

PARLIAMENT OF INDIA
RAJYA SABHA

**DEPARTMENT-RELATED PARLIAMENTARY STANDING
COMMITTEE ON HUMAN RESOURCE DEVELOPMENT
HUNDRED EIGHTY-SECOND REPORT
ON
THE IMMORAL TRAFFIC (PREVENTION)
AMENDMENT BILL, 2006**

**(PRESENTED TO THE RAJYA SABHA ON 23RD NOVEMBER, 2006)
(LAID ON THE TABLE OF LOK SABHA ON 23RD NOVEMBER, 2006)**

RAJYA SABHA SECRETARIAT
NEW DELHI
NOVEMBER, 2006/ AGRAHAYANA, 1928 (SAKA)

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**COMPOSITION OF THE COMMITTEE
(2006-07)**

Shri Janardan Dwivedi — *Chairman*

**MEMBERS
RAJYA SABHA**

Shri Dwijendra Nath Sharmah
Shri Shantaram Laxman Naik
Shri Vijay Kumar Rupani
Shri Laxminarayan Sharma
Shri Uday Pratap Singh
Smt. Brinda Karat
Shri S. Anbalagan
Prof. Ram Deo Bhandary
Shri Ali Anwar

LOK SABHA

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Shri Basudeb Barman
Shri Harishchandra Chavan
Shri Harisinh Chavda
Smt. Paramjit Kaur Gulshan
Shri R. L. Jalappa
Shri Ramswaroop Koli
Shri G.V. Harsha Kumar
Shri Manjunath Kunnur
Smt. Nivedita Sambhajirao Mane
Smt. Archana Nayak
Smt. M.S.K. Bhavani Rajenthiran
Prof. Rasa Singh Rawat
Shri M. Raja Mohan Reddy
Shri Ganesh Prasad Singh
Shri Chengara Surendran
Dr. Thokchom Meinya
Shri K. Virupakshappa
Dr. Kunwar Devendra Singh Yadav
Vacant
Vacant

COMPOSITION OF THE COMMITTEE (2005-06)

@Shri Janardan Dwivedi — *Chairman*

MEMBERS

RAJYA SABHA

Shri Dwijendra Nath Sharmah
*Shri Shantaram Laxman Naik
@@Shri Ravi Shankar Prasad
**Shrimati Chandra Kala Pandey
^ Shrimati Brinda Karat
Shri S. Anbalagan
Shri Uday Pratap Singh
^^Shri M.P. Abdussamad Samadani
Prof. Ram Deo Bhandary
^^Shri Anil Dhirubhai Ambani
***Shri Vijay Kumar Rupani
***Shri Ali Anwar

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Shri Ramswarup Koli
Shri Manjunath Kunnur
\$Shri Y.G. Mahajan
\$Shri Manoj Kumar
%Shri Babu Lal Marandi
Dr. Thokchom Meinya
Shri Krishna Murari Moghe
Mohd. Mukim
Shri Tukaram Ganpatrao Rengepatil
Prof. Rasa Singh Rawat
Shri M. Rajamohan Reddy
Shri Tufani Saroj
Smt. P. Satheedevi
Shri A.R. Shaheen
Smt. Jyotirmoyee Sikdar
Shri K. Virupaxappa
Shri Devendra Singh Yadav
%%Shri Ganesh Prasad Singh

@appointed as Chairman *w.e.f.* 24.3.2006 on the vacancy caused due to the relinquishment of Chairmanship by Shri Vayalar Ravi *w.e.f.* 29.1.2006 consequent on his induction into the Union Cabinet.

*nominated *w.e.f.* 23.8.2005.

@@ Ceased to be a member of the Committee on expiry of his term in Rajya Sabha *w.e.f.* 2.4.2006

** Ceased to be a member of the Committee on expiry of her term in Rajya Sabha *w.e.f.* 18.8.2005

^nominated *w.e.f.* 25.9.2005.

^^ Ceased to be member *w.e.f.* 27th March, 2006.

***nominated *w.e.f.* 6.6.2006.

\$ Ceased to be member *w.e.f.* 23rd December, 2005.

% Ceased to be member *w.e.f.* 22nd May, 2006.

%%nominated *w.e.f.* 31st May, 2006.

^^ Ceased to be a member of the Committee on expiry of his term in Rajya Sabha *w.e.f.* 1.7.2006.

SECRETARIAT

Shri N.C. Joshi, Additional Secretary
Smt, Vandana Garg, Joint Secretary
Shri N.K. Singh, Director
Shri J. Sundriyal, Under Secretary
Shri Swarabji B., Committee Officer

INTRODUCTION

I, the Chairman of the Department-related Parliamentary Standing Committee on Human Resource Development, having been authorized by the Committee, present this Hundred Eighty-Second Report of the Committee on 'The Immoral Traffic (Prevention) Amendment Bill, 2006'.

In pursuance of Rule 270 relating to the Department-related Parliamentary Standing Committees, the Chairman, Rajya Sabha in consultation with the Speaker, Lok Sabha has referred** 'The Immoral Traffic (Prevention) Amendment Bill, 2006' (Annexure-1) as introduced in the Lok Sabha on the 22nd May 2006 and pending therein, to the Committee on the 2nd June, 2006 for examination and report within three months.

The Committee considered the Bill in seven sittings held on 13th June, 18th September, 27th September, 9th October, 10th October, 18th October and 2nd November, 2006.

At its meeting held on the 13th June 2006, the Committee decided that given the wider ramifications of the Bill, views/suggestions may be invited from individuals/ organizations/institutions interested on the subject matter of the Bill. Accordingly a Press Release to this effect was issued in the leading dailies of the country. Wide publicity was also given through Doordarshan and All India Radio (Annexure-II). In response to the advertisement, the Committee received 62 memoranda on various provisions of the Bill from various Experts/Individuals/Institutions/NGOs/ womens' organizations etc. Some of them requested to be heard personally by the Committee before finalising the report. (Annexure-III).

*Published in Gazette of India, Extraordinary Part II Section 2, dated the 22nd May 2006.

**Rajya Sabha Parliamentary Bulletin Part II, No. 42211 dated 2nd June, 2006.

The Committee could not conclude the deliberation on the Bill and submit its report within the stipulated period of three months as it remained pre-occupied with the examination of other Bills. The monsoon session began on 24th June 2006, which stalled the further deliberations of the Committee. The deliberations on these two bills also remained deferred for a brief period from 5th to 24th August 2006 when the Standing Committee was under constitution. In view of these unavoidable circumstances. Accordingly, the Committee sought extension of time for submission of Report on the Bill. The Hon'ble Chairman granted the Committee extension of time upto the 1st day of Winter Session.

On 18th September, 2006 the Committee heard the views of NGOs/ National and State Commissions of Women on the Bill. The Committee in its meetings held on the 9th October and 10th October, 2006 heard NGOs/Individuals/Experts/ Womens' Organizations from various part of the country on various clauses of the Bill.

The views of the Secretary, Department of Women and Child Development was heard on the 18th October, 2006 on the Bill. In the same meeting, the representatives of the Ministry of Health & Family Welfare were also present to deliberate on the issues like provision of medical facilities for and prevention of HIV/AIDS among the sex workers and their children and the impact of the Bill on the ongoing HIV/AIDS control programme. The details of Witnesses who appeared before the Committee are placed at Annexure-IV.

The Committee in its sitting held on the 2nd November 2006, took up 'clause-by-clause consideration' of the Bill and considered and adopted the draft report with amendments in Clause 2 sub-clause (iii), Clause 6, Clause 9, Clause 10 sub-clause (ii), Clause 11, Clause 12 and Clause 16 of the Bill. Besides the Committee made some general recommendations.

9. The Committee has relied on the following in finalizing the Report:
Background Note on the Bill ;

The Immoral Trafficking(Prevention) Act, 1956 as amended;
Objects and Reasons of the 1956 Act, 1978 Amendment Act and 1986 Amendment Act;
Prevention of Money Laundering Act 2002;
Memoranda received on the Bill from various individuals, organizations etc;
Replies on the questionnaire received from the Ministry;
Oral evidence on the Bill;
Statement showing the views received from the NGOs/Individuals on the Bill *vis-a-vis* the amendments proposed.
Verbatim record of the Oral evidence taken on the Bill; and
Presentation and clarification by Secretary of the Department of Women and Child Development and Ministry of Health and Family Welfare

10. On behalf of the Committee, I would like to thank the officials of the Ministry of Women and Child Development for providing necessary inputs and clarifications on the provisions of the Bill. I would like to acknowledge with thanks the experts/ NGOs who deposed before the Committee and submitted their valuable suggestions on the subject matter of the Bill.

11. For facility of reference, observations and recommendations of the Committee have been provided in bold letters in the body of the report.

NEW DELHI
November 2, 2008

JANARDAN DWIVEDI
Chairman, Asvina., 1928, (Saka)
Department-related Parliamentary
Standing Committee on Human Resource
Development

REPORT

The Immoral Traffic (Prevention) Act, 1956 (ITPA) was initially enacted as 'Suppression of Immoral Traffic in Women and Girls Act, 1956 (SITA). This Act was amended twice, first in 1978 to make good some inadequacies noticed in the implementation of the Act. The amendments made in 1986 were more comprehensive that widened the scope of the Act by covering all persons, whether male or female, who are exploited sexually for commercial purposes.

2. The Committee was informed that even after amendments, the ITPA failed to achieve its objectives as it was found wanting on several counts. Representations were being received from State Governments, voluntary organizations and others working with the victims of trafficking for amending the ITPA suitably with a view to doing away with certain provisions of the Act that hampered its implementation. Secondly, the changing times, needs and the changing perception also necessitated modifications in the existing legislation. Proposed amendments in ITPA 1956 accordingly, are to widen its scope, focus mainly on the traffickers, treating women as victims and not as culprit and to make its implementation more effective as well as to provide more stringent punishment to the traffickers and also to the persons availing services of trafficked victims.

3. The Committee was informed that the present legislation had been discussed quite extensively and consultations were made at all conceivable levels. At the first stage, a Cabinet Note for amendment of ITPA, 1956 was circulated to the concerned Central Ministries/ Departments and all States/ UTs. Thereafter, the National Commission for Women also conducted state-wise consultations involving lawyers, members of the Judiciary, Police, Social Workers etc. Review of the recommendations of the National Commission for Women took place in inter-departmental meetings in which the National Human Rights

Commission was also involved. Consultation process continued even after the Cabinet had approved these amendments to ITPA, 1956. Minister of State (WCD) met the sex workers associations from West Bengal, Andhra Pradesh, Karnataka and Delhi in March, 2006, followed by a meeting of the MOS(WCD) with reputed NGOs in April, 2006.

4. While tracing the history of ITPA, the Committee finds that prior to 1956, there was no Central Act exclusively for prostitution. It was dealt with in accordance with State laws. The United Nations International Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of others, 1949 formed the basis of the first comprehensive piece of legislation- the Suppression of Immoral Traffic Act, 1956. The law reflected the level of social consciousness and circumstances of that time. However, with the passage of time, the Indian Society started evolving in accordance with the changing times. This was reflected in the extensive amendments carried out in 1986 with prevention instead of suppression of immoral traffic forming the genesis of the Act. The two decades later, the 1986 amendments have thrown up varied and complex issues in the context of trafficking which need to be tackled effectively. Commercial sexual exploitation today is not purely brothel based; it is spreading everywhere – residential areas, hotels, clubs, etc. With the advancement of newer technologies and changing global scenario, sex trade has emerged in diverse forms. Menace of HIV/AIDS and increasing number of young girls/children being trafficked for sex in trade, cross-border trafficking, etc. are some of the compelling issues that have necessitated the amendment to ITPA.

5. The Committee appreciating the gravity of the existing situation in this regard took up the consideration of the Bill quite seriously. It knew that the issue would be having direct and indirect effect on our society specially on our youth and children-- future of the country. The Committee, therefore, in spite of extensive consultations already undertaken by the Ministry, decided to get views/suggestions from all concerned through a public notice published in the newspapers. Overwhelming response was received by the Committee from across the country. In all 62 memoranda reached the Committee.

6. The Committee, thereafter, held extensive discussions with all the stake-holders that included voluntary organizations, social workers, womens' organizations, legal persons, researchers and the experts working in the field. The Committee also heard sex workers from Delhi, Kolkata, Mumbai and Hyderabad to know their views about the proposed amendments. By and large, strong reservations were expressed in respect of certain provisions of the Bill. After having wide ranging consultations, the views, suggestions and apprehensions expressed by the witnesses who appeared before the Committee were put before the Secretary of Ministry of Women and Child Development for their response. Director- General, NACO was also called by the Committee to put forth his reaction to health-related concerns, particularly about the spread of HIV/AIDS. The extensive deliberations and also the voluminous written material received from all concerned has greatly helped the Committee in understanding the subject better and formulating its views on various provisions of the proposed legislation.

7. The Committee at its meeting held on the 2nd November 2006 took up the Bill for clause-by-clause consideration. The clauses where amendments were suggested by the Committee have been discussed in the succeeding paragraphs.

8. Besides that, one issue which constantly came up before the Committee during its deliberations was the lack of rehabilitation measures for the victims of sexual exploitation. A need for having an effective mechanism accessible at all levels for serving the specific needs of this vulnerable section of the society was also emphasized before the Committee. Another area which drew the attention of the Committee was inherent deficiencies in some sections of ITPA including unsatisfactory implementation not covered by the proposed legislation.

9. The Committee is of the firm view that confining its Report only on the proposed amendments will perhaps not serve the purpose. Keeping in view the sensitiveness of the subject, task of the Committee would hardly be complete if these issues were also not commented upon. Accordingly, some general issues inextricably linked with the problem have also found place in the Report.

10 CLAUSE 2 SUB CLAUSE (iii)

Modification of definition of prostitution under Section 2(f) of the Principal Act.

10.1 'Prostitution' is defined as 'sexual exploitation' or abuse of persons for commercial purposes under Section 2(f) of the Act. The Committee was informed that the addition of the words "or for consideration of money or in any other kind" expands the definition of prostitution to cover all sexual transactions between a sex worker and client irrespective of involvement of exploitation by third parties. The word "consideration" in legal parlance means not just money, but it can be of any other kind. The law will now include, it was argued, all acts of prostitution where sex is offered in return for money or other supplies, which were hitherto excluded from the ambit of the ITPA.

10.2 It was brought to the notice of the Committee that the proposed definition under Section 2(f) brings within its ambit all contracts for sex, including individual instances that are neither organized for profit nor exploitative in nature. It was, therefore, argued that such a move will cause confusion in implementation of and contradiction in the interpretation of the Act as it becomes unclear whether the ITPA targets situations of commercial sexual exploitation or sex work which may be consensual in nature. Apprehensions were made that the resultant ambiguity will be taken advantage of by the accused in their favour.

10.3 The Committee feels that present definition is too wide particularly due to addition of the words "any other kind". The Committee, therefore, recommends that the proposed definition of 'prostitution' in section 2(f) needs a re-look, keeping in mind the purpose and intent of legislation and redrafted to avoid any ambiguity.

11 CLAUSE 6

11.1 Clause 6 proposes to insert new sections, section 5A, 5B and 5C. Need for inclusion of these sections was felt as the Principal Act did not cover trafficking which has become an organized crime over the years. Every year increasing number of girls are trafficked from various places for commercial sexual exploitation. The Committee held extensive deliberations with all concerned on these provisions sought to be inserted, the resultant situation emerging and its impact on the various stake-holders. Very strong reservations were expressed, varying from scrapping of the new additions to suggestions for making extensive modifications therein.

Insertion of new Section 5A to define trafficking in persons

11.2 The Ministry clarified that the proposed definition of 'trafficking in persons' has been adopted from the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, which India is a signatory to. Insertion of section 5A would help the law enforcement agency and courts to look at trafficking and prostitution differently and protect the victims of trafficking. In the absence of such a provision both traffickers and perpetrators at present go scot free.

11.3 It was pointed out by some witnesses that while the UN Protocol covers trafficking for situations other than prostitution, proposed Section 5A is restricted to trafficking for prostitution only. Trafficking in persons for other purposes such as domestic labour, bonded labour, begging, camel jockeying, organ trade, etc. do not fall under the purview of the Bill. While there are a number of laws that penalise certain offences such as slavery, unlawful compulsory labour, and begging, they do not cover every situation where trafficked victims can be exploited.

11.4 As regards including trafficking in areas other than for sexual purposes, in the Bill, the Committee while agreeing with the argument in principle, wishes to emphasize that, it might not be possible to do so in this amending Bill. The Committee, however, feels that there is a strong case for bringing separate legislation(s) to cover other forms of trafficking in persons other than for prostitution. The Committee has been given to understand that the Ministry is in the process of preparing an Omnibus Bill on Offences against the child, which will cover trafficking of all kinds. The committee recommends that this Bill should be brought before Parliament at the earliest.

11.5 Committee's attention was drawn to another aspect noticed in Section 5A. While threat, use of force, coercion, abduction, fraud, deception in sub-clause (a) have clear legal meaning, the term 'abuse of power or position of vulnerability' in sub-clause (b) is ambiguous and may result in categorizing all recruitment into sex as trafficking. It was pointed out that a significant number of persons enter sex work for economic reasons and are not recruited against their will through force, deception, etc. It is feared that such persons may be understood as being in a "position of vulnerability" and consequently, their entry in sex work will be construed as trafficking.

11.6 Apprehensions were raised by some witnesses about Explanation to Section 5A also. It was put forth to the Committee that the Explanation contains a reverse presumption of guilt and thus violates the fundamental right of the accused to be presumed innocent until proven guilty. On a query made in this regard, it was clarified by the Ministry that such persons will have recourse to due process of law and conviction can only happen after due judicial processes including examination of evidence are made.

11.7 The committee notes that section 5 of the principal Act and proposed Section 5A appeared to be addressing the same issue. On being asked about retaining Section 5 of the principal Act the Ministry clarified that section 5 of the principal Act relates to procuring, inducing or taking persons for the sake of prostitution whereas Section 5A seeks to define trafficking in the context of prostitution. The Committee is inclined to agree with the contention of the Ministry that Section 5A looks at trafficking in a much broader perspective when compared with Section 5.

11.8 The Committee's attention was drawn to the prevalence of caste and religion based prostitution in some parts of the country even now. Traffickers were clandestinely using this route to traffic the girls into prostitution. Existing practice in some communities and system of *Devdasi* were brought to the notice of the Committee in this regard. Such cases, it was argued are not covered under this sub-section. The Committee, therefore, recommends that while redrafting the definition of trafficking, the words "inducement of religious and social nature" may also be included appropriately in Section 5A to prevent cases of trafficking driven by religious beliefs and other social practices.

12 SECTION 5 B

PUNISHMENT FOR TRAFFICKING IN PERSONS

12.1 Section 5B provides for punishment for trafficking in persons. The punishment in Section 5B for trafficking in persons for the purposes of prostitution is rigorous imprisonment for not less than 7 years for first offence. The Committee feels that this should be enhanced to no less than 10 years for child trafficking as the child traffickers deserve the maximum punishment. The Committee, therefore, recommends that Section 5B (1) should accordingly be amended to read as under:

Any person who commits trafficking in person shall be punishable on first conviction with rigorous imprisonment for a term which shall not be less than 7 years for trafficking in adults

and not less than 10 years for trafficking in children and in the event of a second or a subsequent conviction with imprisonment for life.

13 SECTION 5C

PUNISHMENT FOR VISITING BROTHEL

13.1 Section 5C evoked mixed reaction from the witnesses who appeared before the Committee. Section 5C provides for punishment to any person who visits or is found in a brothel for the purpose of sexual exploitation of any victim of trafficking in person *i.e.* clients who seek sexual services of a trafficked victim. Some witnesses welcomed it on the ground that criminalizing demand would discourage the supply which would limit prostitution as commercial activity.

13.2 The Ministry has also emphasized that most of the trafficked victims now-a-days are young girls and children. Therefore, there is no doubt that the client is committing a heinous crime. Committee also does not dispute this fact.

13.3 Strongest objections were raised by the sex-workers, supported by some NGOs mainly on the plea that introduction of Section 5C tends to threaten their very livelihood and to nullify the efforts to prevent HIV/AIDS. The Committee was apprised about the hardships being faced by the sex-workers under the existing conditions, which were likely to be aggravated with the induction of this section. Initiatives taken by some sex-worker organizations in the successful implementation of state-run AIDS Control Programmes were also placed before the Committee. It was advocated that all these efforts were likely to be nullified under the proposed legislation.

13.4 Experience of Sweden in this regard was cited which became the first country in the world in 1999 to introduce criminal sanctions against persons buying sexual services. The Committee was given to understand that although sex work is less visible, it has neither diminished nor effaced from Sweden. It has simply gone underground. It was apprehended that experience in our country would be no different.

13.5 On a specific query about the impact of section 5C on HIV/AIDS prevention programme, it was clarified by the Ministry of women & Child Development that currently the red-light area/ brothel based prostitution accounts for 10 to 20 per cent of the total prostitution in the country. There is a sharp increase in other forms of prostitution (in addition to brothel based prostitution) which has dispersed to different areas and other places. Therefore, the argument that HIV/ AIDS programme suffering because of penalizing visiting clients was not correct. Also, there was no empirical evidence that brothel based sex workers are able to ensure safe sex practices as customer preferences dominate.

13.6 In the proposed scheme of things, any person visiting or found in a brothel can be penalized, if the purpose of the visit is sexual exploitation of a victim of trafficking. It was argued before the Committee that it would be difficult for a person visiting a brothel to distinguish between a 'trafficked person' and a 'non-trafficked person'. Does it imply that if the victim is not trafficked, the client would not be penalised? This ambiguity, the Committee notes, is further confounded, as the term "sexual exploitation" has not been defined in the Bill. The words "for the purpose of sexual exploitation of any victim of trafficking" would allow the enforcement agencies to determine "victims of trafficking" and the intention of the visitor to 'sexually exploit' at the time of arresting. It would also lead to harassment of every person who visits a brothel irrespective of the object of his visit.

13.7 For the Police, the act of visiting a brothel is sufficient grounds for arrest, as the Section does not require the offender to have sex with the trafficked victim. How will the police determine that the person who visits or is found in a brothel is there for sexual exploitation of any victim of trafficking in person? Any person present in a brothel irrespective of the object of the visit may be intercepted and arrested. Increased powers in

the hands of the police will give them a handle to harass and extract money not only from sex workers but even from clients. The Committee apprehends that such ambiguous language in the provision may lead to indiscriminate arrests and harassment of any person found in a brothel.

13.8 It was further pointed out that although sex work or prostitution is not illegal under the ITPA, but the way it is bound to be implemented it appears, as if all acts of sex work or prostitution would be treated as sexual exploitation. Hence, it is likely that the term 'sexual exploitation' in Section 5C may be interpreted to include all transactional sex. As a result, every client visiting a brothel will incur penalties under section 5C even though he lacks knowledge (of the presence of a trafficked person) and intention (to have sex with a trafficked person), the two essential ingredients of crime. Although the proposed Bill does not intend to punish consensual sex with non-trafficked sex workers, that is what is likely to happen, it was contented.

13.9 In this connection it was stated before the Committee that a brothel as defined in Section 2 (a) not only means premises where persons are coerced into sex work but also includes sites operated by two or more adults, consenting sex workers for transactional sex. Thus, clients visiting residential premises of sex worker(s) may also be hit by section 5C.

13.10 The Committee was further informed that undefined terms and vague language under Section 5C will pose serious problems in its implementation. It is not clear how the prosecution will prove that an offence was committed under Section 5C; Sex workers will rarely testify against customers. While public witnesses may corroborate the presence of the accused in a brothel, that itself does not establish that the accused intended to sexually exploit a trafficked victim. In its present form, Section 5C may become unenforceable and may also prove to be a tool to harass people seen in and around brothels.

13.11 The Committee finds that even the Ministry has admitted that it is very unlikely that a distinction can be made between a trafficked person and a person who is there voluntarily, as victims do not confess to be trafficked, being constantly under blackmail, threat and intimidation. The Committee is of the view that it is a cardinal principle of criminal law that what constitutes an offence must be clear, not vague. The Committee, therefore, recommends that section 5C needs to be revisited for removing all the ambiguities and addressing the concerns expressed in respect thereto. It would be better if the terms "trafficked victim" and "commercial sexual exploitation" are defined precisely in the Bill itself.

13.12 The Committee is inclined to agree with the contention of the Ministry that apprehensions of all concerned about the adverse impact of proposed Section 5C on HIV/AIDS control programme do not seem to be fully correct. The Committee would however, like to point out that interventions for prevention of HIV/AIDS should be mainstreamed to target the sex workers who are not brothel based and not only restricted to brothels as then the majority of sex workers will be left out of the ambit of these interventions.

14 CLAUSE 9

Deletion of Section 8

14.1 Clause 9 deletes Section 8 of the principal Act which deals with seducing or soliciting for purposes of prostitution. The Committee was informed that the presence of Section 8 in the Act punishing solicitation as such has been routinely misused by the police and the maximum number of arrests under the Act are said to have been made under this Section. This has resulted in harassment and punishment of sex-workers instead of conviction of perpetrators of the crime, traffickers, pimps. The Ministry, however, failed to furnish any details about the number of persons booked under this section as the same was maintained by the State Police and data at national level was not available.

14.2 Deletion of Section 8 was welcomed by almost all the witnesses appearing before the Committee. However, it was pointed out by some witnesses that deletion of Section 8 and retaining Section 7 would work at cross-purposes; how can soliciting be stopped, if it is done in front of schools and colleges? It might give a free-zone to traffickers and brokers to push persons in prostitution. Another argument put before the Committee was that the removal of Section 8, that made soliciting illegal, would amount to making it legal. They, therefore, argued that persons like pimps, procurers and perpetrators should be included in this Section rather than the girls/women.

14.3 The Committee notes that reservations on deletion of Section 8 have also been raised by few states like Gujarat, Kerala, Madhya Pradesh, Maharashtra, Rajasthan and Delhi. The Committee was also given to understand that the National Human Rights Commission was also not in favour of deletion of Section 8. The Committee takes note of the following extract from the NHRC Report, 2004.

“26.5.2 Misuse of Section 8 ITPA

The research has brought out several distortions in law enforcement. On the one hand, there is non-utilisation of sections of ITPA against traffickers and exploiters, and on the other hand, there is grave misuse of Section 8 ITPA wherein victims are arrested, prosecuted and even convicted on the charge of soliciting..... A person who is made to solicit under coercion, duress, threat etc. cannot be charged

with the offence of soliciting..... A victim of trafficking should not be arrested at all. This calls for sensitivity and accountability of all concerned”.

14.4 It was also contended that change brought about in the definition of the word ‘Prostitution’ under 1986 amendment needs to be kept in mind while booking culprits under Section 8. SITA 1956 states that ‘Prostitution means the act of a female offering her body for promiscuous sexual intercourse for hire, whether in money or in kind.’

14.5 With the change in the definition in 1986 amendment, Prostitution was seen as the act by someone sexually exploiting another person. Exploitation does not mean an act to oneself; but presumes an exploiter to whom the victim is subjected.

14.6 Committee’s attention was also drawn to the fact that in many States, action is being taken against females on charges of indecent exposure, public nuisance etc. under several laws other than ITPA. Delhi Police Act and Mumbai Police Act are two such examples. Even with the deletion of Section 8, provisions of States Acts will continue to be used by the police against the women victims of trafficking.

14.7 Taking note of some dissenting views emerging on the issue of deletion of Section 8, the Committee made an attempt to understand all conceivable aspects of this sensitive issue. Those advocating the retention of Section 8 had pointed out that under Section 8 only women victims were not liable to be prosecuted. It can also be directed against perpetrators of crime, procurers, agents, pimps etc. The Committee in principle agree for the removal of section 8 i.e. to protect the victims from further victimization. However, the Committee recommends that a suitable clause may be added in the Bill itself to take action against the pimps, procurers, perpetrators, agents and other exploiters with self interest, for soliciting.

15. CLAUSE 10, Sub Clause (ii)

15.1 Section 10A of the Act deals with detention of a female offender in a corrective institution as an alternative to punishment. It seeks to enhance the period of detention in a corrective institution from 5 to 7 years. The Committee was apprised that the approach of Section 10A is totally wrong as it treated trafficked women as offender/accused person needing of correction in a detention center. Implementation of the Act so far shows that the concept of a corrective institution does not serve the purpose of rehabilitation. It is just a place of arbitrary detention, from which release may be obtained on condition of 'good

behaviour'. Such detention, in the opinion of the Committee, no way solves the problems of trafficked persons. No one should be kept there without consent and without providing her counseling and proper legal aid. The Committee feels that the whole aspect of corrective homes appears to be a medieval concept, which has to be rejected on the basis of the changing positions and changing perceptions about the women. We can't, on the one hand, say that women are victims and then send the victims for seven years incarceration on the other. This is more as imprisonment than a rehabilitation or relief. The Committee recommends that instead of corrective institutions the Government should create rehabilitation homes where opportunity for seeking an alternative livelihood with the women's consent is provided so as to prepare the victims to live life in mainstream.

16 CLAUSE 11

Lowering the rank of police officers authorized to conduct anti-trafficking operations from Inspector to Sub Inspector under Section 13(2)

16.1 Clause 11 proposes to lower the rank of the special police officer, authorized to enforce the provisions of this Act, from Inspector to Sub-Inspector. The Ministry clarified that it has been found that many times Special Police Officers in the rank of Inspector of Police are not available at the time of raid and rescue of victims of trafficking. This causes inordinate delay and fear that traffickers may hide victims of trafficking. Hence, the proposed amendment in Section 13. However, consensus that emerged after the interaction with different stake-holders, was that such a move would tend to complicate the things further. Police exercises extra-ordinary power to arrest, detain, raid, search and remove persons under the Act. There was every likelihood of increase in the degree of harassment of women victims by police authorities. Committee's attention was particularly drawn to Section 15 whereunder the Special Police Officer (proposed to be of the rank of Sub-Inspector) has the power to enter and search any place without warrant.

16.2 It is well known that powers conferred on law enforcement officials; both under the ITPA as well as local police enactments such as Bombay Police Act are grossly misused to threaten and extract all kind of favours from sex workers. It was argued that whereas a senior officer of the rank of Inspector can better tackle the situation; a junior officer would find it difficult to take on the spot decision. Such powers if vested in high officials, the possibility of misuse is minimal.

16.3 The Committee finds it difficult to believe that it was being done mainly due to paucity of adequate number of Inspectors; whereas Sub-Inspectors were readily available. There exists a provision for appointing special police officers for this purpose. The Committee, therefore, recommends that the rank of the special police officers may be retained as Inspector. The Committee also recommends that more lady police officers may be appointed to deal with the crimes under ITPA. The Government should initiate a training and sensitization programme for such officials to ensure that the victims who are already under trauma may be saved from further harassment.

17 CLAUSE -12- INSERTION OF SECTION 13A AND 13B

17.1 Section 13A and 13B provide for the setting up of a Central as well as State Authorities respectively for the purpose of 'preventing and combating' trafficking in persons. However, the Committee notes that the composition and powers of these authorities have not been spelt out in the Bill. The Committee, therefore, recommends that the composition and powers of the authorities may be spelt out in the Bill itself. Furthermore, it should be mandatory on the Central and State Governments to set up these authorities in a fixed time frame as at present Section 13A and 13B leave it fully at the discretion of the respective

governments. Accordingly the Committee recommends that the word 'may' should be replaced by the word 'shall' in the first lines of Section 13A and 13B.

17.2 The Committee further recommends that these authorities should also comprise social workers including members of women's organizations, health workers, and other concerned sections of the Society including prostitutes themselves.

18 CLAUSE 16 — IN CAMERA PROCEEDINGS

18.1 Clause 16 seeks to introduce in camera proceedings for all trials in Section 22 of the Act. The Committee agrees that the identity of the prostitute should not be disclosed but *in camera* proceedings can result in the trafficked persons, particularly the children, not being able to depose freely and openly. Such victims feel threatened and insecure in the presence of the accused and the police etc. The Committee, therefore, feels that someone whom they find secure with and have trust in should always be allowed to be present with them during these proceedings. The Committee, therefore, recommends that appropriate provision in this regard should be added in Section 22 after sub-section (2).

19 GENERAL

19.1 More than 50 years have passed since the enactment of Immoral Traffic (Prevention) Act in 1956. The 1986 comprehensive amendment indicated a major change in the approach to this social problem - from suppression to prevention. Thereafter, in view of changing global scenario, our society also has witnessed drastic changes such as increasing awareness of one's rights, weakening family structure, changing public attitude towards sex and morality and the like. New and serious problems have surfaced which include increasing sexual exploitation of children, growth of sex tourism, pornography in print, electronic and cyber media, cross border trafficking.

19.2 The Committee observes that such changes are also reflected on the nature and dimension of prostitution. Today the red-light area/ brothel based prostitution accounts for 10 to 20 percent of the total prostitution in the country, which the Committee was given to understand, was further declining due to various reasons, changing customer preferences and stigma attached to red light areas being one. There is a sharp increase in other forms of prostitution including shifting/ mobile brothel prostitution which work in a very different manner. The Committee strongly feels that there is an urgent need for having a complete re-look at the Immoral Traffic (Prevention) Act, 1956 touching upon all conceivable aspects. An attempt has been made through the proposed amendments to bring the serious problem of trafficking under the Act. The Committee would, however, like to point out that this can be only considered a half-hearted attempt as the cross-border dimensions of problem of trafficking has remain untouched.

19.3 Another serious problem towards which attention of the Committee was drawn by many witnesses was the alarming growth of child trafficking for sexual purposes. The Committee finds that ITPA does not contain any special provisions relating to children, particularly with respect to the treatment of rescued children. Secondly, the Committee was also given to understand that since the definition of 'prostitution' as given under the Act simply mentions persons, it is presumed to include children. Under the Act, a victim of commercial sexual exploitation can also be prosecuted because the law does not state whether children forced into prostitution are victims or offenders. Committee's attention was drawn to the case of Prerna V/s State of Maharashtra, Criminal Writ Petition 788 of 2002, whereunder, the Bombay High Court ordered that children who are found soliciting should be treated as children in conflict with the law under the Juvenile Justice Court. The Committee is of the firm view that this grey area about the legal position about child prostitutes needs to

be thoroughly looked into and adequate provisions safeguarding the interests of child prostitutes need to be included in the Act.

19.4 During its deliberations with all the stake-holders, one issue which kept on emerging constantly was the sheer lack of rehabilitation measures for the victims of the sexual exploitation. Sex-workers who appeared before the Committee both as individuals or representing some organizations made it very emphatically clear that, by and large, every sex-worker would prefer to live a dignified life like other common people. But under the existing social set up with the stigma attached to their profession, it was virtually impossible to join the mainstream. Numerous hurdles were faced by the sex-workers in their attempt to give their children a normal life. The Committee found that rehabilitation measures available under the Government set up did not simply meet the needs of sex-workers. The Committee was informed that there were a number of State run schemes like Swadhar, Short Stay Homes and Pilot Project to combat Trafficking which provide funding to NGOs for rehabilitation of destitute including victims of trafficking. However, details made available to the Committee reveal a very discouraging scenario. Total number of beneficiaries under these schemes which includes trafficked victims is only 33,823. The Committee can only conclude that benefits of these schemes are not reaching the trafficked victims.

19.5 Committee's attention was drawn by some of the witnesses towards Section 4 of the Principal Act which makes it illegal for anyone over the age of 18 years to live on the earnings of a prostitute. The law thus, makes anybody who is supported by a prostitute liable to be punished. However, there may be many cases where women have to take up this profession for economic reasons. It was emphasized that this provision was totally irrational and particularly harsh in cases where a prostitute cannot support her child after attaining 18 years or ailing relatives or aged parents. The Committee, therefore, recommends that the law needs to be reviewed to make a distinction between living 'on' and living 'off' the earnings of a prostitute. While legal safeguards need to be provided to prevent extortion of money from a prostitute, her right to incur expenditure voluntarily has to be safeguarded.

19.6 Committee's attention was drawn by two important Supreme Court Judgments on the subject of commercial sexual exploitation of children and women and the rescue and rehabilitation of children of women victims. In pursuance of directions given by the Supreme Court on 02.05.1990 in a public interest litigation, (*Vishal Jeet V/s Union of India*), Advisory Committee on Child Prostitution was set up by the Central Government and State Government. In another direction given by the Supreme Court in the case of *Gaurav Jain V/s Union of India* on 9th July, 1997, Committee on Prostitution, Child prostitutes and children of Prostitutes was set up by the Ministry. An in-depth study of the problem has been made by this Committee. Finally, a Plan of Action to combat Trafficking and Commercial Sexual Exploitation of Women and Children has also been drawn with the objective to mainstream, to re-integrate women and child victims of commercial sexual exploitation in the country. The Committee observes that this 'Plan of Action' includes all the action points required for rehabilitation namely, prevention, trafficking, awareness generation and social mobilization, health care services, education and child care, housing, shelter and civic amenities, economic empowerment, rescue and rehabilitation. The Committee is not aware about the status of this Plan of Action. The Committee is of the view that implementation of this Plan of Action by all the concerned authorities with close monitoring by the Ministry will ultimately prove effective in the quality of life of victims of trafficking.

19.7 The Committee is also aware about commendable work being done by some NGOs. It would be appropriate if such NGOs are actively involved in the Govt. efforts for rehabilitation of victims.

19.8 Sensitization and awareness among the prosecutors and the police, according to the committee, is one of the most important component as far as implementation of this law is concerned. There are manuals of training programmes and the Committee would like the Ministry of Women and Child Development to urgently put such manuals on its website.

19.9 The Committee also deliberated upon the issue of HIV/AIDS related to trafficking. It is understood that there are about 30 lakh women in the prostitution trade. Of this, only three and half lakh are brothel based and the remaining are on the streets, on the highways, in their homes or other such places. The target that NACO is aiming at is limited to brothel based. The representatives of the National Aids Control Organization under the Ministry of Health and Family Welfare informed the Committee that the AIDS programme was focused on the prevention of HIV and other infections which had been growing with alarming proportion. NACO has involved about 200 NGOs who persuade sex workers to work as self help groups. With collective efforts the STD rates have fallen.

19.10 It was argued before the Committee that the NACO's high risk targeted intervention approach needs to be revisited because it has not been able to fully secure the rights of children and women involved in prostitution. The methodology of condom distribution through brothel owners and pimps is not being effective. It was further argued that in the name of HIV/AIDS, certain strategies that are being pushed are inimical to the human rights and dignity of women and vulnerable men. The Committee, however, feels that time has come for NACO to reinvent its strategy to widen its reach to people other than the women in the brothels in the backdrop of the fact that commercial exploitation has widened, it has gone up from lower level to higher level.

19.11 The Committee appreciates the consistent and untiring efforts of NACO in containing dreaded disease like HIV/AIDS. The Committee also emphasizes the need to broad-base the current approach of National Aids Control Programme so as to include important aspects such as rescue, skill-building, rehabilitation and re-integration of the vulnerable groups. There is, therefore, need to revisit the strategy and to evolve a suitable methodology for arresting the menace. The Committee is of the view that impact of National Aids Control Programme amongst sex-workers would be more visible if involvement of Ministry of Women and Child Development is also there. The Committee, therefore, recommends that an inbuilt component in this regard may be included in the Programme.

19.12 The Committee found that one of the major reasons for ITPA not being able to achieve the intended results in preventing the immoral trafficking for sexual exploitation was the severe resource constraint. Many of the witnesses before the Committee also emphasized this aspect. The Committee recommends that the government should create a special fund for welfare/rehabilitation/healthcare and education of the sex workers as well as their children.

19.13 Another problem put before the Committee particularly by the sex workers themselves was about various kinds of problems faced by them in getting them back to the mainstream. The Committee found that it was mainly the attitude and mindset of the people *vis-à-vis* the sex workers which was largely responsible for this. People still look down upon them as culprits not as victims; there is a clear-cut lack of sympathy and cooperation with them. The Committee in such a situation strongly feels that there is an urgent need for undertaking public awareness measures at every level including the schools and colleges to treat sex workers as a normal human being. Such an environment, if generated, would go a long way in integrating the sex workers into the mainstream.

20. The Committee adopts the remaining clauses of the Bill without any amendments.

21. The enacting formula and the title are adopted with consequential changes.

22. The Committee recommends that the Bill may be passed after incorporating the amendments /additions suggested by it.

23. The Committee would like the Ministry to submit a note with reasons on the recommendations/suggestions made by the Committee, which could not be incorporated in the Bill.

OBSERVATION/RECOMMENDATIONS AT A GLANCE

The Committee is of the firm view that confining its Report only on the proposed amendments will perhaps not serve the purpose. Keeping in view the sensitiveness of the subject, task of the Committee would hardly be complete if these issues were also not commented upon. Accordingly, some general issues inextricably linked with the problem have also found place in the Report. (Para 9)

CLAUSE 2 SUB CLAUSE (iii)

Modification of definition of prostitution under Section 2(f) of the Principal Act.

The Committee feels that present definition is too wide particularly due to addition of the words "any other kind". The Committee, therefore, recommends that the proposed definition of 'prostitution' in section 2(f) needs a re-look, keeping in mind the purpose and intent of legislation and redrafted to avoid any ambiguity. (10.3)

11 **CLAUSE 6**

Insertion of new Section 5A to define trafficking in persons

As regards including trafficking in areas other than for sexual purposes, in the Bill, the Committee while agreeing with the argument in principle, wishes to emphasize that, it might not be possible to do so in this amending Bill. The Committee, however, feels that there is a strong case for bringing separate legislation(s) to cover other forms of trafficking in persons other than for prostitution. The Committee has been given to understand that the Ministry is in the process of preparing an Omnibus Bill on Offences against the child, which will cover trafficking of all kinds. The Committee recommends that this Bill should be brought before Parliament at the earliest.

The Committee, therefore, recommends that while redrafting the definition of trafficking, the words "inducement of religious and social nature" may also be included appropriately in Section 5A to prevent cases of trafficking driven by religious beliefs and other social practices. (Para 11.4)

12 **SECTION 5 B**

PUNISHMENT FOR TRAFFICKING IN PERSONS

The Committee, therefore, recommends that Section 5B (1) should accordingly be amended to read as under:

Any person who commits trafficking in person shall be punishable on first conviction with rigorous imprisonment for a term which shall not be less than 7 years for trafficking in adults and not less than 10 years for trafficking in children and in the event of a second or a subsequent conviction with imprisonment for life. (Para 12.1)

13 **SECTION 5C**

PUNISHMENT FOR VISITING BROTHEL

This ambiguity, the Committee notes, is further confounded, as the term "sexual exploitation" has not been defined in the Bill. The words "for the purpose of sexual exploitation of any victim of trafficking" would allow the enforcement agencies to determine "victims of trafficking" and the intention of the visitor to 'sexually exploit' at the time of

arresting. It would also lead to harassment of every person who visits a brothel irrespective of the object of his visit. (Para 13.6)

The Committee apprehends that such ambiguous language in the provision may lead to indiscriminate arrests and harassment of any person found in a brothel. (Para 13.7)

The Committee finds that even the Ministry has admitted that it is very unlikely that a distinction can be made between a trafficked person and a person who is there voluntarily, as victims do not confess to be trafficked, being constantly under blackmail, threat and intimidation. The Committee is of the view that it is a cardinal principle of criminal law that what constitutes an offence must be clear, not vague. The Committee, therefore, recommends that section 5C needs to be revisited for removing all the ambiguities and addressing the concerns expressed in respect thereto. It would be better if the terms "trafficked victim" and "commercial sexual exploitation" are defined precisely in the Bill itself.

(Para 13.11)

13.12 The Committee is inclined to agree with the contention of the Ministry that apprehensions of all concerned about the adverse impact of proposed Section 5C on HIV/AIDS control programme do not seem to be fully correct. The Committee would however, like to point out that interventions for prevention of HIV/AIDS should be mainstreamed to target the sex workers who are not brothel based and not only restricted to brothels as then the majority of sex workers will be left out of the ambit of these interventions. (Para 13.12)

14 CLAUSE 9

Deletion of Section 8

The Committee in principle agree for the removal of section 8 i.e. to protect the victims from further victimization. However, the Committee recommends that a suitable clause may be added in the Bill itself to take action against the pimps, procurers, perpetrators, agents and other exploiters with self interest, for soliciting. (Para 14.7)

15. CLAUSE 10, Sub Clause (ii)

The Committee feels that the whole aspect of corrective homes appears to be a medieval concept, which has to be rejected on the basis of the changing positions and changing perceptions about the women. We can't, on the one hand, say that women are victims and then send the victims for seven years incarceration on the other. This is more as imprisonment than a rehabilitation or relief. The Committee recommends that instead of corrective institutions the Government should create rehabilitation homes where opportunity for seeking an alternative livelihood with the women's consent is provided so as to prepare the victims to live life in mainstream. (Para 15.1)

16 CLAUSE 11

The Committee finds it difficult to believe that it was being done mainly due to paucity of adequate number of Inspectors; whereas Sub-Inspectors were readily available. There exists a provision for appointing special police officers for this purpose. The Committee, therefore, recommends that the rank of the special police officers may be retained as Inspector. The Committee also recommends that more lady police officers may be appointed to deal with the crimes under ITPA. The Government should initiate a training and sensitization programme for such officials to ensure that the victims who are already under trauma may be saved from further harassment. (Para16.3)

17 CLAUSE -12- INSERTION OF SECTION 13A AND 13B

The Committee, therefore, recommends that the composition and powers of the authorities may be spelt out in the Bill itself. Furthermore, it should be mandatory on the Central and State Governments to set up these authorities in a fixed time frame as at present Section 13A and 13B leave it fully at the discretion of the respective governments. Accordingly the Committee recommends that the word 'may' should be replaced by the word 'shall' in the first lines of Section 13A and 13B. (Para 17.1)

The Committee further recommends that these authorities should also comprise social workers including members of women's organizations, health workers, and other concerned sections of the Society including prostitutes themselves. (Para 17.2)

18 CLAUSE 16 — IN CAMERA PROCEEDINGS

The Committee, therefore, feels that someone whom they find secure with and have trust in should always be allowed to be present with them during these proceedings. The Committee, therefore, recommends that appropriate provision in this regard should be added in Section 22 after sub-section (2). (Para 18.1)

19 GENERAL

The Committee strongly feels that there is an urgent need for having a complete re-look at the Immoral Traffic (Prevention) Act, 1956 touching upon all conceivable aspects. An attempt has been made through the proposed amendments to bring the serious problem of trafficking under the Act. The Committee would, however, like to point out that this can be only considered a half-hearted attempt as the cross-border dimensions of problem of trafficking has remain untouched. (Para 19.2)

The Committee finds that ITPA does not contain any special provisions relating to children, particularly with respect to the treatment of rescued children. Secondly, the Committee was also given to understand that since the definition of 'prostitution' as given under the Act simply mentions persons, it is presumed to include children. Under the Act, a victim of commercial sexual exploitation can also be prosecuted because the law does not state whether children forced into prostitution are victims or offenders. Committee's attention was drawn to the case of *Prerna V/s State of Maharashtra, Criminal Writ Petition 788 of 2002*, whereunder, the Bombay High Court ordered that children who are found soliciting should be treated as children in conflict with the law under the Juvenile Justice Court. The Committee is of the firm view that this grey area about the legal position about child prostitutes needs to be thoroughly looked into and adequate provisions safeguarding the interests of child prostitutes need to be included in the Act. (Para 19.3)

However, details made available to the Committee reveal a very discouraging scenario. Total number of beneficiaries under these schemes which includes trafficked victims is only 33,823. The Committee can only conclude that benefits of these schemes are not reaching the trafficked victims. (Para 19.4)

The Committee, therefore, recommends that the law needs to be reviewed to make a distinction between living 'on' and living 'off' the earnings of a prostitute. While legal safeguards need to be provided to prevent extortion of money from a prostitute, her right to incur expenditure voluntarily has to be safeguarded. (Para 19.5)

The Committee observes that this 'Plan of Action' includes all the action points required for rehabilitation namely, prevention, trafficking, awareness generation and social mobilization, health care services, education and child care, housing, shelter and civic amenities, economic empowerment, rescue and rehabilitation. The Committee is not aware about the status of this Plan of Action. The Committee is of the view that implementation of this Plan of Action by all the concerned authorities with close monitoring by the Ministry will ultimately prove effective in the quality of life of victims of trafficking. (Para 19.6)

Sensitization and awareness among the prosecutors and the police, according to the committee, is one of the most important component as far as implementation of this law is concerned. There are manuals of training programmes and the Committee would like the Ministry of Women and Child Development to urgently put such manuals on its website.

(Para 19.8)

The Committee, however, feels that time has come for NACO to reinvent its strategy to widen its reach to people other than the women in the brothels in the backdrop of the fact that commercial exploitation has widened, it has gone up from lower level to higher level.

(Para 19.10)

The Committee appreciates the consistent and untiring efforts of NACO in containing dreaded disease like HIV/AIDS. The Committee also emphasizes the need to broad-base the current approach of National Aids Control Programme so as to include important aspects such as rescue, skill-building, rehabilitation and re-integration of the vulnerable groups. There is, therefore, need to revisit the strategy and to evolve a suitable methodology for arresting the menace. The Committee is of the view that impact of National Aids Control Programme amongst sex-workers would be more visible if involvement of Ministry of Women and Child Development is also there. The Committee, therefore, recommends that an inbuilt component in this regard may be included in the Programme.

(Para 19.11)

The Committee recommends that the government should create a special fund for welfare/rehabilitation/healthcare and education of the sex workers as well as their children.

(Para 19.12)

The Committee found that it was mainly the attitude and mindset of the people *vis-à-vis* the sex workers which was largely responsible for this. People still look down upon them as culprits not as victims; there is a clear-cut lack of sympathy and cooperation with them. The Committee in such a situation strongly feels that there is an urgent need for undertaking public awareness measures at every level including the schools and colleges to treat sex workers as a normal human being. Such an environment, if generated, would go a long way in integrating the sex workers into the mainstream.

(Para 19.13)

The Committee recommends that the Bill may be passed after incorporating the amendments /additions suggested by it. (Para 22)

The Committee would like the Ministry to submit a note with reasons on the recommendations/suggestions made by the Committee, which could not be incorporated in the Bill. (Para 23)

MINUTES

XIX

NINETEENTH MEETING

The Committee on Human Resource Development met at 11.00 a.m. on Tuesday, the 13th June, 2006 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Shri Janardan Dwivedi — *Chairman*

RAJYA SABHA

2. Shri Dwijendra Nath Sharmah

3. Shri Shantaram Laxman Naik
Smt. Brinda Karat
Shri M.P. Abdussamad Samadani

LOK SABHA

Shri Basudeb Barman
Shri Hari Sinh Chavda
Shri Ramswarup Koli
Shri Manjunath Kunnur
Dr. Thokchom Meinya
Shri Krishna Murari Moghe
Shri Tukaram Ganpatrao Rengepatil
Prof. Rasa Singh Rawat
Shri M. Rajamohan Reddy
Smt. P. Satheedevi
Shri A.R. Shaheen
Smt. Jyotirmoyee Sikdar
Shri K. Virupaxappa
Shri Ganesh Prasad Singh

SECRETARIAT

Smt. Vandana Garg, Joint Secretary
Smt. Meena Kandwal, Research Officer

WITNESSES

2. At the outset, the Chairman welcomed the three new Members who were recently nominated to the Committee.

3. ***

*** Relates to other matter

5. The Chairman also informed the Members that the 'Immoral Traffic (Prevention) Amendment Bill, 2006' has been referred to the Committee on 2nd June, 2006 for examination and report within three months. Keeping in view the wider ramifications of the Bill, the Committee decided to issue a Press Release inviting comments on the Bill from all concerned.

6. A verbatim record of the proceedings was kept.
The Committee then adjourned at 1.40 p.m.

II

SECOND MEETING

The Committee on Human Resource Development met at 11.00 a.m. on Monday, the 18th September 2006 in Committee Room 'D', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

Shri Janardan Dwivedi — *Chairman*

RAJYA SABHA

Shri Dwijendra Nath Sharmah
Shri Shantaram Laxman Naik
Shri Vijay Kumar Rupani
Smt. Brinda Karat
Shri S. Anbalagan
Prof. Ram Deo Bhandary

LOK SABHA

Shri Ashok Argal
Shri Basudeb Barman
Shri Harishchandra Chavan
Shri Harisinh Chavda
Smt. Paramjit Kaur Gulshan
Shri Ramswaroop Koli
Shri G.V. Harsha Kumar
Smt. Nivedita Sambhajirao Mane
Smt. Smt. M.S.K. Bhavani Rajenthiran
Shri M. Raja Mohan Reddy
Shri Ganesh Prasad Singh
Shri Chengara Surendran
Dr. Thokchom Meinya
Shri K. Virupakshappa
Dr. Kunwar Devendra Singh Yadav
Shri Francis K. George
Shri Anantkumar Hegde

SECRETARIAT

Smt Vandana Garg, Joint Secretary
Shri N.K. Singh, Director
Shri J. Sundriyal, Under Secretary
Shri Swarabji B., Committee Officer

WITNESSES

Lawyer's Collective HIV/AIDS Unit

Shri Anand Grover, Project Director
Ms. Tripti Tandon
Shri Vinod Bhanu
Ms. Shivangi Rai
Ms. Ayesha Sen Choudhary
Ms. Asmita Basu

National Commission for Women

Dr (Ms), Girija Vyas, Chairperson
Mrs.Yasmin Abrar, Member
Mrs Manju Snehalata Hembram, Member
Mrs Nirmala Venkatesh, Member

West Bengal Commission for Women

Ms. Jasodhara Bagchi, Chairperson
Ms. Bharati Mutsuddi, Advocate, Calcutta High Court
Andhra Pradesh Women's Commission

1. Mrs. Mary Ravindranath, Chairperson

2. At the outset, the Chairman welcomed the new Members who were recently nominated to the Committee. The Chairman of the Committee requested the members to select the names of the organizations/individuals (from the two lists circulated to them) to finalize the list of witnesses who could be called for evidence in connection with the Immoral Traffic (Prevention) Amendment Bill, 2006.

3. The Committee then heard the representatives of the Lawyer's Collective on the Immoral Traffic (Prevention) Amendment Bill, 2006. The witnesses presented their views and the members sought clarifications on various provisions of the Bill, which were replied. The witnesses then withdrew.

4. Thereafter, the Committee heard the Chairpersons of the National Commission for Women, West Bengal Commission for Women and Andhra Pradesh State Women Commission on the Immoral Traffic (Prevention) Amendment Bill, 2006. Members sought clarifications, which were replied to by the witnesses. The Committee, then adjourned for Lunch at 1.20 p.m.

5. ***

6. A verbatim record of the proceedings was kept.

7. The Committee then adjourned at 4.05 p.m.

*** Relates to other matter.

III THIRD MEETING

The Committee on Human Resource Development met at 11.00 a.m. on Wednesday, the 27th September 2006 in Room No. 139, First Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

Shri Janardan Dwivedi — *Chairman*

RAJYA SABHA

Shri Dwijendra Nath Sharmah
Shri Vijay Kumar Rupani
Shri Laxminarayan Sharma
Smt. Brinda Karat
Shri Uday Pratap Singh
Prof. Ram Deo Bhandary
Shri Ali Anwar

LOK SABHA

Shri Ashok Argal
Shri Basudeb Barman
Shri Harishchandra Chavan
Shri Harisinh Chavda
Smt. Paramjit Kaur Gulshan
Shri Ramswaroop Koli

Smt. Nivedita Sambhajirao Mane
Smt. Archana Nayak
Prof. Rasa Singh Rawat
Shri M. Raja Mohan Reddy
Shri Ganesh Prasad Singh
Shri Chengara Surendran
Dr. Thokchom Meinya
Shri Francis K. George
Shri Anantkumar Hegde

SECRETARIAT

Smt Vandana Garg, Joint Secretary
Shri N.K. Singh, Director
Shri Swarabji B., Committee Officer

2.

3. The Chairman thereafter requested the Members to identify the names of organizations/witnesses to be called before the Committee on ITPA Bill, 2006 from the Lists circulated to them earlier.

4.

6. The Committee then adjourned at 1.35 p.m. to meet again on 9th and 10th October, 2006.

*** Relates to other matter.

IV

FOURTH MEETING

The Committee on Human Resource Development met at 11.00 a.m. on Monday, the 9th October 2006 in Committee Room 'E', Basement, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

Shri Janardan Dwivedi

—

Chairman

RAJYA SABHA

Shri Dwijendra Nath Sharmah
Shri Shantaram Laxman Naik
Shri Vijay Kumar Rupani
Smt. Brinda Karat
Shri Ali Anwar

LOK SABHA

Shri Ashok Argal
Shri Basudeb Barman
Shri Harisinh Chavda
Smt. Paramjit Kaur Gulshan
Shri Ramswaroop Koli
Smt. Nivedita Sambhajirao Mane
Shri M. Raja Mohan Reddy
Shri Ganesh Prasad Singh

Shri Chengara Surendran
Dr. Thokchom Meinya
Shri K. Virupakshappa
Shri Ravi Prakash Verma

SECRETARIAT

Smt Vandana Garg, Joint Secretary
Shri N.K. Singh, Director
Shri J. Sundriyal, Under Secretary
Shri Swarabji B., Committee Officer

WITNESSES

1. Ms.Rami Chahabra, **Social Activist, New Delhi**
Centre for Feminist and Legal Research, New Delhi
2. Ms. Ratna Kapur
3. Ms. Gayatri Sharma
Gram Niyojan Kendra, Gaziabad
4. Prof. K. K. Mukherjee
5. Dr.(Mrs) Sutapa Mukherjee
Centre for Social Research
6. Ms. Ranjana Kumari, Director
ApneAap Women World wide, Kolkata
7. Ms. Ruchira Gupta, Executive Director
8. Ms. Kumkum Chhetry
9. Kumari Nirmala Deshpande, **M.P, Rajya Sabha**
All India Democratic Women's Association, New Delhi
10. Ms. Kirti Singh, President
11. Ms. Asha Lata
Bharatiya Patita Uddhar Sabha, New Delhi.
12. Shri Khairati Lal Bhola, President
13. Ms. Munni Bai

2. At the outset, the Chairman welcomed the Members of the Committee. The Committee, then, heard the representatives of (i) Centre for Feminist and Legal Research; (ii) Gram Niyojan Kendra; (iii) Centre of Social Research; (iv) Apne Aap Women World Wide along with individual social activist on the Immoral Traffic (Prevention) Amendment Bill, 2006. The witnesses presented their views and the members sought clarifications and suggestion on various provisions of the Bill, which were given. The Committee, then adjourned for Lunch at 1.20 p.m.

3. The Committee reassembled after Lunch at 3.00 p.m. and heard the representatives of All India Democratic Women's Association and Bhartiya Patita Uddhar Sabha. The Chairman and Members of the Committee sought clarifications on various aspects of the Bill, to which the witnesses responded. The Committee thereafter interacted with Kumari Nirmala Deshpande, M.P. Rajya Sabha on general aspects of the Bill in view of her experiences as a social activist. She mentioned about certain problems that need to be taken care of by the legislation pending before the Committee.

4. A verbatim record of the proceedings was kept.

5. The Committee then adjourned at 4.05 p.m to meet the next day at 11.00 a.m.

V
FIFTH MEETING

The Committee on Human Resource Development met at 11.00 a.m. on Tuesday, the 10th October 2006 in Committee Room 'E', Basement, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

Shri Janardan Dwivedi — *Chairman*

RAJYA SABHA

Shri Dwijendra Nath Sharmah
Shri Shantaram Laxman Naik
Shri Vijay Kumar Rupani
Smt. Brinda Karat
Shri Ali Anwar

LOK SABHA

Shri Ashok Argal
Shri Basudeb Barman
Smt. Paramjit Kaur Gulshan
Shri Ramswaroop Koli
Smt. Nivedita Sambhajirao Mane
Smt. Archana Nayak
Prof. Rasa Singh Rawat
Shri M. Raja Mohan Reddy
Shri Ganesh Prasad Singh
Dr. Thokchom Meinya
Shri K. Virupakshappa
Shri Ravi Prakash Verma
Shri Francis K. George
Shri Anantkumar Hegde

SECRETARIAT

Smt Vandana Garg, Joint Secretary
Shri N.K. Singh, Director
Shri J. Sundriyal, Under Secretary
Shri Swarabji B., Committee Officer

WITNESSES

Durbar Mahila Samanwaya Committee, Kolkata.

1. Ms. Aarti Dey,
2. Ms. Sapna Rayan,
3. Ms. Putul Singh,
4. Ms. Chhaya Singh and
5. Ms. Chhabi Kar.

SANLAAP, Kolkata

6. Ms. Indrani Sinha, Secretary
Vimochana Devdasi Sangha, Athni, Karnataka
7. Mr. B. L. Patil
Shri Subhash N. Chitgupkar

8. Swathi Mahila Sangha, Bangalore
Ms. Pushpalatha R., Secretary
Ms.B.S. Shobha
Godavari Mahila Samakhya, Andhra Pradesh.
9. Ms. Radha Rani, President,
10. Ms. Satyavathi,
11. Ms. Krishna, and
12. Mr. Sree Ram.
Positive Women Network (PWN+), Chennai.
13. Smt. Kousalya, and
14. Ms. Laya Medhani
NATSAP, Andhra Pradesh.
15. Mr. Rama Mohan, Convenor, and
16. Mr. G. Gopalakrishna Murthy
PRERANA, Mumbai.
17. Mr. Pravin Patkar, Chairperson
PRAJWALA, Andhra Pradesh.
18. Ms. Sunitha Krishnan and
19. Ms. Noorjahan
Manav Sarathi, Guwahati.
20. Dr. Manjushree Pathak, President, and
21. Ms. Suryasikha
Guria, Varanasi.
22. Shri Ajit Singh, Secretary, and
23. Ms. Aparna Bhat

2. At the outset, the Chairman welcomed the Members of the Committee. The Committee, then, heard the representatives of (i) Durbar Mahila Samanwaya Committee, SANLAAP, (ii) Vimochana Devdasi Sangha, (iii) Swathi Mahila Sangha, (iv) Godavari Mahila Samakhya, (v) Positive Women Network and (iv) NATSAP on the Immoral Traffic (Prevention) Amendment Bill, 2006. The witnesses presented their views and the members sought clarifications on various provisions of the Bill. The Committee then adjourned for Lunch at 1.20 p.m.

3. The Committee reassembled after Lunch at 3.00 p.m. and heard the representatives of (i) PRERANA, (ii) PRAJWALA, (iii) Manav Sarathi and (iv) Guria. The Chairman and Members of the Committee sought clarifications on various aspects of the Bill, to which the witnesses responded.

4. A verbatim record of the proceedings was kept.

5. The Committee then decided to hear the Secretary, Ministry of Women & Child Development on those issue before arriving at any conclusions about the proposed amendments in the Bill.

6. The Committee also decided to hear Secretary, Ministry of Health on possible impact of the proposed provisions on its efforts to prevent HIV/AIDS infections.

7. The Committee then adjourned at 4.10 p.m. to meet again on 18th October, 2006.

MINUTES OF THE DEPARTMENT-RELATED PARLIAMENTARY

STANDING COMMITTEE ON HUMAN RESOURCE DEVELOPMENT
VI
SIXTH MEETING

The Committee on Human Resource Development met at 11.00 a.m. on Wednesday,
the 18th October 2006 in Room No-63, First Floor, Parliament House, New Delhi.

MEMBERS PRESENT

Shri Janardan Dwivedi — *Chairman*

RAJYA SABHA

Shri Dwijendra Nath Sharmah
Shri Shantaram Laxman Naik
Shri Laxminarayan Sharma
Smt. Brinda Karat
Shri Ali Anwar

LOK SABHA

Shri Ashok Argal
Shri Basudeb Barman
Smt. Paramjit Kaur Gulshan
Shri Ramswaroop Koli
Shri G.V. Harsha Kumar
Smt. M.S.K. Bhavani Rajenthiran
Prof. Rasa Singh Rawat
Shri Ganesh Prasad Singh
Shri Chengara Surendran
Dr. Thokchom Meinya
Shri Ravi Prakash Verma
Shri Francis K. George
Dr. Ram Lakhan Singh

SECRETARIAT

Smt Vandana Garg, Joint Secretary
Shri N.K. Singh, Director
Shri J. Sundriyal, Under Secretary
Shri Swarabji B., Committee Officer

WITNESSES

Ministry of Women and Child Development

- | | | | |
|----|-----------------------|---|-------------------------|
| 1. | Smt. Deepa Jain Singh | - | Secretary |
| 2. | Smt. Manjula Krishnan | - | Economic Advisor |
| 3. | Smt. Nandita Mishra | - | Deputy Economic Advisor |
| 4. | Smt. Preeti Nath | - | Deputy Director |

Ministry of Health and Family Welfare

- | | | | |
|----|----------------|---|-------------------|
| 1. | Ms. Sujata Rao | - | Director General, |
|----|----------------|---|-------------------|

National Aids Control Organization (NACO)

2. Dr. Suresh Mohammed - National Consultant
3. Shri. Suresh Kumar - Director
4. Shri. K. S. Nagi - Under Secretary
5. Smt. I. P. Kaur - Deputy Commissioner,
Maternal and Child Health.

2. At the outset, the Chairman outlined the important issues which emanated from discussion held with various NGOs/Women's Organization/individuals on the Immoral Traffic (Prevention) Amendment Bill, 2006 and which need clarification/elucidation from the Ministry. The Committee, then, heard the Secretary and other officials of the Ministry of Women and Child Development and Ministry of Health and Family Welfare on the Immoral Traffic (Prevention) Amendment Bill, 2006. The Chairman and Members of the Committee sought clarifications on various aspects of the Bill, to which the officials replied.

The witnesses then withdrew.

4. ***
5. A verbatim record of the proceedings was kept.
6. The Committee then adjourned at 1.10 p.m. to meet again on 1st November, 2006.

*** Relates to other matter.

VIII EIGHTH MEETING

The Committee on Human Resource Development met at 11.00 p.m. on Thursday, the 2nd November 2006 in Committee Room'A', Ground Floor, Parliament House Annexe, New Delhi.

MEMBERS PRESENT

1. Shri Janardan Dwivedi — *Chairman*

RAJYA SABHA

2. **Shri Dwijendra Nath Sharmah**
3. Shri Vijay Kumar Rupani
4. Shri Laxminarayan Sharma
5. Smt. Brinda Karat
6. Shri S. Anbalagan
7. Shri Uday Pratap Singh

LOK SABHA

8. Shri Ashok Argal
9. Shri Basudeb Barman
10. Shri Harishchandra Chavan
11. Shri Harisinh Chavda
12. Smt. Paramjit Kaur Gulshan
13. Shri R. L. Jalappa
14. Shri G.V. Harsha Kumar
15. Smt. Archana Nayak
16. Prof. Rasa Singh Rawat
17. Shri Ganesh Prasad Singh
18. Shri K. Virupakshappa

19. Shri Ravi Prakash Verma
20. Shri Francis K. George
21. Dr. Ram Lakhan Singh

SECRETARIAT

Smt Vandana Garg, Joint Secretary
Shri N.K. Singh, Director
Shri J. Sundriyal, Under Secretary
Shri Swarabji B., Committee Officer

WITNESSES

2. ***
3. The Committee thereafter took up for consideration the draft Report on 'The Immoral Traffic (Prevention) Amendment Bill, 2006'. The Committee adopted the report with some modifications.
4. The Committee authorized the Chairman to fix a suitable date to present/lay the Report in the winter session of Parliament and also nominate members from both the Houses to present/lay the report.
5. A verbatim record of the proceedings was kept.
6. The Committee then adjourned at 1.30 p.m. to meet again on the 9th November, 2006.

*** Relates to other matter.