UNIT 7  CHALLENGES IN LAW ENFORCEMENT

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7.1  INTRODUCTION

In the given context of Anti Human Trafficking, challenges are innumerable in all aspects, viz. Prevention, Protection and Prosecution. The major challenges, which are universal, are discussed in detail in this unit.

7.2  OBJECTIVES

After going through this unit, you should be able to:

• analyse the challenges in identifying the human trafficking victims;
• describe the process of interviewing the trafficking victim;
• explain the challenges in providing protection;
• explain the challenges in prosecution; and
• analyse the challenges in prevention of human trafficking.

7.3  CHALLENGES IN IDENTIFYING VICTIMS

Since human trafficking is an underground activity involving several offenders at several places at different times, the challenges are multiple and so are the possible responses. For instance, the victim may look like anybody else. They are not labeled or notified, nor should they be. One has to look for them with a discerning eye. This is a painstaking process and calls for professional observation and understanding. The responder needs to be trained to the various dimensions of human trafficking and needs regular capacity building/upgradation of knowledge, skills and resources. Such efforts in capacity building do make tremendous difference in the field as seen in case study.
Case Study

Mr. SS is a senior police officer with 28 years' experience in law enforcement, attending to investigations of several crimes including human trafficking. The UNODC project on anti-human trafficking provided capacity building of more than 10,000 police officials, prosecutors, judicial officers, NGOs and other service providers. Mr. SS was one of them. After two days of intense training, interaction, discussion, field visit, introspection and capacity building, Mr. SS commented (it has been videographed with his permission) ‘I am SS, working with the police for 28 years. I have now been empowered by the UNODC/Govt. programme of training. I feel ashamed that all these years I have been violating women’s rights. I have ‘arrested’ trafficked women on charges of being ‘sex offenders who are soliciting sex’. I will not do it any more. Trafficked persons are victims and not offenders. I have three more years’ service. I will devote this period to spread the mission of anti-human trafficking.

There are also challenges in observation and appreciation. The activities are either hidden or are taking place under the facade of legal activities. The victims are voiceless or their voices are suppressed. Some of these victims may not speak at all and sometimes they speak against, a typical case of the Stockholm syndrome. Besides the lack of knowledge, skill and resources, attitudinal issues are also impediments in identifying victims. Sometimes victims are branded as offenders. Sometimes victims are compelled to work as witnesses, which they may find to be intimidating. In other times, improper response itself becomes a retardant. For example, a victim being counselled by an untrained person can be more harmful than no response at all. Unwarranted comments can be detrimental. (See case study)

Case Study

Ms. Z, a girl of 15 years, was lodged in a ‘Home for post-rescue care’, run by a government agency. She had been trafficked at the age of 13 and was sexually assaulted for one and a half years in several brothels/hotels/guest houses/massage parlours, etc. by several men. After her rescue by an NGO along with the police, she was lodged in this ‘Home’ where she was getting care and medical attention for AIDS. The caregivers included several persons and they were generally very empathetic, understanding and careful. One day Ms. Z lost her cool over the cook, one of the care-givers, for not giving adequate food. She shouted at the cook and refused to eat the whole day. The next day the Superintendent of the Home summoned her and shouted at Ms. Z, ‘A worm in a drain will always remain a worm. It is meant to be doomed. Like a worm in the filth, you don’t deserve anything better’.

It is a fact that the Superintendent had been taking good care earlier and was very compassionate. However, when she lost her cool, she shouted these abusive words at Ms. Z. As a result all the good work done by the Superintendent and her colleagues were neutralized. Ms. Z never got reconciled to these comments. She left the Home and moved to another Home run by an NGO.

Poor law enforcement leads to resistance and a negative attitude in the victims. The very same persons, whose interests should have been protected, turn against the responders. Certain victims who were rescued from a massage parlour were branded as offenders, alleged to be involved in sexual service, and prosecuted. After suffering the punishment, they themselves become votaries of action against law enforcement. They would caution the offenders as and when the police planned to conduct rescue and thereby defeat the process.
The psychological challenges faced by the distraught victim are myriad. As a requirement for survival in the exploitative ambience, the victim may identify oneself with the offenders and aggressors, may mistrust the responders to be offenders and do not cooperate with the responders, or may become violent and aggressive, especially due to the harm and exploitation one had to face, and thus defeat the efforts of the responders in locating or rescuing them. A trained counsellor, a professionally trained law enforcement official or an experienced NGO who has worked with such persons can be the best bet to deal with such situations.

There are several issues in the legal framework too. For example, the SAARC Convention on human trafficking only addresses trafficking for sexual exploitation and not other offences. Therefore, the response systems are restricted to only such crimes and do not address human trafficking in its entirety.

7.4 INTERVIEWING TRAFFICKED PERSON

(For details see Chapter in interviewing by Dr. Achal Bhagat in “Manual for Psychosocial intervention”, UNODC, 2088).

It is a matter of fact that the first major challenge in the response system is locating the victim. The second major challenge is identifying/confirming whether the person is a victim. This calls for detailed interview of the person. Interviewing a trafficked person is quite different from interviewing a victim of any other crime, especially due to the organized and complex nature of the crime and due to the fact that multiple abusers/exploiters have caused multiple abuses/violations/harm to the victim. The interview of such a victim needs to be done by trained professionals keeping in mind some relevant aspects.

The need to be non-judgmental, be an active and a good listener, ask helpful questions, prevent the recurrence of trauma, and ability to manage difficult situations during the interview. The interviewee may block the interview, hurt oneself, may be silent, angry, or may have strong negative feelings. The interviewer has to be patient, understanding and keep the best interest of the victim as the central point. He or she should allow the victim to reflect – give space to think, speak and react – highlight safety and non-judgmental nature of the service, re-establish credibility, and be reassuring.

The interviewer should be prepared for the interview with the provisions of law, best practices, standard operating protocols, modus operandi of offenders, etc. Prior discussions with NGOs and counsellors who have attended to victims can give valuable inputs. It should be decided before hand whether to do a single person interview or a team interview. The team could be multi-disciplinary, involving a law enforcement official, NGO, counsellor, etc. as the situation demands. The victim should be prepared for the interview by first assessing the person’s fitness to be interviewed, second, informing the person about the process of interview and third, seeking the person’s consent.

Though the interview is a continuous process, the beginning should be used for introduction and rapport building, the middle stage be used for free narrative and seeking clarifications and the closure stage be used for summarizing and thanking the person. One should keep options open for another interview, if called for. It is necessary to document the interview as a continuous process after the consent of the person is taken for video/audio recording.
7.5 COGNITIVE INTERVIEWING

In this context the style/manner/technique in which the interview is carried out makes a lot of sense. Fisher and Geiselman set out to develop a non-hypnotic procedure based on two generally accepted scientific principles of memory.

First, a memory is composed of several elements. The more elements a memory retrieval aid has in common with the mental record of the event, the more effective the aid is likely to be. Second, a memory has several access routes, so information that is not accessible with a particular retrieval may be accessible with a different one. From these principles the cognitive interview arose as a method of facilitating recall from an eye witness’s memory. This is achieved by recreating the scene and the event in the ‘mind’s eye’ of the witness. According to Fisher and Geiselman, this can be done through four steps. First, getting the witness to reconstruct the environment surrounding the original event, together with their feelings and reactions. Second, instructing the witness to tell everything, not editing anything, even matters they consider unimportant. Third, reporting the events in different order, forward, backward or starting from the middle. Finally, invite the witness to recall the event from the different perspectives they may have had during the crime.

Using these general guidelines, it has been shown that this will elicit approximately 25-30 per cent more information than the standard police interview without generating any more incorrect information.

7.6 CHALLENGES IN PROVIDING PROTECTION

It is a challenging task to provide protection when there is a lack of resources, lack of counselling services, marketing opportunities, a network among the responders, interest or concern among the agencies, a sustained interest among the agencies especially after initial hype or a lack of reinforcing mechanisms. Further, the challenge is doubled when there is adverse publicity and public opinion or an unhealthy competition in the market. Sometimes acts of omission and commission including corruption among the response agencies become an added challenge to surmount.

In order to measure whether the person has been properly rehabilitated or not, it is essential to list out certain parameters/indicators. In the given context in India, the indicators of proper rehabilitation include: (a) whether the victim does not feel victimized any further and has come out of the trauma, (b) If the victim has moved to the stage of survivor, (c) If the victim is comfortable with the vocation she/ he is attending and sees a reasonably good future for himself/ herself or if the person feels settled, and (d) If the returns from the vocation/job are satisfactory and the person is not desperately looking around for other opportunities.

However, a word of caution needs to be put here. A survivor may look for better opportunities and go for it. This does not mean that the survivor was not comfortable with the earlier one. At the same time, if a person is desperately looking for other opportunities, it could mean that the one at hand is not comfortable or adequate. To be precise, the psychological profile of the empowered survivor will be positive, prospective, vibrant and vivacious in such an event.
7.7 CHALLENGES IN PROSECUTION

There are many challenges in a given context. The most crucial challenge is the victimization of victims. Research by NHRC has brought to light that more than 90 per cent of the people who were being charge-sheeted are not criminals or offenders, but victims of trafficking who have been branded as prostitutes and soliciting persons. Therefore, a major challenge is the victimization of the victims. In fact, this has been the bane of the existing criminal justice system. It is not a question of law, but a question of law enforcement. The basic question is whether the rescued person is a victim of human trafficking or a soliciting offender. Once the question is raised, the law provides the answer, a profound but simple answer; a victim is a victim and not an offender. Therefore, education, sensitization, attitudinal orientation and empowerment of the law enforcement agency to think and act in a human rights paradigm are the need of the hour. An example is appropriate in this context. The UNODC project has impacted a paradigm shift by capacity building and sensitizing the police officers to the extent that the trained police officials have discarded the earlier practice of arresting and prosecuting the victims as prostitutes. After training, they are treating the victims as victims and are investigating crimes from a professional angle with the result that only the traffickers and other conspirators are being brought to book. Victimization of victims by these officials has been completely wiped out.

Lack of priority: It is a fact that trafficking crimes get low or nil priority in the existing law enforcement scenario. The main reason for this is lack of appreciation of the dimensions of trafficking. It is normally presumed that trafficking is prostitution and that is all. The intricate dimensions and extent of human trafficking, the long processes involved in the crime, the types of exploitation that take place, the harm to the victim, etc. are seldom appreciated or recognized. However, there are examples of improvement in this field also, as demonstrated in the UNODC project.

The extent of trafficking: The extreme violations that take place in trafficking, the organized crime perspective of trafficking, etc. have not been realized by many law enforcement agencies and, therefore, the thought that trafficking is only for prostitution and that it only happens in brothels located in ‘red light areas’. As a corollary, certain law enforcement officials think that there is no ‘red light area’ in their jurisdiction and therefore no human trafficking. Again, examples of the UNODC training is noteworthy. A Superintendent of Police (SP) realized that the crime chart in his office (used for monitoring crime position) does not have a specific column dealing with human trafficking, whereas it speaks about different offences including cattle theft. This showed the insignificance attributed to human trafficking. The extent of violations that take place in human trafficking was not recognized. Rape crimes were taken seriously, but multiple rapes in the trafficked woman in a brothel remained unrecognized. After training by UNODC, this SP replaced the crime chart by adding a column for human trafficking crimes and thereafter ensured that crimes were registered, investigated and prosecuted.

Uneven level of Professionalism in addressing the issues. A major challenge in the existing system of prosecution is lack of professionalism among the various stake-holders and uneven levels of knowledge, skills, etc. There is less importance given to training, sensitization and capacity building. Another reason for lack of professionalism is the lack of monitoring and accountability. If victims are being prosecuted and convicted, those who are doing so should be taken to task. They should be made to realize that this should stop and cannot be taken any further. The UNODC project brought about this change among the trained personnel. Therefore, professionalism in investigation
and professionalism in dealing with the persons, both victim and accused, are very important and relevant. More often, lack of professionalism is due to the fact that the law enforcement officials are left to themselves to deal with the issues as and when they find it convenient. There is no support from the supervisory officials, from the community and above all not many resources are available. Such challenges in all the four fields, viz knowledge, skills, attitudes and resources (K-S-AR) lead to lack of professionalism in dealing with the issues of human trafficking. Professionalism can be brought in, as the UNODC example has shown, by providing capacity building in K-S-A-R, followed by ensuring accountability of these trained officials.

*Lack of public support:* There is very little cooperation between the police and the public in many places. Earlier, NGOs coming into the police station was unheard of in many places, whereas the ITPA provides for a specific role of NGOs. Unfortunately this was seldom attended to. This law is unique when it states that a women or a girl child rescued from a place of sexual exploitation can only be interviewed by a female police officer and, if not, by a male police officer only in the company of a female police officer or a female NGO. However, more often, the case diaries and investigation reports showed that the male police officer recorded the statement of the rescued female victims and then completed the investigation. There is no mention of a female official or NGO being ever included at this stage. In fact, the truth is that it was not done. Therefore, lack of cooperation between the police agencies and civil society has been a major challenge in prosecution.

*Lack of information/intelligence:* Trafficking, being an organized crime, requires intelligence so that the law enforcement officials can act on time and appropriately. It also calls for public support and participation. There are very few whistle-blowers in the society as for several reasons the public do not want to get involved. It could be a fear of reprisal from the offenders, fear of not maintaining anonymity, fear of continued summons by the police and courts, fear of being involved in the law enforcement process, fear of extra time and resources one may need to spend on such initiatives, etc.

*Lack of database:* Institutional memory is a *sine-qua-non* for effective and efficient response. Individual initiatives, however they may try, move into oblivion or are relegated to the sidelines, mostly due to issues of one-upmanship as well as lack of sustained interest or capabilities in the successors. No doubt, there are several islands of excellence across the globe on various issues in the response to human trafficking, but many of them have not been institutionalized, replicated nor disseminated. This calls for a data management system which can institutionalize such best practices, while remaining dynamic with constant updating and upscaling.

On the one side, data has to be regularly fed in and, on the other side, management of data has to continue as a process, with a view to weeding out the trash, upgrading the quality and content of the data and disseminating them on a real-time basis. Data management is, therefore, a holistic process involving data collection, collation, analysis, interpretation, upgradation, prioritization, weed-outs and, above all, dissemination to the right persons at the right time. The bottomline in the whole process is data collection. Different countries have different systems of data collection and management. In the given context, the major challenges in data collection and management are as follows:

- Lack of priority.
- Lack of instruments for comprehensive data collection, collation, analysis, storage etc.
Law Enforcement Agencies, Roles and Functions: The Present Scenario

- Poor systems of data retrieval.
- Multiplicity of agencies involved.
- Lack of coordination among the various agencies/responders.
- Absence of a Central Coordinating Body for data management.
- User resilience.
- Lack of accountability on the responders concerned.

In order to address these issues and to facilitate better response to human trafficking, several countries have taken initiatives in improving data management. In India, the MWCD (Ministry of Woman and Child Development), Government of India has taken initiative in 2008 to develop an MIS (Management Information System) to respond to human trafficking. A scheme has been developed to make it comprehensive, user-friendly and capable of being integrated with the existing systems of data management. This scheme envisages integration of data to be collected on a monthly basis by law enforcement agencies and rehabilitation agencies, inclusive of governmental and non-governmental ones.

Data management will facilitate the understanding of trends and dimensions of trafficking and thereby support appropriate responses. Simultaneously, existing responses are subjected to evaluation, thereby providing a cost-benefit analysis and an impact analysis. These parameters will dictate future response strategies, programmes and even investments. It will promote understanding of the weaknesses and strengths and thereby compel close scrutiny of the response mechanism. It will also facilitate research, especially Action Research and, thereby, bring to fore unfathomed dimensions. In this context the Action Research by NHRC (National Human Rights Commission) is relevant.

The Action Research of Trafficking in Women and Children in India was commissioned by NHRC (National Human Rights Commission) in the year 2002. The research was carried out by the Institute of Social Sciences (ISS) during 2002-04. The report of the research was adopted by the NHRC and thereupon was endorsed to the government for implementation. Thereafter, Ministry of Home Affairs (MHA) and Ministry of Woman and Child Development (MWCD) had initiated several steps to implement the findings of the action research. One of the notable initiatives is the Project on Anti-Human Trafficking by the UNODC (United Nations Office of Drugs and Crime), New Delhi, which was carried out in partnership with MHA and some state government agencies, with the declared mission of empowering and capacity building of the response agencies and the response systems. The evaluation report of the Project (May, 2008) brings out the tremendous impact that the project has made in improving response system and institutionalizing best practices. This is a classic example of integration of research and action, generally unheard of in the arena of law enforcement. Mr. Sankar Sen was the Coordinator and Dr. P.M. Nair IPS was the Principal Researcher-cum-Investigator of the research.

Lack of coordination: Various wings of law enforcement agencies, not working in tandem, is also another challenge in prosecuting human trafficking crimes, as is the case with certain other crimes. If the justice delivery process has to fly, the bird (investigation) has to have in fact both its wings (prosecution and forensics) and also should have all its frills and feathers in the form of support from labour department, welfare department, women and child department, NGOs, media and above all, public trust and support. The bird is generally unable to fly or is struggling to fly, especially because the wings and frills are not in good shape or not in position.
The NHRC study has shown that even when the crime is professionally investigated, a major challenge lies ahead with the competence, capability and sensitivity of the prosecutor who handles the case. Assuming that the prosecutor also is professionally and sensitively handling the job, the next challenge comes in the way it is handled in the court. As per Indian law, the courts have powers to dismiss, discharge or acquit the accused and even direct fresh or additional investigation, if the investigation is perfunctory or incomplete. There are several administrative and legal structures in place to ensure that all these agencies are in sync. However, the reality is completely different.

Synchronization is possible, even without any agency treading into another territory. An example will prove the point. The chief justice of a state, surprised by this lack of coordination leading to serious impediments and delay with process of justice delivery, organized a joint workshop-cum-training for the judicial officers, the prosecutors and the police officers who were handling the crimes on human trafficking. This focused workshop provided a forum for open discussion and facilitated in identifying the challenges that each agency faces from the other. The professional discussions and debates facilitated in opening up the issues, in removing the lid of the façade and responding to the challenges, by developing a clear roadmap for the way ahead. No doubt, a case under trial in a judicial court has to be decided by the presiding officer based on the merit of the case. Judicial wisdom has to prevail and this cannot be influenced by any other means or method. Realizing this fact, this workshop was not only meant to create the required sensitivity, but also thrash out mechanisms as to how to carry out expeditious trial of the crime. The impact was phenomenal. Previously, the commitment procedure (forwarding the case file from the court of the CJM to the court of the Additional Sessions Court) in such crimes used to take, on an average, six to eight months; after the workshop, this was reduced to six to eight weeks. The trial of a case also used to take a similar amount of time, even this was brought down drastically. Proceedings were now held on priority basis. The commitment of the concerned prosecutor and the police officer ensured that witnesses came on time, witnesses were produced on time, the documents and the exhibits were produced on time and, therefore, there was no unwarranted or undue delay whatsoever. The entire effort led to expeditious disposal of the cases and in turn provided for speedy convictions, stringent punishments and firm action against the traffickers.

Non-availability of witnesses/victims: This is one of the common reasons for the delay in the justice delivery process and is a major challenge in crimes of inter-state and trans-border trafficking. No doubt, victims have a very important role in prosecution. Delay in the trial of crimes, for whatever reasons, produced a difficult situation when victims could not be kept in the ‘Home’ for long time. After a few weeks or months, the victims who wish to be rehabilitated or repatriated or restored are accordingly sent back. Once restored, the victim is naturally reluctant to come back to the place of exploitation and appear in the court of law. Similarly, international dimensions of the crime also add to the challenge in this regard. There are several victims from Bangladesh and Nepal who were rescued in places in India and are prime witnesses in the concerned cases pending in the courts of law. Once repatriated, it is not an easy task to get these witnesses from these foreign countries. Indeed it is a major problem, which begs a solution in the present context. Nevertheless, there are certain ingenious initiatives in addressing them too. Two instances (Box 1 and Box 2) show how things are possible despite the odds.
Box 1

A girl, Ms X, trafficked from Bangladesh to India was taken to Mumbai, exploited in a brothel and was then rescued. The police investigated the case, registered a case of trafficking against the trafficker and also registered crime of exploitation, rape, etc., against the abusers and prosecuted all of them. Trial of the case did not start for two years. In the meantime, the victim was naturally desperate to go back and it was allowed. Though 164 Cr.PC statement was also recorded, when the trial came up after three years, the court issued summons calling her as a witness. The court insisted on the compliance. It was a Herculean task to get this witness through official channels. However, one NGO, STOP, which provided counselling services to the victim had the full contact information of the victim and was in touch with the victim through another NGO working in Bangladesh, named BNWLA. Through the joint initiative of BNWLA of Bangladesh and STOP of Delhi, the victim witness could be brought to the court. She deposed in the court of law and gave evidence. This was appreciated by the court and the case was convicted. This is a case of initiative by the civil society in prosecuting an offender by bringing in a witness/victim who was trafficked from a foreign country and was repatriated too. There is no end to such human initiatives!

Box 2

In a case of trafficking of a girl child from Nellore in Andhra Pradesh to Delhi, after rescue she was sent back to Andhra Pradesh and restored to her parental home. Trial of the case came up in Delhi four years after. By the time this girl was fully rehabilitated and she had started a new life. No wonder she was not willing to come to the court in Delhi. She was scared, and was not willing to nor wanted to go back to the old days. She was not prepared to relive the trauma and the tragedy. One has to appreciate her stand and, at the same time, the legal requirement of getting her to the court of law. Despite several attempts by the NGO and the police she refused to come to the court in Delhi. This was brought to the notice of the court. Through a litigation by an activist, the issue reached the high court of Delhi. The high court directed that such a person should not be harassed and that her statement be recorded through a video conferencing procedure. The court directed the concerned person to check whether the video conferencing is available in Nellore and Delhi. The Andhra Bhawan in Delhi and the Nellore District Collector’s office both had this facility. Thereupon the court directed that the video conferencing facility in both these places be utilized and that the victim witness should not be brought to Delhi. This again was a great initiative not only in victim protection and witness protection, but also in ensuring fair and speedy disposal of such crimes. This initiative could be replicated elsewhere, especially because it helps to ensure that human rights are protected and human dignity is not violated.

7.8 CHALLENGES IN PREVENTION

Since prevention involves action at several places and requires concerted action by several stake-holders, it is multidimensional, multifaceted and involves multi-tasking. Therefore challenges in prevention are also many.

Lack of cooperation among the response agencies: Unless there is an effective linkage between the agency which carries out rescue (mostly police department) and the agency which is supposed to rehabilitate the person (mostly departments of welfare or labour or women and child prevention) cannot happen. Due to this void, re-trafficking continues to occur.

Lack of rehabilitation itself is a major challenge in prevention. Despite the fact that several persons are rescued, both in sex and labour trafficking, there is very less effort
on proper rehabilitation. The reasons are many. Rehabilitation requires resources, competent agencies, dedication, commitment and above all painstaking efforts. A want of effective rehabilitation, as NHRC study shows, is a great impediment in preventing human trafficking.

**Unhealthy relationship/competition among the stake-holders** working at a particular place such as bickering and one-upmanship among responders often creates lot of difficulties. Let us take an example. In a case of 2008, an NGO, on receipt of information about several children being exploited, swung into action and rescued a lot of children from the ‘zari’ industry where they were being exploited for long. These children were produced before a particular official who refused to take cognizance of the matter. Rather he took no action for certain reasons. These children were kept in a Home by the concerned NGO, which had to move the high court for directing the agency to act. Despite it being a holiday, the high court direction came and the official had to take the initiative reluctantly. The official decided to hand over the children to another NGO, which criticized the earlier NGO alleging certain acts of omission and commission. In the melee, a large number of rescued children disappeared from the office complex and some were reported missing. Finally, while some of the children were handed over to the second NGO, a few remained with the first NGO, the rest remained untraced. This was followed by some mudslinging among the responders thus vitiating the entire scenario. At the end of the day, the real sufferers were the children. At least some of the children who were reported missing may have been re-trafficked and exploited further.

**Initiatives at the source area:** It is a fact that the existing system of law enforcement in India envisages action at the demand areas rather than action at the source area. Police and NGOs move into action for rescue, mostly at those places where they are being exploited. Therefore, the existing action and the subsequent investigation are mostly oriented towards the scene of exploitation. Very seldom efforts are made to trace the whole issue back to the source area or focus attention in preventing trafficking from these areas. Prevention of trafficking at the source areas inevitably requires active involvement of all stake-holders including the family, the community, the grassroots level democratic institutions, the government bodies, the civil society and so on. Such synergy does not exist in many places and, therefore, source area prevention is almost wanting. Nevertheless, there are a few examples of commendable initiatives of source area prevention as can be seen from the following case studies.

**Lack of effective control on demand** is another challenge in prevention of trafficking. Even when the law enforcement machinery takes steps in the demand area, attention is focused only on those offenders who are physically seen there. In a case of sexual exploitation, action is, at best, initiated against the brothel madam, the brothel keeper, the brothel manager and may be the pimps. In case of labour exploitation, it is usually the company owner, the factory owner, the factory manager and those who are physically seen around who are brought to book. What is lacking is investigation into the traffickers, the recruiters, the harbourers, the financiers, the customers, and all such persons who constitute, contribute or perpetuate the demand. It is known that even the customers who exploit trafficked women are seldom brought to book, except in very few places. Similarly, the customers using exploitative labour are seldom taken to task. Take the case of a person who knows very well that child labour has been employed in a hazardous industry where it should not have been employed at all, and yet, he buys the product and produce, and utilizes them for himself or for trade. Is that person not violating the rights of child? Is that person not guilty of harm and exploitation of the child? The answer is obvious. Here is an area which requires attention as it can make a difference
in prevention. The recent examples of Bachpan Bachao Andolan working with the Carpet Manufacturers’ Association is a classic case where the NGO prevailed upon the manufacturers to dispense with child labour and to take an undertaking that they will never employ child labour. Through sustained persuasive efforts, the Association made the members agree to this and as a consequence they have brought out a trade mark, which proclaims that the carpet manufactured by these business houses/factories are, completely free from child labour. A classic example of initiative in prevention of trafficking.

_Burgeoning demand:_ While on one side there is less or nil attention and action on demand, on the other, maybe as a corollary or consequence, demand for human trafficking for all types of exploitation is on the increase. Many business promotions are linked to sexual favours. At many places, tourism has transformed itself into sex tourism. Demand for pornography with younger children is on the upswing. Massage parlours offering home/hotel services of male and female, adult and child are up. Such advertisements are on the increase. Similarly, growing consumerism and a buoyant economy generated tremendous scope for business, trade and construction, all of which have a high of requirement of labour. Labour contractors and suppliers capitalize on this scenario for trafficking labour. Decades of female foeticide has led to a high demand for girls as brides, thus, marriage bureaus have sprung up. Some of them have become ‘trafficking bureaus’ working under the facade of marriage bureaus. Such dynamics of demand with new trends, new areas of demand, organized nature of demand, multiple types of exploitative utilization of the trafficked person and the minuscule attention and as good as zero efforts to address them have complicated the scenario and all these issues have become major challenges in prevention.

**Self Assessment Question**

1) How can demand be contained?

| Non-clarity of roles: A major challenge in prevention is that more often the agencies concerned are not aware of their roles at all or are not clear about their specific role in prevention. Each one does what one thinks, and in a most _ad hoc_ manner. It is a fact that the Indian Police Act envisages two major responsibilities for the police, viz., detection and prevention. Therefore, police has to prevent crimes. It is their duty and mandate; there is no escape. If it is not prevented it would tantamount to dereliction of duty. However, most of the source areas are located in far-flung interiors where the officials working at the ‘demand site’ or the person working in the ‘rescue area’ may not have any access at all. There is confusion as to who should be undertaking prevention aspect in the source area. Let us take an example. If the rescue takes place in Mumbai city and the girls are found to have been trafficked from a place in the bordering district of UP and/or from Nepal, will the police officer in Mumbai influence, or communicate with the police officer in UP or Nepal to undertake efforts to prevent trafficking from that area? There is seldom any linkage between the two, let alone any synergy on joint |
action by the two. Therefore, this lack of linkage between the source and the destination area is a major challenge in prevention and it requires concerted efforts by the responders, especially law enforcement agencies on both sides. In the given context, based on information from the demand area, the source area need to act and vice versa. The first and foremost requirement is institutionalized networking. The next requirement is mutual flow of information and intelligence. The third requirement is that both sides need to act promptly on the intelligence. The police managers and supervisory police officers concerned have to take the initiative. They have to work with the local government bodies, panchayats, civil society organizations and the community to understand the vulnerabilities, the causal factors and involve the community in the preventive steps. If there is a trafficker, a recruiter, or any representative of theirs, the community should be empowered to become ‘whistle-blowers’ so that prompt action is taken against him.

Similarly, vulnerability of the population needs to be addressed, which can be done in so many ways. First of all, they have to be made aware of their rights. Secondly, the officials of the district administration, especially the development agencies, have to provide livelihood options and seek to remove the vulnerability in an institutionalized manner. Therefore, the domain swings from law enforcement to development and from the police station to the development office. This means that prevention calls for synergy in the functioning of multi-stake-holders and multi agencies at the source areas.

**Lack of attention to the transit areas:** There are several transit areas within the country and on the borders which do not get attention at all for various reasons. In some railway platforms one can see several women and children being moved from one place to another. It apparently looks like migration, but it is a fact that trafficking takes place under the facade of migration. Similarly, the international borders from where women and children are trafficked from one side or another are areas which require attention. The experiment by Seva, the NGO in Sanauli, is a classic example which shows that the initiative by the NGO along with the law enforcement agencies to make people aware of their rights at the transit point on the international boundary made a tremendous difference. In a span of nine months they could prevent trafficking of 65 girls and could ‘identify’ 35 suspected offenders. Therefore, attention on transit areas, whether a bus station or a railway station or an international airport needs concerted effort and attention by all agencies concerned. Another example in this context is the case of Chennai Airport, where in the year 2002-03 a large number of children were being taken from Bangladesh through India and were being trafficked out to Gulf countries for various activities, including camel racing and begging. They would have moved into the aircraft, but for the timely initiative of the immigration official who suspected foul play. On interviewing one child, he noticed that the children were not willing transients and that the so-called guardians travelling with them were not genuine guardians. The entire racket was exposed and all the children were saved. Such initiatives at the transit point is crucial and essential in preventing human trafficking. However, it remains a major challenge for want of information, initiative and action.

**Addressing the root causes in a comprehensive manner:** The fact remains that more often protection is given attention even at the cost of prevention. The focus, attention, resources and efforts are all oriented to redressal of grievances and empowerment of the rescued persons. The basic issues in the source areas crave for concerted attention and comprehensive action. Patriarchal mindsets, gender discrimination, female foeticide/infanticide, female neglect, child marriage, dedication of girls to abusers in the name of social or religious customs, etc. have to be removed by effective awareness campaigns, generation of zero tolerance among the masses and bringing in accountability at all
levels including community. "It is now urgently necessary to move to a higher level of strategic, 'systemic action, which addresses the social-economic conditions and gender discrimination that drive young women from certain areas to leave without adequate safeguards'. Gender budgeting of all spheres of activity needs to be attended to ensure that equity is ingrained. Appropriate political will need to be generated and effectively channelled into all policies and programmes of government and non-government sectors. Principles of equality, equanimity and human rights need to be the bottomline in all spheres of life and activity.

7.9 ADDRESSING THE ISSUE OF MISSING PERSONS

The linkage of human trafficking to missing persons has been well established in the NHRC research. Whereas, more than 44000 children were reported missing every year, on an average, more than 11000 remained untraced despite all efforts. Case studies reveal that many of these children were later rescued from places of exploitation after several years. However, the agency which rescued had not established any linkage with the agency who was earlier looking into the enquiries in connection with the missing person. Therefore, this lack of linkage between the two establishments of law enforcement is a major challenge. Further, lack of proper attention to the issues of missing persons is indeed a formidable challenge in addressing human trafficking. Once this linkage is addressed properly, these challenges could be overcome.

Self Assessment Question
2) Explain the linkage of trafficking to “missing persons”.

In a particular state, the police officers realized the linkages between ‘missing persons’ and ‘human trafficking’ and decided to attend to all the ‘missing persons complaints’ on a sustained manner involving not only law enforcement agencies, but also the NGOs. It is a fact that, for various reasons, many people prefer to make reports to the NGOs. Therefore, this concerted action by the NGOs and police made a difference in this particular scenario. All instances of persons reported to the police or NGOs as ‘missing’, as well as instances of missing persons even if it has not been reported to anybody, during the last few years, were listed out and an effort was made to check them one by one. Due to the concerted effort, most of the missing persons were rescued or retrieved or recovered or brought back from many other places. It was revealed that some of these were victims of sexual or labour exploitation for long periods. This experiment in addressing the issue of missing persons at the spot, in a focused and concerted manner, made a tremendous impact in the entire scenario. This initiative at the grassroots made people realize that a person ‘reported to be missing’ could have been trafficked. Public alertness against traffickers was a great step in prevention.
7.10 SUMMARY

- Human Trafficking challenges are multiple. The victims are voiceless or their voices suppressed.
- Poor law enforcement leads to resistance and negative attitude in victims. The psychological challenges faced by distraught victim are myriad.
- The major challenges in the response system is locating the victim in identifying the victim.
- It is a challenging task to provide protection when there is a lack of resources, lack of counselling services, marketing opportunities, a network among the responders, etc.
- Research by NHRC has brought to light that more than 90 per cent of the people who were being chargesheeted are not criminal or offenders, but victims of trafficking who have been branded as prostitutes and soliciting persons.
- Prevention of Human Trafficking is multi-dimensional, multi-faceted and involves multi-tasking.
- The NHRC study reveals that more than 44,000 children were reported missing every year and more than 11,000 remained untraced despite all efforts.

7.11 TERMINAL QUESTION

1) List out the major challenges in the existing system of law enforcement. How do you think you can improve the situation?

7.12 ANSWERS AND HINTS

Self Assessment Questions
1) Refer to Section 7.8.
2) Refer to Section 7.9.

Terminal Question
1) Refer to Section 7.8.