3.3.3.6. Handling Storage Media

- **Remove Storage Media:** If feasible and necessary, remove hard drives, SSDs, USB drives, and other storage media from the device.

- **Use Write Blockers:** When accessing storage media for imaging or examination, always use write blockers to prevent any changes to the data.

3.3.3.7. Forensic duplication

Every storage media consists certain data. For the forensic purpose, data needs to be copied in a manner that does not change any information available in the device. The following techniques should be used:

Logical backup: It copies the directories and directories of files of a logical volume. It does not capture other data that may be present on media like deleted files or residual data, stored in the slack spaces.

Bit Stream Imaging: Also known as imaging or cloning, it generates a copy of the original media, bit-for-bit. It can be done in a disk-to-disk (from target media to another media) or 'disk-to-file' (from media to a single logical file) fashion; and requires more space time.

Write-blocker: These are the hardware and software tools which prevent a computer writing on a storage media. The suspected storage media is directly connected to the hardware write-blocker, and then the write-blocker is connected to the device taking the backup. Similarly, a software write-blocker is loaded to the suspect computer, before the copying device is connected to that.

3.3.4 Preliminary Interviews at the Scene of Crime

Conducting preliminary interviews at the scene of offence will help IO to identify and seize potential evidence during pre-investigation. Some of the interview questions that an IO can ask are:

- What steps were taken to contain the issue? (Physical access denied for suspected persons, disconnecting the suspected computers from network, suspending the employee access and so on) along with list of all suspected names, address, etc.
- Were there any logs (system access, etc.) present that cover the issue? Are there any suspicious entries present in them?
- Did anyone use the system after the issue occurred?
- Did you observe any similar instance before?
- Were there any alarms that were set off by the firewall/IDS/network security devices?
- Please give a detailed documentation on the set of commands or processes run on the affected system or on the network after the issue occurred. (Request a letter of confirmation from complaint)
- Do they have similar systems in any of the branch/other offices?
- Are there any questions about the issue that have not been answered? (Affected system list, number of people involved, etc.)
- What are the further plans for analysis of the issue?

At the scene of crime, IO should:

- Identify the complainant / owner(s) of the various devices and obtain the access details, usernames, service providers' details. IO should ensure that these persons are available along with the search and seizure team for accessing various password protected / secured information in the presence of the witnesses.

- Gather information on all the security systems including encryption policies and, off-site data storage and, data centre and disaster recovery policies of the organization or back-up plans etc.

- Identify the list of the people who can identify the network and a schematic diagram of the network will be useful to be prepared during the interviews.

3.3.5. Digital Forensic Analysis

Digital forensics is an emerging practice to discover evidence from digital devices, and prosecute criminals in a court of law. Like traditional forensics, digital forensics is a science, and uses specialized skills, tools and programs. In simple terms from an investigators' perspective, it is the science of extraction of evidence from digital devices without altering the authenticity of the original evidence object.

- **Data Recovery:** includes recovering and analyzing deleted files that have not been overwritten, as well as carving out portions of files and text from unallocated and slack space.
- **String and Keyword Searching:** involves looking at known and unknown files, as well as unallocated and slack space, to identify readable text within a binary file or to find a file that contains a specific string.
- **Volatile Evidence Analysis:** gives the analyst the ability to see what state the System is currently in by peering into connections, processes and cache tables.
- **Timeline Analysis:** is the process whereby a timeline of events is created and analyzed based on the modified, accessed and changed times associated with all files that were imaged.
- **System File Analysis:** reveals unauthorized changes to system binaries.

3.4. Specialist Cybercrime Investigation Agencies

Computer Crimes Investigation Division – CID

All requests for CCID support should forward such requests to Senior DIG (Criminal Investigation Department, Cybercrime Unit of the Criminal Investigations Department (CID)PO Box 534, Colombo 01.

A CCID police officer as per the provisions of the Computer Crimes Act can arrest, search and seize as following;

Section 21 (1) Any police officer may, in the course of an investigation under this Act, exercise powers of arrest, search, or seizure of any information accessible within any premises, in the manner provided for by law:

Provided that a police officer making an arrest without a warrant of person suspected of committing an offence under this Act, shall without unnecessary delay and within twenty-four hours of such arrest, exclusive of the time taken for the journey from the place of arrest to the presence of the Magistrate, produce such person before the Magistrate of the Court nearest to the place that the suspect is arrested.

The CCID work in collaboration with the following institutions and agencies on investigations;

- Telecommunications Regulatory Commission (TRC)
- Computer Emergency Readiness Team (CERT)
- Government Analyst's department (GAD)
- Digital Forensic Cyberlabs (DFC)
- Government universities (Eg:Moratuwa)
- Financial Intelligence Unit (FIU)
- Internet service providers

- Department of immigration and emigration

- Any other person/institute mentioned under the Computer Crime Act

Cybercrime Surveillance Unit - NCPA

The Cybercrime Surveillance Unit at NCPA monitor cases of online violence against children, and conduct investigations. It also raises awareness through the dissemination of knowledge and skills on cyber safety and online safety of children.

National Child Protection Authority has introduced an online public reporting portal in collaboration with the Internet Watch Foundation (IWF) UK to detect and remove online child sexual abuse imagery.

INTERPOL

INTERPOL works to address crimes against children that have an international dimension. One of the main aspects is to work to suppress sexual abuse and exploitation of children through internet. The features of internet, especially anonymity nature of the internet have greatly facilitated the distribution of child sexual abuse material, and access to it. Offenders can now produce and exchange and even direct live video of children (even babies being abused) through internet. They can also come into direct contact with children via social networks and chat functions in games or apps.

The priority of INTERPOL Crimes against Children unit is to:

- identify and rescue young victims of sexual abuse;
- block access to child sexual abuse material;
- prevent sex offenders from travelling abroad to abuse children or escape justice.

Further INTERPOL human trafficking experts work alongside member countries to rescue child victims of trafficking and forced labour.

A request could be made via the relevant SSP of the Division and the request should include the following elements;

- Any weblink or other ‘link’ used by the suspects

- Date and time of the incident

- Content of the case

- Relevant legal provisions related to the crime

- What assistance and information is requested from CCID

- History of the case

- To make the request as soon as possible to avoid destruction of evidence

04. IMPLEMENTATION OF THE STANDARD OPERATING PROCEDURES

The investigation and prosecution of child trafficking cases can be complex and multi-dimensional, and often need to be addressed holistically as with any crime relating to trafficking in persons. The above Standard Operating Procedures aim to streamline and monitor the investigation and prosecution process whilst ensuring the protection and well-being of the child victim-survivor.

4.1. Coordination

Key parties to this SOP such as the Ministry of Public Security and the Sri Lanka Police, specifically the Police Children and Women's Bureau should coordinate and supervise the implementation of the SOPs.

As there are other key departments and agencies within the government that carry out important roles and functions in the effective investigation and prosecution of trafficking related organized crimes against children, the coordination and collaboration process with these relevant parties should be periodically evaluated.

The aim of introducing and establishing SOPs for the investigation and prosecution of trafficking related organized crimes against children is to encourage cooperation and coordination between police units and stakeholders at all levels of operation – local, district, provincial and national. It also guides stakeholders to fulfil their roles and responsibilities in the investigation and prosecution of such crimes. This streamlined and coordinated process would also ensure the timely identification, rescue and assistance to child victim-survivors of trafficking in a victim-centered and child friendly manner through the harmonized efforts of all relevant stakeholders.

4.2. Updating and Review

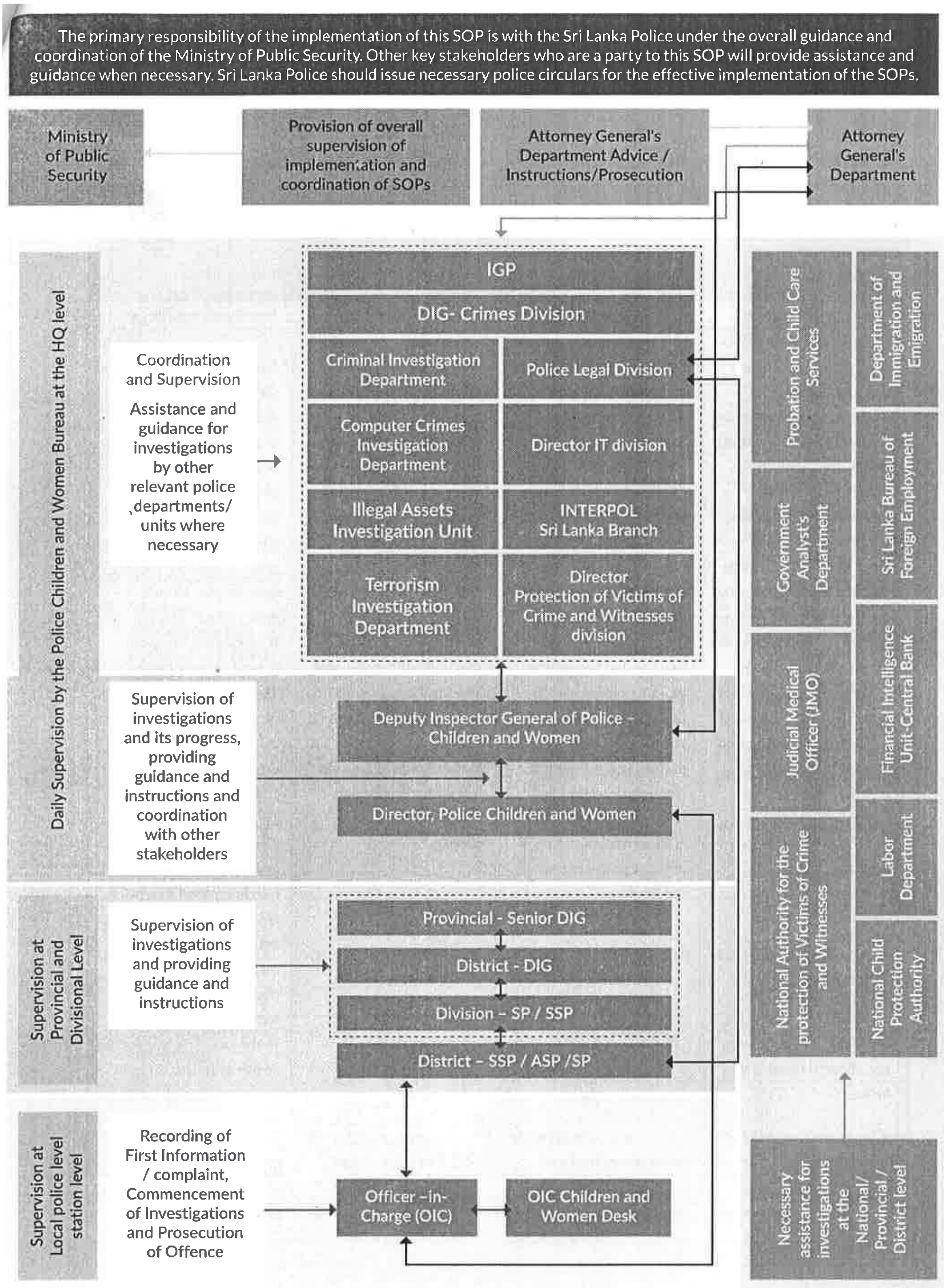
In order to evaluate the effectiveness of the SOPs, quarterly meetings chaired by the Ministry of Public Security will be held each year to review and update the SOPs. Regular situational and progress reports will be obtained and discussed among the key stakeholders to review compliance of SOPs. This will ensure the effective implementation of the SOPs and help identify issues and challenges in implementation. Further, through discussions and consensus of relevant stakeholders, additional circulars and directives will be introduced that may be necessary to establish closer collaboration in the implementation of the SOPs.

The SOPs will be reviewed every three years and updated according to policy and legislative changes introduced by the Sri Lanka government.

4.3. Capacity Development

The Ministry of Public Security will coordinate and provide support to the Sri Lanka Police Department to roll out these SOPs *via* training for Police officers, as well as further awareness and training programs on understanding trafficking related organized crimes against children.

4.4 SOP Implementation, Assistance and Supervision



ANNEXURE 1: UNDERSTANDING THE ELEMENTS OF CHILD TRAFFICKING CRIMES

Section 360 C Penal Code Amendment (Act) No.16 of 2006

Begging (a boy)	*Forced labor*	*Sexual exploitation*	*Forced marriage (a girl)*
Elements of trafficking and facts			
A 12 year old boy was apprehended by the Katharagama police near Katharagama Dewalaya. He was engaged in begging. Making a statement to the police, the child states he is from Anuradhapura and came to Katharagama by train and bus. He further said, his uncle asked him to go with someone he identifies as an "aunt". They were accompanied by another person called "taxi Kamal". There he was received and kept under someone called the "Boss". He said in addition to begging he had to transport small white "parcels" to various places and taxi drivers. He hated the work he had to do and was only given bare minimum to eat and was not allowed to return home.	Based on the information received by the police, a 15-year-old girl was rescued from a girl's hostel. When the police found her, she was washing clothes that did not belong to her. She does not attend school. Her mother is a migrant worker in the Middle East and her father had handed her over to work to provide for the family. She states that she is threatened by the matron to sweep, mop, clean the kitchen, dirty dishes and laundry. She is given minimum to eat and sleeps in a corner of the kitchen.	A 14 years old girl was produced in court after a police raid at a hotel. When police questioned her, she said she was studying in grade 09. She used to travel by a school van. The van driver was a smart boy and she developed a relationship with him. One day the boy had convinced her to go with him to a hotel. The boy had sex with her and handed her then to the hotel manager. He blackmailed her and forced her to provide sexual services to his clients.	A woman police officer records an incident of seeing a teenage girl of around 15 years old accompanying a 60-year-old man. They came to a fancy goods shop in the city. The girl was upset and not even interested in what the old man was trying to buy her. It looked like she was forced to be with him. Then a few minutes later, he went out of the shop asking the girl to buy anything. The woman police officer went to her and started talking to her. The teenage girl started crying and said her father had borrowed money from the old person. He couldn't pay it back. One day a taxi came to her house and her father asked her to go with him in the taxi. She was forced to live with the old man and the man had told her she is legally married to him. The man forced her to perform sexual acts for him saying she is his legal wife.
Act			
Recruitment			
Q : Was the child recruited? By whom?	Q : Was child recruited ? by whom?	Q : Was the girl recruited ? by whom?	Q : Was the girl recruited ?
A : Yes A: by his Uncle	A : by the hostel matron	A : by the school van driver	A : Yes by her father

Begging (a boy)	*Forced labor*	*Sexual exploitation*	*Forced marriage (a girl)*
Transport			
Q : Was the child transported from the original location to another location? Q. by whom? Q. Method of transport?	Q : Was the child transported from her original location ? by whom? Method of transport?	Q : Was the girl transported from her original location ? by whom? Method of transport?	Q : Was the girl transported from her original location ? by whom? Method of transport?
A : Yes, from Anuradhapura to Katharagama , by his Aunt by train and bus	A : Yes A: Father A. Bus	A: Yes, A: by school van driver A: by bus	A : by her father A: by hired taxi
Transfer			
Q : Was the child transferred to another person?	Q : Was the girl transferred to another person?	Q : Was the girl transferred to another person?	Q : Was the girl transferred to another person?
A : Yes, unknown person called ‘taxi Kamal’	A : No	A: yes, hotel Manager	A : Yes, to the 60 year old man as payment for the money owed to him.
Harbour			
Q : Was the child harbored by any other person?	Q : Was the child harbored by any person?	Q : Was the girl harbored by any person?	Q : Was the girl harbored by any other person?
A : Yes, unknown person called ‘boss’	A : Yes A: Hostel Matron	A: yes, hotel manager	A : No
Receipt			
Q : Was the child received by another person?	Q : Was the child received by any other person?	Q : Was the child received by any other person?	Q : Was the child received by any other person?
A : Yes, the unknown person called ‘boss’	A : No	A: yes, several clients at the hotel	A : No.
Forced or compulsory labour or services			
Q : Was the child asked to do any forced or compulsory labor related activities ?	Q : Was the child forced to do any forced or compulsory labor related activities ?	Q : Was the child forced to do any forced or compulsory labor related activities ?	Q : Was the girl forced to do any forced or compulsory labor related activities ?
A : Yes, he had been asked to beg in front of the Kataragama dewalaya’	A : Yes, she have been asked to clean hostel kitchen, mop floors, was clothes..etc. She did not receive any payment. All the money was given to the father.	A: No.	A : No.

Begging (a boy)	*Forced labor*	*Sexual exploitation*	*Forced marriage (a girl)*
Slavery			
Q : Was the child used as a slave by the person called 'boss'?	Q : Was the girl used as a slave by 'the matron?	Q : Was the girl used as a slave by 'the hotel Manager'?	Q : Was the girl use as a slave by the old man ?
A : No such evidence	A : Yes, there is evidence of slavery like conditions	A: No	A : No
Servitude			
Q : Was the child used in servitude?	Q : Was the girl used in servitude?	Q : Was the girl used in servitude?	Q : Was the girl used in servitude?
A : No such evidence	A : No such evidence	A : No such evidence	A : No
Removal of organs			
Q : Had the child under gone any medical treatment or surgeries ?	Q Had the child under gone any medical treatment or surgeries ?	Q : Had the child under gone any medical treatment or surgeries?	Q : Had the child under gone any medical treatment or surgeries?
A : No such evidence	A : No such evidence	A : No such evidence	A : No such evidence
Prostitution			
Q : Was the child forced to provide sexual services for any person ?	Q : Was the girl forced to provide sexual services for any person ?	Q : Was the girl forced to provide sexual services for any person ?	Q : Was the girl forced to provide sexual services for any person ?
A : No such evidence	A : No such evidence	A: Yes, to clients	A : No such evidence
Other forms of sexual exploitation			
Q : Was the child used for any other sexual activities ?	Q : Was the girl used for any other sexual activities ?	Q : Was the girl used for any other sexual activities?	Q : Was the girl use for any other sexual activities?
A : No such evidence	A : No such evidence	A : No such evidence	A : Yes she was forced to perform sexual activities for the old man on his request.
Any other act which constitutes on offence under any law			
Q : Was the child used for any other kind of activities ?	Q : Was the child asked to do other kind of activities ?	Q : Was the child asked to do other kind of activities ?	Q : Was the girl used to do other kind of activities ?
A : Yes, he asked to transport small white parcels (suspected to be drugs) to various places and taxi drivers.	A : No such evidence	A: Yes, she was used for the recording of online videos	A : No

ANNEXURES 2 : KEY TERMINOLOGY

"Child" shall mean any person under eighteen years of age. [16]

"Child trafficking" The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation.[17]

"Debt bondage" A treatment that humiliates or debases an individual, showing a lack of respect for or diminishing his or her human dignity, or arouses feelings of fear, anguish or inferiority capable of breaking an individual's moral and physical resistance. [18]

"Child exploitation" The act of taking advantage of a child, including through: economic exploitation and any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development; exploitation for illicit drug production and trafficking; sexual exploitation and sexual abuse, specifically the inducement or coercion of a child to engage in any unlawful sexual activity, the exploitative use of children in prostitution or other unlawful sexual practices and the exploitative use of children in pornographic performances and materials; and the abduction of, sale of or traffic in children, or any other forms of child exploitation. [19]

"Human rights" Universal legal guarantees protecting individuals and groups against actions and omissions that interfere with fundamental freedoms, entitlements and human dignity. [20]

"Trafficker" Any person who commits or attempts to commit the crime of trafficking in persons or any person who participates as an accomplice, organizes, or directs other persons to commit the crime of trafficking in persons. [21]

"Victim of trafficking" Any natural person subject to trafficking in human beings, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted. [22]

"Age assessment" Process by which authorities seek to establish the age, or range of age, of a person to determine whether an individual is a child or not.[23]

"Discrimination" Any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms. [24]

"Organized criminal group" A structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences, in order to obtain, directly or indirectly, a financial or other material benefit. [25]

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16. Article 3(d), Trafficking Protocol, 2000
17. Article 3(c), Trafficking Protocol, 2000
18. Article 1(a) Adapted from Supplementary Convention on the Abolition of Slavery, the Slave Trade and Abolition of Practices Similar to Slavery,1956
19. Arts 32, 34 and 35, Adapted from Convention on the Rights of the Child, 1989
20. United Nations Office of the High Commissioner for Human Rights, Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation, 2006
21. P216, Glossary on Migration, IOM, 2019
22. P227, Glossary on Migration, IOM, 2019
23. P7, Glossary on Migration, IOM, 2019
24. Human Rights Committee, General Comment No. 18: Non Discrimination, 1989
25. Article 2(a) Convention against Transnational Organized Crime, 2000

"Standard Operating Procedure (SOP)" set of written guidelines or instructions for the completion of a routine task, designed to increase performance, improve efficiency and ensure quality through systemic homogenization. The term was first recorded in the mid-20th century. [26]

SOP is a set of step-by-step instructions compiled by an organization to help workers carry out routine operations. SOPs aim to achieve efficiency, quality output, and uniformity of performance, while reducing miscommunication and failure to comply with industry regulations. [27]

"Child Labour" Any work performed by a child which is detrimental to his/ her health, education, and physical, mental, spiritual, moral or social development. [28]

"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. [29]

"Best interests of the child"

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision. [30]

Crimes in which computer systems are used as tools/instruments

"Financial fraud"
Financial fraud include business frauds, investment frauds, mass marketing frauds, offering jobs overseas, Nigerian Frauds, business opportunity frauds, etc., where unsuspecting people are lured in trap by the promise of such opportunities and deceived of their money and other valuables.

"Data modification"
In this crime, the criminal gains entry into the targeted system like financial systems and modifies or changes the data contained in a computer system. This type of crime can be committed by the authorized users (insiders) of the computers also.

"Identity theft and its misuse"
It is the theft of sensitive identity information such as date of birth, name, PAN numbers, passport numbers, credit card numbers, e-mail accounts, etc., for fraudulent purposes. The user may obtain the sensitive information by several means like phishing, sending some links to victim's e-mail address and asking them to furnish confidential information, or obtaining the information through social engineering, using key-loggers, etc.

26. https://www.britannica.com/topic/standard-operating-procedure
27. https://en.wikipedia.org/wiki/Standard_operating_procedure
28. Article 32, Convention on the Rights of the Child, Convention on the Rights of the Child, 1989
29. Article 3, UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, 2000
30. Article 3 Convention on the Rights of the Child, 1989

"Cyber bullying/Stalking "

It is defined as the use of Information and Communication technologies to harass, threaten or intimidate someone. Cyberbullying can include acts such as making threats, sending provocative insults or racial or ethnic slurs, gay bashing, attempting to infect the victim's computer with a virus, and flooding an e-mail inbox with messages.

"Data theft "

Data theft is copying the data without the permission of the owner of the computer/computer system/computer network. It can be in the form of breaking into the system and copying classified and sensitive information often in the workplace/ business. The type of data can be anything like official/business communication, contact details of customers, clients, addresses, user names, passwords, credit card numbers, and other related documents.

"CSAM -Child Sexual Abuse Material "

They are sexually explicit content involving a child. Visual depictions can include photographs, videos, or computer-generated images indistinguishable from a specific minor.

"Theft of trade secrets and intellectual property "

It is the theft of knowledge based assets and capital, trade designs, logos, ideas and innovations, material that is copyrighted by an individual or an organization. It also includes audio, video, movies, etc. Highest number of cases under intellectual property theft happened with software and its source code.

"Espionage on protected systems "

This kind of spying and espionage on the government systems is often done by the intelligence officials of enemy or neighboring countries. It involves accessing sensitive and classified documents.

ANNEXURES 3 : INTERNATIONAL AND NATIONAL LEGAL FRAMEWORK ON TRAFFICKING IN PERSONS AND TRAFFICKING IN CHILDREN

Trafficking in Persons (definitions)

Article 3 –

(a) '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;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) 'Child' shall mean any person under eighteen years of age.

International Law

- **United Nations Convention against Transnational Organized Crime (UNTOC) 2000**

UNTOC is the central instrument in a package of treaties developed to deal with transnational organized crime. The Protocols attached to UNTOC relate to trafficking in persons, smuggling of migrants, and illicit manufacturing of and trafficking in small arms.

The purpose of UNTOC is to promote inter-state cooperation in order to combat transnational organized crime more effectively. UNTOC seeks to eliminate 'safe havens' where organized criminal activities or the concealment of evidence or profits can take place by promoting the adoption of basic minimum measures.

Four offences (as well as the generic category of offence 'serious crime'), whether committed by individuals or corporate entities, are covered: participation in an organized criminal group; money laundering; corruption; and obstruction of justice.22

There are two main pre-requisites for application of UNTOC. First, the relevant offence must have some kind of transnational aspect. Second, it must involve an organized criminal group. Both elements are defined very broadly 23 'Serious crime' is defined in such a way as to include all significant criminal offences 24. As a result, States are able to use the Convention to address a wide range of modern criminal activity including trafficking and related exploitation as well as migrant smuggling. This is especially important in view of the fact that States may become Parties to the Convention without having to ratify any or all of the Protocols and that ratification of the Convention must precede ratification of any of the Protocols.

The primary obligation of the Convention relates to criminalization of specific conduct. States Parties are required to criminalize:

- participation in an organized criminal group;
- laundering of the proceeds of crime;
- public sector corruption; and
- obstruction of justice.

These offences are also to be made subject to appropriate sanctions.

One of the principle obstacles to effective action against transnational organized crime, including trafficking in persons, has been the lack of communication and cooperation between national criminal justice agencies. UNTOC sets out a range of measures to be adopted by States Parties to enhance effective law enforcement cooperation. The practical application of these provisions is likely to be enhanced by the inclusion of a detailed legal framework on mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to applicable offences.

As explored in more detail below, States Parties are able to use the Convention to request mutual legal assistance for a range of purposes including the taking of evidence, effecting service of judicial documents, execution of searches, identification of the proceeds of crime and production of information and documentation. States Parties are also encouraged to establish joint investigative bodies; come to formal agreement on the use of special investigative techniques; consider the transfer of criminal proceedings and sentenced persons; and facilitate extradition procedures for applicable offences.

Also known as Organized Crime Convention, it is the main international instrument to combat transnational organized crime. It was signed in December 2000 in Palermo, Italy with the objective of promoting cooperation among countries to prevent and combat transnational organized crime more effectively. The convention came into force on 29 September 2003. To date 147 State Parties are signatories to the Convention and 186 States have ratified the same.

There are three supplementary protocols to the convention :-

(1) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.
(2) Protocol against the Smuggling of Migrants by Land, Sea and Air.
(3) Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition.

- **United Nations Protocol to Prevent, Suppress and Punish Trafficking in Person Specially Women and Children 2000:-**

The UN protocol provides the most comprehensive and widely accepted definition on human trafficking and sets out provisions for States to take action to prevent, protect victims and prosecute perpetrators.

Article 3

(*b*) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (*a*) of this Article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(*c*) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (*a*) of this article;

(*d*) "Child" shall mean any person under eighteen years of age.

- **The Convention on the Rights of the Child of 1989 :-**

The Convention on the Rights of the Child reiterates the understanding proclaimed in the Universal Declaration of Human Rights (1948) that children are entitled to special care and assistance. Further, as indicated in the Convention, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth".

It further recognizes that the child, in order for his / her full and harmonious development of personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding. Hence the family, as a fundamental group in society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.

The Convention sets out fundamental rights of a child in order to achieve the above and sets out the most universally accepted standards and the foundation in working with children.

- **The Optional Protocol to the convention on the Rights of the Child, on the Sale of Children, Child Prostitution, Child Pornography of 2000 :-**

The OPSC reinforces the provisions of the Convention on the Rights of the Child against sexual exploitation. Under this convention, States Parties are obliged to protect all children below the age of 18 from all forms of sexual exploitation, to criminalize all acts of sale of children, child prostitution and child pornography and to ensure the rights of child victims and witnesses. A child who has been sexually exploited should be treated as a victim rather than a criminal, irrespective of the legal age of sexual consent.

The OPSC calls for the adoption and effective implementation of national legislation in conformity with its provisions, including to :-

- Criminalize the sale of children, child prostitution and child pornography;

- Establish extra-territorial jurisdiction and abolish the double criminality requirement with respect to offenses covered by the OPSC.

- Ensure that offences covered by the OPSC are made extraditable.

- Ensure the liability of legal persons.

- Protect the rights and interests of child victims and witnesses at all stages of the criminal justice process, including their privacy and safety, taking into consideration their views, needs and concerns.

- Safeguard children's rights, best interests and participation in relevant decisions and proceedings and ensure the rights of child victims to appropriate assistance, including their right to recovery, reintegration and compensation.

- Strengthen the capacity of professionals working with and for children to prevent and address the offenses covered by the OPSC.

- Raise awareness among the public at large, including children, through information, education and training about preventive measures and harmful effects of the offences referred to in the OPSC.

- Promote cross-border and international cooperation and mutual assistance for the implementation of the OPSC.

- Promote respect for States Parties' reporting obligations to the Committee on the Rights of the Child and relevant follow up to the Committees' concluding observations and to recommendations of children's rights mandate holders.

- **The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict of 2000 :-**

  The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict aims to protect children from recruitment and use in hostilities.

  The Protocol was adopted by the General Assembly on 25 May 2000 and entered into force on 12 February 2002.

  The Optional protocol is a commitment that:-

- States will not recruit children under the age of 18 to send them to the battlefield.
- States will not conscript soldiers below the age of 18.
- States should take all possible measures to prevent such recruitment –including legislation to prohibit and criminalize the recruitment of children under 18 and involve them in hostilities.
- States will demobilize anyone under 18 conscripted or used in hostilities and will provide physical, psychological recovery services and help their social reintegration.
- Armed groups distinct from the armed forces of a country should not, under any circumstances, recruit or use in hostilities anyone under 18.

- **The ILO Convention No. 182 on the Elimination of the Worst Forms of Child Labour of 1999 :-**

  The Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, known in short as the Worst Forms of Child Labour Convention, was adopted by the International Labour Organization (ILO) in 1999 as ILO Convention No. 182.

By ratifying this Convention No. 182, a country commits itself to taking immediate action to prohibit and eliminate the worst forms of child labour.

Article 3 – defines the “worst forms of child labor” as:-

(*a*) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict;

(*b*) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

(*c*) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;

(*d*) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children

- **The ILO Convention (C138) of 1973 on Minimum Age :-**

  This convention sets the general **minimum age** for admission to employment or work at 15 years (13 for light work) and the **minimum age** for hazardous work at 18 (16 under certain strict conditions).

  Article 7 stipulates that national laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is-

  (*a*) not likely to be harmful to their health or development; and

  (*b*) will not prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

- **The Hague Convention on Protection of Children and Co-operation in respect of Inter Country Adoption of 1993 :-**

  On 27 September 2001, Sri Lanka, after having been admitted as a new Member State, accepted the Statute of the Hague Conference and has thus become the 55th Member State of the Organisation.

  The 1993 Hague Convention, which is currently in force in 89 States (including in all the main receiving States) is recognised as the international legal framework which regulates intercountry adoption and protects children and families before and during the adoption process. The Convention establishes safeguards to prevent the abduction, the sale of, or traffic in adoptable children and provides international standards to ensure safe procedures for children who cannot be placed with a family in the State of origin. These safeguards include:

  - ensuring that the child is truly adoptable and that the adoption is the best solution for him or her;
  - ensuring that the biological parents have freely given their consent to the adoption after having been counselled and properly informed about the consequences of their decision, and without having received any payment or compensation of any kind;
  - preserving information relating to the child and his or her biological parents;
  - evaluating the eligibility and suitability of prospective adoptive parents to adopt;
  - matching the child with a suitable family;
  - processing adoptions only through competent authorities such as Central Authorities, public authorities, including judicial and administrative authorities, and accredited bodies;
  - working with accredited adoption bodies authorised according to the rules of the 1993 Hague Convention; and

- establishing procedures to prevent improper financial gain. In addition, the 1993 Hague Convention allows States Parties to:
- impose higher standards or requirements on their partner Convention States Parties;
- maintain control over the number of adoptions by deciding to work only with a limited number of States and accredited bodies, determined according to the true number of children in need of adoption, to prevent pressures on States of origin;
- choose to suspend or terminate co-operation if a receiving State does not comply with the Convention or the requirements of a State of origin; and
- authorise, or not, the activities of accredited bodies. [32]

Sri Lankan Law

- **Penal Code of Sri Lanka (Amendment) Act, No. 16 of 2006**

The Government of Sri Lanka introduced amendments to the Penal Code in 2006 in line with the Trafficking Protocol definition of 'Trafficking in Persons'. The Amendment Act comprehensively defines the offence of trafficking in persons largely in compliance with the UN Trafficking Protocol definition.

* **Section 360 C(1)**

Specifically, in an abbreviated form, Section 360C (1) criminalizes:

(a) buying, selling, bartering, instigating or inducing the buying, selling, bartering of any person for money or other consideration;

(b) recruiting, transporting, transferring, harbouring, receiving any person or using threat, force, fraud, deception or inducement or by exploiting the vulnerability of another for the purpose of securing forced or compulsory labour or services, slavery, servitude, the removal of organs, prostitution or other forms of sexual exploitation or any other act which constitutes an offence under any law; and

(c) recruiting, transporting, transferring, harbouring, or receiving a child or any other act with or without the consent of the child for these same exploitive purposes.

As discussed above, 'Child Trafficking' is defined in the penal code as per the international protocol definition;

* **Section 360 C(1)C**

Whoever recruits, transports, transfers, harbours or receives a child or does any other act whether with or without the consent of such child for the purpose of securing forced or compulsory labor or services, slavery, servitude or the removal of organs, prostitution or other forms of sexual exploitation, or any other act which constitutes an offence under any law shall be guilty of the offence of trafficking.

* **Section 360 C(3)**

provides "child" means a person under eighteen years of old

* **Section 360 C(1)(C)**

Envisages that if an offender who's victim is a child. As per this section, there is no requirement to prove the 'means' of trafficking. When the individual is **under eighteen years of age,** it is only necessary to prove the 'act' and the 'purpose' of exploitation.

32. The 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, information brochure, Hague Conference on Private International Law Permanent Bureau, 2012.

* **Section 360 C(2)**

Any person who is guilty of the offence of trafficking shall on conviction be punished with imprisonment of either description for a term not less than two years and not exceeding twenty years and may also be punished with fine and where such offence is committed in respect of a child, be punished with imprisonment of either description for a term not less than three years and not exceeding twenty years and may also be punished with fine.

Other offences stipulated in the penal code in relation to child trafficking

* **Penal code (Amendment) Act, No. 22 of 1995**

Replacement of section 360A of principal enactment

Section 360A of the principal enactment was repealed and the following section on the offence of procuration was substituted:

* **Section 360A : Procuration**

Any person;

(1) procures, or attempts to procure, any person, whether male or female of whatever age (whether with or without the consent of such person) to become, within or outside Sri Lanka, prostitute;

(2) procures, or attempts to procure, any person, under sixteen years of age to leave Sri Lanka with or without the consent of such person with a view to illicit sexual intercourse with any person outside Sri Lanka, or removes, or attempts to remove, from Sri Lanka any such person (whether with or without the consent of such person) for the said purpose;

(3) procures, or attempts to procure, any person of whatever age, to leave Sri Lanka (whether with or without the consent of such person) with intent that such person may become the inmate of, or frequent, a brothel elsewhere, or removes, or attempts to remove, from Sri Lanka any such person (whether with or without the consent of such person) for the said purpose

(4) brings, or attempts to bring, into Sri Lanka any person under sixteen years of age with a view to illicit sexual intercourse with any other person, in Sri Lanka or outside Sri Lanka;

(5) procures, or attempts to procure, any person of whatever age (whether with or without the consent of such person) to leave such person's usual place of abode in Sri Lanka (such place not being a brothel), with intent that such person may for the purposes of prostitution become the inmate of, or frequent, a brothel within or outside Sri Lanka; intercourse with any other person, in Sri Lanka or outside Sri Lanka;

(6) detains any person without the consent of such person in any brothel with a view to illicit sexual intercourse or sexual abuse of such person,

commits the offence of procuration and shall on conviction be punished with imprisonment of either description for a term at not less than two years and not exceeding ten years and may also be punished with a fine-.

* **Section 360 B : Sexual exploitation of children**

(1) Whoever :-

(a) knowingly permits any child to remain in any premises, for the purposes of causing such child to be sexually abused or to participate in any form or sexual activity or in any obscene or indecent exhibition or show

(b) acts as a procurer of a child for the purposes of sexual intercourse or for any form of sexual abuse;

(c) induces a person to be a client of & child for sexual Intercourse or for any form of sexual abuse, by means of print or other media, oral advertisements or other similar means;

(d) takes advantage, of his Influence over, or his relationship to, a child, to procure such child for sexual intercourse or any form of sexual abuse;

(e) threatens, or uses violence towards, a child to procure such child for sexual intercourse or any form of sexual abuse

(f) gives monetary consideration, goods or other benefits to a child or his parents with intent to procure such child for sexual intercourse or any form of sexual abuse

commits the offence of sexual exploitation of children and shall on conviction be punished with imprisonment of either description for a term not less than five years and not exceeding twenty years and may also be punished with fine.

2) In this section " child " means under eighteen years of age

Penal code (Amendment) Act, No.29 of 1998

* **Section 288 : Causing or procuring children to beg**

1) Whoever causes or procures a child to be in any street, premises or place for the of begging or receiving alms, or of inducing the giving of alms (whether or not there is any pretense of singing, playing, performing, offering anything for sale or otherwise), shall on conviction be punished with imprisonment of either description for a term not exceeding five years and may also be liable to a fine

2) In this section "child" means a person under eighteen years of age

* **Section 288A : Hiring or employing children to act as procures for sexual intercourse**

1) Whoever knowingly, hires, employs, persuades, uses, induces or coerces a child to procure any person for illicit sexual intercourse shall on conviction be punished with imprisonment of either description for a term not less than two years and not exceeding five years and may also be liable to a fine

2) In this section "child" means a person under eighteen years of age

* **288B : Hiring or employing children to traffic in restricted articles**

1) Whoever knowingly, hires, employs, persuades, uses, induces or coerces a child to traffic in any restricted article shall on conviction be punished with imprisonment of either description for a term not less than five years and not exceeding seven years and may also be liable to a fine.

2) In this section "child" means a person under eighteen years of age

* **Section 360A of the principal enactment is hereby amended as follows:**

1) in subsection (5) of that section by the substitution For all the words from "to leave such person's usual place of abode in Sri Lanka", to the end of that paragraph, of the following :"

2) in subsection (6) of that section by the substitution for the words "in any brothel with a view to illicit sexual intercourse or sexual abuse", of the words "in any premises with a view to illicit sexual intercourse or sexual abuse".

Evidence (Special Provisions) Act, No. 32 of 1999

* **Section 163A – Video recording**

The insertion of a new section 163A introduced the admission of video recording to court proceedings in matters relating to an offence relating to child abuse. Further, under this section any video recording given in evidence, of the statement made by the child witness and disclosed in the said video recording will treated as if the child witness has given his/ her direct oral testimony.

Under this section 'an offence relating to child abuse' means an offence under section 286A, 308A, 360A, 360B,360C, 363, 364A, 365, 365A, or 365B of the penal code when committed in relation to a child;

A "child" means a person under eighteen years of age, at the time when the preliminary interview is video recorded.

A "video recording" means any recording in any medium from which a moving image may by any means be produced and include the accompanying sound track

Criminal Procedure Code (amendment) Act, No. 28 of 1998

* **Part V: Investigation of Offences**

Section 2 of the principle Act is amended and the following definition of 'child abuse' is included;

"Child Abuse" means any act or omission relating to a child, which would amount to a contravention of any of the provisions of -

- (a) sections 286A, 288, 288A, 288b, 308A, 360A, 360B, 360c, 363, 364A, 365, 365A, or 365B of the Penal Code;
- (b) the Employment of Women, Young Persons and Children Act;
- (c) the Children and Young Persons Ordinance; or
- (d) the regulation relating to compulsory education made under the Education Ordinance, and includes the involvement of, a child in armed conflict which is likely to endanger the child's life or is likely to harm such child physically or emotionally;
- **Hazardous Occupations Regulations No. 01 of 2021 (Gazette Extraordinary of the Democratic Socialist Republic of Sri Lanka, No. 2254/35);**
- **Employment of women, young persons and children (amendment) Act, No. 2 of 2021.**

ANNEXURE 4 : Supreme Court Guidelines for Law Enforcement Authorities to Secure and Advance the Rights of the Public (SC [FR] Application No. 677/2012 – 11/06/2019)

1. Law Enforcement Officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

2. Law enforcement officials shall respect the principles of legality, necessity, non-discrimination, proportionality and humanity.

3. Law enforcement officials shall at all times protect and promote, without discrimination, equal protection of law. All persons are equal before the law, and are entitled, without discrimination, to equal protection of the law.

4. They shall not unlawfully discriminate on the basis of race, gender, religion, language, colour, political opinion, national origin, property, birth or other status.

5. It shall not be considered unlawful or discriminatory to enforce certain special measures designed to address the special status and needs of women (including pregnant women and new mothers), juveniles, the sick, the elderly, and others requiring special treatment in accordance with international human rights standards.

6. Children are to benefit from all the human rights guarantees available to adults. In addition, children shall be treated in a manner which promotes their sense of dignity and worth; which facilitates their reintegration into society; which reflects the best interests of the child; and which takes into account the needs of a person of that age.

7. Detention or imprisonment of children shall be an extreme measure of last resort, and detention shall be for the shortest possible time.

8. Children shall be detained separately from adult detainees.

9. Detained children shall receive visits and correspondence from family members.

10. Law Enforcement Officials shall exercise due diligence to prevent, investigate and make arrests for all acts of violence against women and children, whether perpetrated by public officials or private persons, in the home, in the community, or in official institutions.

11. Law Enforcement Officials shall take rigorous official action to prevent the victimization of women, and shall ensure that revictimization does not occur as a result of the omissions of police or gender-insensitive enforcement practices.

12. Arrested or detained women shall not suffer discrimination and shall be protected from all forms of violence or exploitation.

13. Law Enforcement Officials shall not under any circumstance use Torture and other cruel, inhuman or degrading treatment.

14. No one shall be subjected to unlawful attacks on his or her honour or reputation.

15. Law Enforcement Officials shall at all times treat victims and witnesses with compassion and consideration.

16. Law Enforcement Officials shall at all times promptly inform anyone who is arrested of reasons for the arrest.

17. Law Enforcement Officials shall maintain a proper record of every arrest made. This record shall include: the reason for the arrest; the time of the arrest; the time the arrested person is transferred to a place of custody; the time of appearance before a judicial authority; the identity of involved officers; precise information on the place of custody; and details of the interrogation.

18. Anyone who is arrested has the right to appear before a judicial authority for the purpose of having the legality of his or her arrest or detention reviewed without delay.

19. Law Enforcement Officials as far as possible shall take every possible measure to separate juveniles from adults; women from men; and non-convicted persons from convicted persons.

20. Law Enforcement Officials shall at all times ensure to obey and uphold the law and these rules.

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