



HUMAN TRAFFICKING FIELDBOOK

**STANDARD OPERATING
PROCEDURES FOR
SEX TRAFFICKING
INTERVENTIONS**

**PROCEDURES FOR PROSECUTING
PERPETRATORS OF SEX TRAFFICKING**

HUMAN TRAFFICKING FIELDBOOK

SOP's for Sex Trafficking Interventions

Procedures for Prosecuting Perpetrators of Sex Trafficking

From

Human Trafficking Legal Reference Toolkit

Standard Operating Procedures to Fight Bonded Labour and Sex Trafficking

A Handbook for NGOs and their Lawyers

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REFER TO HUMAN TRAFFICKING HANDBOOK FOR APPENDICES



SUMMARY OF PROCEDURES FOR PROSECUTING PERPETRATORS OF SEX TRAFFICKING

2.1

FILING THE SEX TRAFFICKING F.I.R.

Officer in charge of police station records information of sex trafficking offenses as an FIR and proceeds with investigation and arrest; insure all sections are included in FIR and give copy to complainant.



2.2

APPEARANCE OF SURVIVORS BEFORE THE MAGISTRATE OR CWC

Magistrate orders medical exam and temporary stay at shelter home; CWC takes statement of minors and decides on safe custody based on Home Inquiry Report; woman police constable escorts to medical examination and shelter.



2.3

ARRESTING PERSONS ACCUSED OF SEX TRAFFICKING OFFENSES

Police arrests accused and moves forward swiftly with investigation.



2.4

FILING VAKALATNAMA & APPLICATION TO ASSIST THE PROSECUTION

Victim's Advocate files applications in Court to represent the victim and assist the Prosecution; A Legal Services Authority Advocate may provide legal representation.



2.5

OPPOSING THE BAIL APPLICATION OF THE ACCUSED PERPETRATORS

Advocate works with the Police and Public Prosecutor to oppose any bail petitions filed by the accused.



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2.6

RECORDING STATEMENTS DURING INVESTIGATION

Police records victim and witness statements (in-camera if necessary); Magistrate records 164 statements (CWC if victim is minor); Probation Officer records supplemental statements; counsellors to be available during statements.



2.7

EVICTING OFFENDERS AND CLOSING OF BROTHELS

Magistrate orders eviction of offenders and suspension of licenses of businesses where sex trafficking occurred; Magistrate orders placement of victims in protection home or aftercare facility; Police closes and seals brothels.



2.8

FILING FOR SEX TRAFFICKING VICTIM COMPENSATION

Court orders compensation to victims of sex trafficking.



2.9

FILING OF SEX TRAFFICKING CHARGE SHEET

The Investigating Officer (Police) files the charge sheet without delay and within 90 days of FIR, if possible.



2.10

ENSURING APPROPRIATE FORUM FOR TRIAL

After chargesheet is filed, judge takes cognizance of case and commits it to proper court.



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2.11

FRAMING OF SEX TRAFFICKING CHARGES

Court frames the charges on a timely basis (including all applicable offenses supported by the facts) and asks accused for his plea (if pleads guilty, trial ends.)



2.12

ASSISTING THE PROSECUTION AT SEX TRAFFICKING HEARINGS

Advocate should assist the Public Prosecutor at all hearings and secure victim's Court attendance when required.



2.13

PREPARING SEX TRAFFICKING WITNESSES TO TESTIFY

Court should take victim-sensitive measures, especially where child victims are involved; Advocates should prepare victims for chief and cross-examination testimony; seek in-camera proceedings if necessary.



2.14

SUBMITTING FINAL ARGUMENTS TO PROVE SEX TRAFFICKING

Final written submissions and oral argument must be submitted to the court.



2.15

OBTAINING THE JUDGMENT

Court provides certified copies of judgment to parties.



2.16

FILING OF APPEAL

Court fairly considers appeal by parties, if filed.





PROSECUTING PERPETRATORS OF SEX TRAFFICKING

STEP

2.1

FILING OF THE SEX TRAFFICKING FIR



NGO

The NGO should file the First Information Report (F.I.R.) at the Police station within whose jurisdiction the sex trafficking took place.

ADVOCATE

The Advocate should ensure that the F.I.R is registered with all applicable sex trafficking and other offences included.

STEP

2.2

APPEARANCE OF SURVIVORS BEFORE THE MAGISTRATE OR CWC



NGO

The NGO should ensure that rescued adults are presented before the Magistrate, while rescued minors are produced before the Child Welfare Committee (CWC).

ADVOCATE

The Advocate should advise officials to treat victims as minors whenever in doubt.

STEP

2.3

ARRESTING PERSONS ACCUSED OF SEX TRAFFICKING OFFENCES



NGO

The NGO should assist the police in immediately arresting all of the accused concerned with the sex trafficking offences.

ADVOCATE

The Advocate should assist the police with the immediate arrest of the accused under relevant provisions of the CrPC and encourage the police to move forward swiftly with the investigation.

STEP

2.4

FILING VAKALATNAMA AND APPLICATION TO ASSIST THE PROSECUTION



NGO

The NGO should ensure that the sex trafficking survivors provide necessary information to the Advocate and that qualified female counsellors or female legal guardians are present when survivors meet with the Advocate.

ADVOCATE

The Advocate should obtain the consent of sex trafficking survivors to file a vakalatnama as their legal counsel and file an application to assist the prosecution under section 301(2) of the CrPC.

STEP

2.5

OPPOSING THE BAIL APPLICATION OF ACCUSED PERPETRATORS



NGO

The NGO representatives should be proactive in immediately passing on any information received regarding bail applications filed by the accused to the Advocate.

ADVOCATE

The Advocate should attend all bail hearings to oppose bail orally and by written application and to argue for stringent bail conditions, should bail be granted.

STEP

2.6

RECORDING STATEMENTS DURING INVESTIGATION



NGO

The NGO representatives should assist the victims while their witness statements are being recorded and provide quality victim counselling support during the process.

ADVOCATE

The Advocate should advise the Police in recording witness statements of relevant witnesses under Section 161 of the CrPC and must also ensure that victim statements are recorded before the Magistrate, under Section 164 of the CrPC.

STEP

2.7

EVICTING OFFENDERS AND CLOSING BROTHEL



NGO

The NGO should provide sufficient information to enable the Advocate to move petitions and representations for closure, sealing and/or eviction of a brothel or place of exploitation before the relevant authorities.

ADVOCATE

The Advocate should make a petition to the Magistrate for closure/sealing of the facility in which sex trafficking was taking place.

STEP

2.8

FILING FOR SEX TRAFFICKING VICTIM COMPENSATION



NGO

The Advocate should make a petition to the Magistrate for closure/sealing of the facility in which sex trafficking was taking place.

ADVOCATE

The Advocate should move an application for compensation on behalf of the survivors of sex trafficking before the courts, under Section 357 of the CrPC.

STEP

2.9

FILING OF SEX TRAFFICKING CHARGE SHEET



NGO

The NGO should follow up with the Advocate regarding the filing of a charge sheet.

ADVOCATE

The Advocate should ensure that the charge sheet is filed within the stipulated time by working closely with the Police and the Public Prosecutor.

STEP

2.10

ENSURING THE APPROPRIATE FORUM FOR TRIAL



ADVOCATE

Once the charge sheet is filed, the Advocate must ensure that based on the charges, the case is committed before the appropriate forum.

STEP

2.11

FRAMING OF SEX TRAFFICKING CHARGES



NGO

Once the charge sheet is filed before the Court, the NGO should follow up with the Advocate to ensure that charges are framed expeditiously.

ADVOCATE

Once the charge sheet is filed, the Advocate should ensure that appropriate charges are framed before the court at the earliest.

STEP

2.12

ASSISTING THE PROSECUTION AT ALL SEX TRAFFICKING CASE HEARINGS



NGO

Once the trial begins, a representative from the NGO should be present in court for all required hearings.

ADVOCATE

The Advocate should attend every court hearing and be ready to assist the Public Prosecutor at every stage of the trial.

STEP

2.13

PREPARING SEX TRAFFICKING WITNESSES TO TESTIFY



NGO

During the trial, the NGO should help prepare survivors for their witness testimony by counselling them to testify boldly, accurately and with clarity.

ADVOCATE

The Advocate should assist the Public Prosecutor in preparing the prosecution witnesses for chief examination and cross-examination so as to enable them to testify accurately, boldly and with clarity.

STEP

2.14

SUBMITTING FINAL ARGUMENTS TO PROVE SEX TRAFFICKING



NGO

At the later stage of the trial, the NGO should provide as much information as possible to help the Advocate file comprehensive written submissions.

ADVOCATE

The Advocate should draft and file written submissions for final arguments to be submitted before the court through the Public Prosecutor (or directly if the Prosecutor refuses to co-operate). The Advocate should also present final oral arguments when allowed by the Court.

STEP

2.15

OBTAINING THE JUDGMENT



NGO

The NGO should assist the Advocate in obtaining certified copies of the final judgement from the Court.

ADVOCATE

The Advocate should make applications for certified copies of the final judgement.

STEP

2.16

FILING OF APPEAL



NGO

The NGO should assist the Advocate with the preparation of an appeal, if required.

ADVOCATE

The Advocate should file an appeal or revision application on an adverse judgment, if required.

STEP 2.1 Filing of the Sex Trafficking F.I.R..

Timeline: The FIR, if being filed after the rescue, should ideally be lodged within 48 hours of the rescue.

NGO

The NGO should file the First Information Report (F.I.R.) at the Police station within whose jurisdiction the offences of sex trafficking take place.

ADVOCATE

The Advocate should ensure that the F.I.R is registered with all applicable sex trafficking and other offences included.

Commentary

The NGO representatives should ensure that the complaint is filed before the Police Station and includes all relevant offences. Remember that when in doubt if a survivor is a minor she should be treated as a minor.

The NGO should seek the help of an advocate should the police fail or refuse to register an FIR. -The Advocate should ensure that the Complainant files information of the commission of one or more cognizable offences under Section 154(1) of the CrPC with the officer- in-charge of a police station.

Any person can file a complainant or information with regard to sex trafficking offences for registration of an FIR. The Advocate may encourage the Government officials, the victim, the family of the victim, or anyone present to file the F.I.R.

Important information that should be included in an FIR:

Date and location of the rescue,

Time of the rescue,

Distance of the site from the Police Station

The Advocate should ensure that the information is recorded by the officer-in-charge at the police station as a First Information Report (FIR) under Section 154 of the CrPC.

Steps to be taken if an FIR is not being registered by the Police:

If the information is not being recorded or an FIR is not being registered, the Advocate should send the information in writing and by post to the concerned Superintendent of Police pursuant to Section 154(3) of the CrPC.

If the information is still not being recorded as an FIR, the Advocate should file an application before the Magistrate seeking an order that the information be recorded and an investigation commenced.

If the information is still not recorded as an FIR, the Advocate should file a High Court Petition under Section 482 of the CrPC.

If the FIR does not identify offences

Names of the victims rescued, ages of victim,
 Place where the offences occurred
 Name and addresses (if known) of the brothel owner/trafficker
 Details of the offences that occurred
 Brief description of the rescue site and the materials seized.
 Details of the rescue team who conducted the operation.

supported by the facts, the Advocate should submit a letter along with an affidavit or other supporting documents for inclusion of additional offences.

Points to Note

Anyone can make a complaint to file a FIR: Any person can file a complaint to register a First Information Report of a sex trafficking offence. The complainant may be a police officer, the NGO, the CWC, parents/relatives of the victim, primary care givers of the victim, any other person who has knowledge of the said crime, and the victim herself.

When rescued person was a child when trafficked: When the rescued person is an adult but was trafficked when he was child, invoke sections of law that apply to child trafficking. See Section 372, 373 of the IPC.

Name of Investigating Officer must be recorded in the FIR: The name of the I.O. registering the FIR along with his designation must be recorded legibly in the FIR. The I.O. is an important part of the trial, and hence details of the I.O. must be legibly stated in the FIR.

Push for investigation under Section 157, CrPC: The Advocate should encourage the police to move forward with the investigation under Section 157 of the CrPC and arrest individuals suspected of commission of a cognizable offence. If the police do not move forward with an investigation, the Advocate should file an application before the magistrate under Section 156(3) CrPC to order that the investigation be commenced.

In cases involving offences under SC & ST Act: If the case involves offences under SC & ST Act, the Advocate should ensure that the case is investigated by a DSP or a police officer of higher rank and completed within 30 days.

Learn More & Take Action

Mandatory duty to register an FIR: A Police officer in charge of a Police station is bound to register an FIR for cognizable cases under Section 154 of the Cr.P.C. The FIR is also to be signed by the person giving information¹.

To learn more about judgments related to FIR, refer to Chapter V.

Sample documents and practice aids:

- Refer to **Appendix 33** on relevant publications with additional resources.
- Refer to **Appendix 22A** for Application to Magistrate under Section 156(3), CrPC to commence investigation under Section 157, CrPC.

Formats for use when Police refuse to file an FIR:

- **Application to Magistrate under Sections 200 & 156(3), Cr.PC to lodge an FIR:** Refer to **Appendix 22A** on how to draft an application to the Magistrate under Section 200, Cr.P.C. to take cognizance of a complaint along with an application under Section 156 (3), Cr.P.C. to the Magistrate directing concerned SHO for lodging of F.I.R.
- **Application under Section 172 (2), Cr.PC to the Magistrate to call for case diary:** Refer to **Appendix 25** to see the draft for an application under Section 172(2) urging the Magistrate to call for the case diary maintained by the Police to aid in preliminary inquiry.

FIR: Contact your local police station or get in touch with JVI to see what an FIR looks like.

To obtain a draft of a Petition to be filed before the High Court to register FIR, contact JVI.

STEP 2.2 Appearance of survivors before the Magistrate or CWC

Timeline: As much as possible, the survivors should appear before the Magistrate / CWC (if minor) as soon as the rescue is completed, within 24 hours of the rescue.

¹Section 154 (1), CrPC.

NGO	ADVOCATE
<p>The NGO should ensure that rescued adults are presented before the Magistrate, while rescued minors are produced before the CWC (Child Welfare Committee).</p>	<p>The Advocate should advise officials to treat victims as minors whenever in doubt.</p>
Commentary	
<p>NGO representatives must accompany the victims before the Magistrate and ensure that the victims are treated with utmost sensitivity and dignity.</p> <p>NGO Aftercare workers must accompany the rescued victims along with a woman police constable for a medical examination and then escort them to the shelter home where they are placed.</p>	<p>The Advocate must ensure that the child is produced before the CWC. In the event the age of the victim cannot be ascertained, the Advocate should assist the police in deciding whether to produce the victim before the CWC. Whenever in doubt, the victim must be treated as a minor.</p> <p>Statement of the victim before the CWC must be entered in the Case Diary. The Advocate could advise the Police to do so.</p> <p>The Advocate should ensure that adult survivors are produced before the ITPA Special Court and that a medical examination by female medical practitioner is immediately conducted.</p> <p>The production before the Special Court Magistrate is to ensure that orders are passed for the medical examination and temporary stay of survivors at the government or private licenced shelter home.</p>

Points to Note

If the rescue is held at night: In case the rescue is executed at night, the night duty Magistrate may be approached. It would be good to find out who the night duty Magistrate is and the procedure for approaching such Magistrate.

Oppose custody applications: The Advocate should also oppose custody applications

filed by parent or relatives of minors whenever there is an indication of violence at home or when a Home verification report is pending.

Safeguards with regard to the rescue team: Under no circumstances should the rescue team be detained in the police station or neglected to be exposed to further risks.

When a rescued victim looks like a minor: In case of uncertainties regarding the age of the rescued victim, the rescued person should be referred to the Child Welfare Committee. According to Section 94 of the JJJA, where, it is obvious to the CWC based on the appearance of the person brought before it under any of the provisions of this Act (other than for the purpose of giving evidence) that the said person is a child, the CWC shall record such observation stating the age of the child as nearly as may be and proceed with the inquiry under section 36 (inquiry on child in need of care and protection), without waiting for further confirmation of the age. If the CWC is in doubt regarding the age of the person brought before it, shall seek to determine the age of the person by seeking evidence by obtaining:

- o The **date of birth certificate** from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;
- o The **birth certificate** given by a corporation or a municipal authority or a panchayat;
- o Only in the absence of i. and ii., can age be determined by an **ossification test** or any other latest medical age determination test conducted on orders of the CWC, provided it is completed with 15 days of such an order being passed.

Production before the Magistrate or CWC and arrest of the perpetrator: Both Step 2.2 and Step 2.3 could take place simultaneously, and in some cases (for e.g. when the rescue takes place at night) Step 2.3 would precede Step 2.2. It would be best for the NGO representatives to split the team in such a way that one team is present at the site of arrest, and the other is present before the Magistrate or CWC.

Learn More & Take Action

Child in need of care and protection: A rescued child will be considered a child in need of care and protection and will fall within the jurisdiction of the Child Welfare

Committee of the said District. The CWC has the authority to determine the age of the minor. Read Sections 2(14), 31, 36 and 94 of the Juvenile Justice Act, 2015 for more information. The C.W.C. will determine the age of the child presented before it under the provisions provided under Section 94.

Home Inquiry Report: The CWC is to direct and oversee a submission of a Home Inquiry Report and make decisions regarding the safe custody of the child accordingly. A format for the Home Inquiry Report has been provided under **Appendix 29**. As per Section 33 of the Juvenile Justice Act, 2015, the CWC has to clearly state the name of the NGO who is to carry out the Home Inquiry, in its order.

Order of CWC to give custody of child to parent: The CWC is responsible for the welfare of the child and to restore the victim. Under Section 37 of the Juvenile Justice Act, 2015, it is the CWC who can order the restoration of the child into the custody of her parent or guardian, on consideration of Social Investigation Report submitted by Child Welfare Officer and taking into account the child's wishes in case the child is sufficiently mature to take a view. **Representatives of the NGO and the Advocate must ensure that the child is being handed over to her parent(s)/guardian, and must oppose her release if they apprehend or are certain that the person seeking custody will re-traffic the child.**

JVI can provide more information on how to oppose the release of a child or minor to a suspected trafficker.

STEP 2.3 Arresting Persons Accused of Sex Trafficking Offences

Timeline: The arrest of the alleged accused should be done immediately, or within 7 days of the rescue.

NGO	ADVOCATE
The NGO should assist the police in immediately arresting all of the accused concerned with the sex trafficking offences.	The Advocate should assist the police with the immediate arrest of the accused under relevant provisions of the CrPC and encourage the police to move forward swiftly with the investigation.
Commentary	
If the NGO has any information from the survivors regarding the identity of the accused, the information must be	The Advocate should encourage the police to move forward with the investigation under Section 157 of the CrPC and arrest

immediately passed on to the police and the Advocate.-The Advocate should also ensure that all arrests and further investigation are done in accordance with law.

individuals suspected of commission of a cognizable offence.

The Advocate should advise the IO to immediately arrest the offender without any delay.

Points to Note

In case of arrest of a women offender: The Advocate should advise the police to follow the procedures laid down in Section 46 (4) Cr.P.C which states that no woman should be arrested after sunset and before sunrise, except in exceptional circumstances, where the woman police officer have obtained prior permission from the jurisdictional Magistrate First Class. A female offender should be searched only by a WPC.

Cognizable and Non-Cognizable Offences: All offences are either non-cognizable or cognizable. If an offence is cognizable, a police officer can make an arrest without a warrant and in non-cognizable offences, a warrant for arrest is required. The First Schedule of the CrPC classifies offences as per their cognizability.

Learn More & Take Action

Grounds for making an Arrest: Under Section 41 of the Cr.P.C. a police officer can cause an arrest of a person if there exists any of the following objective grounds²:

1. for preventing the person arrested from committing any further offence; or
2. for the purpose of proper investigation of the offence; or
3. for preventing the person arrested from causing either disappearance of evidence or tampering with the evidence; or
4. for preventing the person arrested from giving any inducement, threat or promise to a witness for the purposes of either alluring such witness or dissuading the witness from giving his statement to the police officer or deposing before court; or
5. for ensuring the presence of the person arrested before a court as and when required for the purposes of court proceedings.

The words "custody" and "arrest" do not mean the same things. In the legal sense, an arrest with regard to a criminal offence is the taking of custody of a person by an

²Ratanlal&Dhirajlal *The Code of Criminal Procedure*; 19th Ed.; Manohar, V.R.; p. 103

authority empowered under law for the purpose of holding or detaining the said person to answer a criminal charge or of preventing the commission of a criminal offence.

STEP 2.4 Filing Vakalatnama and Application to Assist the Public Prosecution

Timeline: The process of filing Vakalatnama and Application to assist the Prosecution could be between 1 to 7 days from the date of filing the FIR.

NGO

The NGO should ensure that the sex trafficking survivors provide necessary information to the Advocate and that qualified female counsellors or female legal guardians are present when survivors meet with the Advocate

ADVOCATE

The Advocate should obtain the consent of sex trafficking survivors to file a vakalatnama as their legal counsel and file an application to assist the prosecution under section 301(2) of the CrPC.

Commentary

In case of a child victim, the caretaker of the shelter home must sign the Vakalatnama and the NGO should assist the advocate in this process.

The Advocate should obtain a copy of Vakalatnama to represent the survivor as soon as she has settled into protective custody. In case of a child victim, the caretaker of the shelter home must sign the Vakalatnama.

A *Vakalatnama* is the document empowering an Advocate to act for and on behalf of her client.

The Advocate as soon as he or she receives a Vakalatnama should file it before the Court along with an affidavit to assist the prosecution under section 301 (2) of the CrPC.

Points to Note

An Advocate can make the following applications on behalf of survivors before the Magistrate:

- **For medical examination of rescued victim:** The Advocate should file appropriate applications under sections 15(5-A) of the ITPA seeking order for the medical examination of the rescued victim to ascertain the age and sexual abuse.

- **To ensure that victim is kept in a place of safety and a Home Inquiry Report (HIR) is submitted:** The Advocate should file appropriate applications under sections 17 of the ITPA seeking orders for keeping the rescued victim in place of safety and for ensuring the filing of a HIR and carrying out related procedures.
- **To ensure that the victim is kept at a place of safety:** The Advocate should file appropriate applications under sections 19 of the ITPA seeking order for being temporarily kept in protective home or provided care and protection etc.

Learn More & Take Action

Sample documents and practice aids: Refer to **Appendix 24** for a format on application to assist the prosecution. The Appendix also contains a format for a Vakalatnama.

Sample documents and practice aids:

The following documents contain relevant formats:

- Format for requesting the Court to refer custody application to the C.W.C can be found in Appendix 27
- Format for HIR can be found in Appendix 29

Contact JVI for formats of applications under Sections 15 (5-A), 17 and 19 of ITPA.

STEP 2.5 Opposing the Bail Application of Accused Perpetrators

Timeline: An application opposing the bail application filed by the accused should be filed immediately after the bail application is filed.

NGO	ADVOCATE
The NGO representatives should be proactive in immediately passing on any information received regarding bail applications filed by the accused to the Advocate	The Advocate should attend all bail hearings to oppose bail orally and by written application and to argue for stringent bail conditions, should bail be granted.
Commentary	
The NGO representatives must inform the Advocate whenever they have information about bail applications of the accused.	The Advocate should attend each remand hearings and make sure bail is denied.

The NGO should extend all support to the Advocate required for getting a duly signed Vakalatnama and affidavit (application) to support the prosecution filed if not already done so.-In the event the accused is arrested for one or more non-bailable offences, the Advocate should submit a written opposition to bail, contesting the granting of bail to the accused.

In the event bail is granted to the accused, the Advocate should be vigilant with regard to the existence of appropriate circumstances that allow for cancellation of bail before the appropriate forum.

In cases where the accused fails to appear in court, evades or attempts to evade the course of justice, or causes hindrance to the administration of justice (i.e., the accused intimidates or bribes witnesses, causes the disappearance of evidence, or interferes with the investigation), the Advocate must move an application for issuance of a non-bailable warrant of arrest.

Points to Note

Attend remand hearings: Remand is in reference to the detention of the accused in police or judicial custody person prior to the start of the trial. The Advocate should attend each remand hearings and make sure bail is denied.

When can bail be cancelled? In cases where the accused fails to appear in court, evades or attempts to evade the course of justice, or causes hindrance to the administration of justice (i.e., the accused intimidates or bribes witnesses, causes the disappearance of evidence, or interferes with the investigation), the Lawyer must move an application for issuance of a non-bailable warrant of arrest and cancellation of bail. An Advocate must be vigilant in assessing when such circumstances exist and in moving such applications.

Building a relationship with the Police and the Public Prosecutor: The Advocate should build close relationship with higher-ranking police officials and public prosecutor to get updates on bail petitions filed by the accused. It is important to maintain a relationship with the Police and Public Prosecutor as there are instances of the accused being granted bail during a bail hearing which has taken place without the knowledge of the NGO's Advocate, thus giving the accused a chance to go absconding and stall the trial. If the Advocate somehow misses a bail hearing through being unaware of a bail petition then the whole case is often lost. It is therefore important to

submit an application to assist the P.P. and maintain a relationship with the stakeholders involved in the trial.

Checking status of bail hearings at the High Court: The Lawyer should monitor bail applications listed in the High Court on a daily basis. Lawyer should visit bail court regularly and check if any bail matters have been listed.

Learn More & Take Action

See **Appendix 26** for a format on an application to oppose bail.

Opposing the grant of bail: Refer to **Appendix 13A** for a bail opposition reference sheet. This appendix provides information on what various courts of law have stated with regard to opposition of bail.

Cancellation of Bail: The grounds for cancellation of bail are illustrative and not exhaustive.³ Generally these grounds include, inter alia:⁴

- I. Interference or attempt to interfere with the due course of administration of justice which includes the following:
 - a. Interference with the course of investigation
 - b. Attempt to tamper with evidence or witnesses
 - c. Threatens witnesses or intimidates or corrupts witnesses, or indulges in similar activities that would hamper smooth investigation.
- II. Evasion or attempt to evade the course of justice which includes the following:
 - a. Attempts to or leaves the country
 - b. Goes under ground or becomes unavailable to the investigating agency
 - c. Goes beyond the reach of the sureties.
- III. Abuse of liberty granted to the accused includes indulging in similar criminal activity.

Therefore, bail that is granted may be cancelled subsequently on merits when there is

³*Aslam Babalal Desai v. State of Maharashtra* AIR 1993 SC 1

⁴*Mahant Chand Nath Yogi v. State of Haryana* 2003 (1) SCC 326; *Dolatram v. State of Haryana* 1995 (1) SCC 349; *Aslam Babalal Desai v. State of Maharashtra* AIR 1993 SC 1; *Raghubir Singh & Others v. State Of Bihar* 1987 AIR 149, 1986 SCR (3) 802; Sudipto Sarkar and V.R. Manohar, *Sarkar on the Law of Criminal Procedure*, Volume 2, (9th Edition 2007, Reprint 2009), Lexis Nexis Butterworths Wadhwa Nagpur, Page 1891

an existence of supervening circumstances as mentioned above.

STEP 2.6 Recording Statements During Investigation

Timeline: The process of recording the statements during investigation could take between 1 and 60 days.

NGO

The NGO representatives should assist the victims while their witness statements are being recorded and provide quality victim counselling support during the process.

ADVOCATE

The Advocate should advise the Police in recording witness statements of relevant witnesses under Section 161 of the Cr.P.C and must also ensure that victim statements are recorded before the Magistrate, under Section 164 of the Cr.P.C.

Commentary

The NGO should extend all support to the Advocate required for getting a duly signed Vakalatnama and affidavit (application) to support the prosecution filed if not already done so.-In the event the accused is arrested for one or more non-bailable offences, the Advocate should submit a written opposition to bail, contesting the granting of bail to the accused.

The Advocate should ensure that the victims are examined separately from the accused and other witnesses during this process.

The Advocate should encourage the police to orally examine all people who have knowledge about the case and record the statements under Section 161 of the CrPC.

The Advocate should ensure that the recording of the victim's statement under Section 164 of the CrPC before the Magistrate takes place ***only after sufficient counselling and when a victim is ready and able***. A Section 164 statement of the victim should ideally be taken after she has been counselled adequately and the Advocate is sure that the victim's statement will be in favour of the trial.

Points to Note

Statements: There are three statements concerning legal casework, 161 statements,

supplementary statements and 164 statements. The Code of Criminal Procedure describes the statements in section 161 and 164. The goal is to take truthful statements and the purpose is to gather information about how the survivor was trafficked to destination site and the situation at the site. The statement is the foundation for the victim testimonies used during trial to ensure perpetrator accountability. The NGO and Advocate's role is the same regarding all three statements, to support and encourage the survivor to speak the truth and to assist the police and Superintendent/Probation Officer in obtaining the statements.

Section 161 Statements: The police can take the 161 statement on the night of the rescue. If the 161 statement is false or the victim reveals new facts, the police together with the Probation Officer may obtain an additional statement, i.e. a supplementary statement. Another option is to apply for a 164 statement. The advantage of a 164 statement is that the survivor gives her statement under oath in front of the Magistrate and it therefore has more credibility than a 161 statement. The survivor will be present before the Magistrate alone and the Magistrate will seal the statement until trial begins. It is best practice to be present during the recording of the 161 statements, i.e. on the night of the raid. This is to assist the police and to advocate for the survivor.

In – Camera Proceedings: The statement of a witness, under Section 164, may be recorded in camera in an environment that is not intimidating. Such a prayer can be made by the I.O. under Section 327 (2) CrPC and by referring to Sakshi v. Union of India⁵. In the Supreme Court judgment of State of Punjab v. Gurmit Singh⁶ the Court has stated that in cases of rape, trial of cases should be in camera and as far as possible conducted by women Judges.

In – Camera Proceedings: The statement of a witness, under Section 164, may be recorded in camera in an environment that is not intimidating. Such a prayer can be made by the I.O. under Section 327 (2) CrPC and by referring to Sakshi v. Union of India⁷. In the Supreme Court judgment of State of Punjab v. Gurmit Singh⁸ the Court has stated that in cases of rape, trial of cases should be in camera and as far as possible conducted by women Judges.

⁵ (2001) 10 SCC 732

⁶ AIR 1996 SC 1393

⁷ (2001) 10 SCC 732

⁸ AIR 1996 SC 1393

If police do not apply to Court to record Section 164 statement: If the police are unwilling to file the application, the survivor might do it herself together with an Advocate. The application needs at least one signed Vakalatnama from the survivor.

Prepare statement before hand: It is best practice for Advocate to prepare the victim before the 164 statement is given. Make sure that she is confident to give her statement before the Magistrate and that she is willing to give a truthful statement.

False statement given on day/night of rescue: If the rescued victim gives a false statement at the time of rescue or reveals additional information the Legal and NGO Staff should encourage the rescued victim to give a supplementary statement.

Supplementary statement to be recorded with probation officer: The police should record the supplementary statement in front of the Probation Officer. If the police refuse to take the supplementary statement, the Probation Officer may record it and hand it over to the police. NGO Legal Staff may assist the Probation Officer with this task. It is best practice to make sure that the date the Probation Officer signs the statement is the same date as when the Probation Officer recorded the statement.

Trained counsellors: Only trained and certified counsellors should interact with the victims. In the absence of a trained counsellor, a social worker with experience in managing trauma symptoms would also be a suitable alternative. However efforts should be made by the NGO to ensure that the survivor receives professional counselling as part of her treatment plan.

Statements to be recorded in language known to victim: The NGO representatives must also ensure that the statements are recorded in the language of the victim.

Forced/Coerced statements: Adequate checks must be placed to ensure that survivors are not forced to make statements and statements are recorded when survivors are willing and able to make them. Further, it should be ensured that the accused are not present during this process.

Statements must be recorded at place convenient to victim: The Advocate should ensure that the victim is not taken to the police station for recording of statements. The statements must be recorded at a place convenient to the victim as provided under Section 160 (1) of CrPC.

Section 164 statements to be provided after adequate counselling: A Section 164 statement should be recorded only if the Advocate is certain that the rescued person has been adequately counselled and the survivor is prepared to provide an accurate statement at the trial.

Learn More & Take Action

Recording statements of survivors: Record statements of survivors when they are ready and able to make statements. Survivors can make additional statements as they heal from their trauma and any contradictions in future statements may be explained by attributing confusion to trauma⁹.

Please see “Journey to Justice”¹⁰, a manual on Psychosocial Intervention, UNODC, 2008 for counselling and psychosocial support to be provided to survivors.

STEP 2.7 Evicting Offenders and Closing Brothel

Timeline: As much as possible evict the offenders and close the brothel on the same day, but sealing a brothel could take up to 60 days.

NGO	ADVOCATE
The NGO should provide sufficient information to enable the Advocate to move petitions and representations for closure, sealing and/or eviction of a brothel or place of exploitation before the relevant authorities.	The Advocate should make a petition to the Magistrate for closure/sealing of the facility in which sex trafficking was taking place.
Commentary	
The NGO representatives should assist	The Advocate should seek an eviction

⁹Section 7.1, Recording Statements U/S 161 and 164 CrPC, UNODC Standard Operating Procedures on investigation of crimes of Forced Labour, (2008 Publication jointly with Government of India and BBA), at page 24

¹⁰*Journey to Justice*: Manual on Psycho – Social Intervention, 2008, A publication of United Nations Office on Drugs and Crime Regional Office for South Asia; available here: <
https://www.unodc.org/documents/human-trafficking/India_Training_material/Journey_to_Justice_-_Manual_on_Psychosocial_Intervention.pdf>

the police to ensure safe removal of victims from the brothel¹¹.The NGO must ensure that all women evicted from the brothel (whether identified as victims previously or not) should be presented before the Magistrate to be placed in a Aftercare Home.

order from the Magistrate under the ITPA. The eviction under Section 18 (1) of ITPA is possible even before conviction and without registering an FIR.

The Advocate should also move an application under Section 7 (2) of the ITPA for suspension of license of a hotel or a shop/establishment if it is being used for trafficking and commercial sexual exploitation of persons. Further, in the case of offences being committed against a child or a minor, an application may be moved for the cancellation of license of such a hotel or commercial establishment.

The Advocate shall also make an application under Section 19 of ITPA to the Magistrate or under Section 31 of the JJA 2015 before the CWC (in case the evicted persons are minor), to place the evicted women and/or girls in a safe facility like a Protection home or an Aftercare Home.

STEP 2.8 Filing for Sex Trafficking Victim Compensation

Timeline: Filing for compensation for a victim of sex trafficking could take 1 to 3 months.

NGO	ADVOCATE
The NGO should assist the Advocate in moving applications for compensation before the courts under Section 357 of	The Advocate should move an application for compensation on behalf of the survivors of sex trafficking before the

¹¹Under Section 15(4) of the ITPA, it is mandatory for the Police to safely remove all persons found in the brothel.

the CrPC	courts, under Section 357 and 357A of the CrPC.
Commentary	
The NGO representatives must follow up with the Advocate for filing of victim compensation and accompany victims when called to appear before appropriate forums.	<p>The Advocate must file Compensation Application on behalf of victim before appropriate forum.</p> <p>As part of the trial, the victim is entitled to compensation. The Advocate must ensure that during the course of the trial, compensation should be ordered from the Court under Sections 357 and 357A of the CrPC, apart from the Central and State Government sponsored schemes.</p>

Learn More & Take Action

Refer to **Chapter V** to learn about on Supreme Court judgments on rehabilitation of rescued victims.

Compensation that can be granted by the Judiciary to a victim of sex trafficking:
Under the following provisions of the CrPC, the Judge can order compensation for the victim of sex trafficking. The relevant provisions are:

- **Under Section 357, CrPC:** If the accused is convicted, the Judge can slash the quantum of sentence by asking the accused to compensate the victims of bonded labour. This application is required to be made by the Advocate in the name of the victim.
- **Under Section 357A, CrPC:** Under this Section, the Judge has the power to recommend additional compensation in line with the Centrally Sponsored Victim compensation scheme based on the recommendations of the District or State LSA.

Case law on compensation under Section 357 and 357A: The Supreme Court has observed in the case of Ankush Shivaji Gaikwad v. State of Maharashtra¹², that “The

¹²AnkushShivaji Gaikwad v. State of Maharashtra, (2013) 6 SCC 770

amendments to the CrPC brought about in 2008 focused heavily on the rights of victims in a criminal trial, particularly in trials relating to sexual offences. Though the 2008 amendments left Section 357 unchanged, they introduced Section 357A under which the Court is empowered to direct the State to pay compensation to the victim in such cases where “the compensation awarded under Section 357 is not adequate for such rehabilitation, or where the case ends in acquittal or discharge and the victim has to be rehabilitated.” Under this provision, even if the accused is not tried but the victim needs to be rehabilitated, the victim may request the State or District Legal Services Authority to award him/her compensation.”

Sample documents and practice aids: Appendix 30 contains a format for application for compensation for victims.

STEP 2.9 Filing of Sex Trafficking Chargesheet

Timeline: The chargesheet should be filed by the Police within 90 days of the FIR being lodged.

NGO	ADVOCATE
The NGO should follow up with the Advocate regarding the filing of a charge sheet.	The Advocate should ensure that the charge sheet is filed within the stipulated time by working closely with the Police and the Public Prosecutor.

Commentary

The NGO representatives should follow up with the Advocate to ensure that the charge sheet is filed without delay and must assist where necessary in making applications to police authorities for an expeditious filing of chargesheet.	<p>The Advocate should ensure that the investigating officer files the charge sheet within the stipulated time in the CrPC.</p> <p>In the event the Investigating officer fails to file the charge sheet within the stipulated time period, the Advocate should approach the ACP to seek his assistance for ensuring the immediate filing of the charge sheet.</p> <p>If the charge sheet is still not filed, the Advocate should approach the Court.</p>
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The Advocate should obtain a copy of the charge sheet. If the charge sheet does not include all of the charges supported by the facts the Advocate should make an application with the Court at appropriate stages to include charges. A protest petition may be filed with the Magistrate to include sections of legislation that have been left out.

Points to Note

Copy of a chargesheet: The Advocate should obtain a copy of the charge sheet. If the charge sheet does not include all of the charges supported by the facts the Advocate should make an application with the police to file a supplementary charge sheet with the appropriate charges.

Presence of Advocate at the time of filing of chargesheet: The Advocate should be present at the time of filing of the chargesheet.

Learn More & Take Action

Sample documents and practice aids: Refer to **Appendix 23** for a format on written submissions to submitted to seek the filing of a chargesheet.

STEP 2.10 Ensuring the Appropriate Forum for Trial

Timeline: The trial will be carried out by the Sessions Judge or Additional Sessions Judge. The timing for trial to begin is up to the discretion of the Court.

NGO	ADVOCATE
	Once the charge sheet is filed, the Advocate must ensure that based on the charges, the case is committed before the appropriate forum

Commentary

	Once the chargesheet is filed, the Judge (who maybe a Chief Metropolitan Magistrate or a Metropolitan Magistrate or
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a Chief Judicial Magistrate or an Additional Judicial Magistrate or Sub – Divisional Judicial Magistrate) will take cognizance of the case and the case will be committed before the appropriate Court.

The Advocate should ensure that the process of committing the case before the Sessions Court goes as per procedures established by law. Charges to be included should include offences under the Immoral Traffic Prevention Act, 1956, the Indian Penal Code (especially Section 370) and the Protection Of Children from Sexual Offences Act if there are minors who are rescued.

If Section 370 is mentioned in the chargesheet, the Judge may commit the case before the Sessions Court.

Points to Note

If Section 370 or any applicable offences are not in the chargesheet: Section 216 of the Cr.P.C. gives the Judge the power to add charges. An Application under Section 216 may be made to the Court to add charges.

Committal of case before the Sessions Court: According to Section 209 of the Cr.P.C. a case can be committed to the Sessions Court when a case is to be tried by it exclusively. When Section 370 is mentioned in the chargesheet, the case is to be exclusively tried by the Sessions Court.

Learn More & Take Action

Laws and offences on sex trafficking: Turn to Chapter IV to learn more about laws and offences relating to sex trafficking.

Appropriate forum for particular offences: To learn more about which cases are to be tried by which court, refer to the First Schedule of the Code of Criminal Procedure

STEP 2.11 Framing of Sex Trafficking Charges

Timeline: Ideally, the charges should be framed by the Court within three months from filing of the chargesheet.

NGO

Once the charge sheet is filed before the Court, the NGO should follow up with the Advocate to ensure that charges are framed expeditiously.

ADVOCATE

Once the charge sheet is filed, the Advocate should ensure that appropriate charges are framed before the court at the earliest.

Commentary

The NGO representative must be present on the date of framing of charges. The NGO must work closely with the Advocate to ensure that court procedures move forward as expeditiously as possible.

The Advocate during the framing of charges must be present in the Court to ensure that all the relevant charges have been added.

The Advocate must be vigilant in ensuring that court procedures move forward without delay.

Points to Note

Short court dates and preventing undue delay: Ensure that the Court does not keep adjourning the matter, and if it does, push for short dates so as to frame charges. Under Section 309 (1) of the CrPC, *"In every inquiry or trial ...proceedings shall be held as expeditiously as possible..."* The CrPC also restricts the grant of adjournments in certain circumstances¹³.

Plea of guilty: After framing of charges, the Sessions Court will ask the accused if he pleads guilty to the charges framed. If the accused pleads guilty, the trial will end at this point or else the trial will proceed.

Learn More & Take Action

¹³Cr.P.C Sections 309 (1) and 309 (2)

Sex Trafficking offences: To read about sex trafficking offences, refer to Chapter IV and V.

To read about making a plea of guilty in a Sessions Court Trial, refer to Section 229 of the CrPC.

STEP 2.12 Assisting the Public Prosecution at all Sex Trafficking Case Hearings

Timeline: This assistance is required to be presented throughout the hearing of the case.

NGO

Once the trial begins, a representative from the NGO should be present in court for all required hearings.

ADVOCATE

The Advocate should attend every court hearing and be ready to assist the Public Prosecutor at every stage of the trial

Commentary

NGO should send a representative knowledgeable with the facts of the case and the latest updates. This could help the advocates for the prosecution answer any questions put forward by the court, particularly with regard to the testimony of survivors.

The Advocate should be present at every stage of the trial and meet with the public prosecutor before every hearing as far as possible.

An Advocate is permitted to assist the prosecution under Section 301 (2) of the Cr.P.C.

STEP 2.13 Preparing Sex Trafficking Witnesses to Testify

Timeline: Preparing the survivor of sex trafficking could take 1 month.

NGO

During the trial, the NGO should help prepare survivors for their witness testimony by counselling them to testify boldly, accurately and with clarity.

ADVOCATE

The Advocate should assist the Public Prosecutor in preparing the prosecution witnesses for chief examination and cross-examination so as to enable them to testify, accurately, boldly and with clarity.

Commentary

NGO representation who was made

The Advocate should explain clearly to the

witnesses during filing of FIR must depose before the court according to the statement. NGO representatives must accompany victims to the court. Representative to ensure that outstation victims are brought safely to the court to depose as witnesses. NGO representatives should ensure that the witnesses are not influenced by the accused persons.

Trained and qualified counsellors from the NGO must prepare the survivors for chief and cross examination so that they may be able to boldly and accurately testify in spite of the trauma caused by the process, particularly questions put forward by the defence counsel.

The NGO staff must also debrief the survivor and her family (if present) after she has testified.-The Advocate should work with the NGO to prepare the survivors for the process of examination in chief and cross-examination. This preparation should ideally be done at a place that is comfortable to the survivor.

persons testifying the importance of their statements in creating evidence and keep the updated about the case.

The Advocate should also obtain a copy of the testimony of all prosecution witnesses.

The Advocate should file to application to conduct the case at fast track court whenever applicable.

The Advocate must explore the opportunity of recording the evidence of the victim through video conferencing in the event the victim is unable to appear in person before the court.

The Advocate must attend all court proceedings in respect to evidence (cross and chief examination). The same Advocate who prepared the victim should accompany her to court. This allows continuity and helps to build trust with the rescued victim.

Points to Note

Mock trial and courtroom visit: The NGO and Advocate should work towards making the survivor comfortable by taking the survivor to a Courtroom so they will not be entering a Court for the first time when they have to testify. This helps reduce the tension. Secondly, by holding a mock trial at a place of convenience, the survivor will be better prepared to depose against the accused.

Sensitive measures to be adopted when case deals with children¹⁴:

- a) Child victims/witnesses are informed of their role in regard to court proceedings;
- b) Their views are allowed to be heard and respected;
- c) Inconvenience to them is minimized and their privacy is respected;
- d) Delays in the proceedings are reduced;
- e) Aggressive questioning or cross examination of child victims is avoided and the same, if necessary, is done through the judge;
- f) Provisions are made for trials in camera;
- g) The identity of the child victim is protected;
- h) Child victims are prepared for the judicial process and prosecution of alleged abusers and is not rushed if a child is not ready to go to court;
- i) The investigator ascertains the need for medical examination of the child victim and when examination is undertaken, ensures that multiple re-examination is avoided;
- j) The medical examination should be conducted in the presence of the parent/guardian and social worker/counsellor as far as possible;
- k) Child's testimony should be recorded in the presence of a social worker/counsellor as early as possible after the abusive incident with other witnesses at hand;
- l) Adequate translation/ interpretations and translators/ interpreters who are sensitive to the children's needs should be provided wherever needed.
- m) In case of a mentally challenged child, the competent service provider should depose on behalf of the child;
- n) The special needs of the child victims/witnesses should be catered for. These should include the following:-
 - i. Enable children to familiarise themselves with the court surroundings;
 - ii. Inform children of the different roles of the key persons at court, such as the judge, the defence lawyer and the prosecutor;
 - iii. Inform the court of the special needs of children in general and of individual children in specific cases;
 - iv. Help children to be comfortable in the proceedings;
 - v. Encourage questionings to be short and clear so as not confuse child

¹⁴ These measures are based on the guidelines provided for the Children's Court to follow under the Goa Children's Act, 2003. These are guiding measures on how to treat the child with sensitivity.

witnesses;

- vi. Permit children below eight years of age to respond to leading questions facilitated by a social worker.

Examination in chief: During the main examination, the Advocate may assist the P.P. by submitting written questions to be asked to the witnesses.

Cross Examination: The purpose of cross-examination is to create flaws in the prosecution story. It would be good to do a mock cross-examination so the witnesses are not perturbed by the process and are prepared to handle the questions from the defence Advocates.

Witnesses: Witnesses include the survivors, panch witnesses, decoy customers, Investigating Officer and any other witnesses required to prove the prosecution's case.

Learn More & Take Action

In Delhi Domestic Working Women's Forum v. Union of India¹⁵ the Hon'ble Supreme Court has held as follows:

"The role of the victims Advocate would not only be to explain to the victim the nature of the proceedings, to prepare her for the case and to assist her in the police station and in court but to provide her with guidance as to how she might obtain help of a different nature from other agencies, for example mind counselling or medical assistance. It is important secure continuity of assistance by ensuring that the same person who looked after the complainant's interest in the police station represents her till the end of the case".

Be sure to read **sections 137 to 146 (amongst other relevant provisions) of the Indian Evidence Act, 1872** for provisions specific to **chief examination** and **cross examination of witnesses**.

Day to day examination of witnesses to ensure expeditious trial: Under Section 309(1) of the CrPC, "once the examination of witnesses has begun, the same is to take place day to day until all the witnesses in attendance have been examined", and any

¹⁵ 1995 SCC (1)14

adjournments are to be for reasons recorded.

An Advocate must be familiar with the various stages of a Trial under the Cr.P.C and the Indian Evidence Act.

Practice questions during trial: Contact JVI for a set of practice questions that can be asked in a trial with regard to trafficking for sexual exploitation.

STEP 2.14 Submitting Final Arguments to prove Sex Trafficking

Timeline: Drafting of final arguments are dependent on the lawyer, but would require to be submitted at the conclusion of the trial, before the pronouncement of the final Judgment.

NGO

At the later stage of the trial, the NGO should provide as much information as possible to help the Advocate file comprehensive written submissions.

ADVOCATE

The Advocate should draft and file written submissions for final arguments to be submitted before the court through the Public Prosecutor (Or directly if the Prosecutor refuses to co-operate). The Advocate should also present final oral arguments when allowed by the Court.

Commentary

The NGO should provide as much information as possible to the Advocate for the written submissions. -The Advocate should draft and file written submissions (whether final or interim) before the Court in the appropriate format as necessitated before the court.

The Advocate should be present at the Court to assist the P.P. in making final oral arguments to persuade the Court on the veracity of the entire prosecution's case.

Points to Note

Supplement written submissions with case law and appropriate extractions: The written submissions should be supplemented with sufficient case law and relevant extracts of witness evidence to prove the prosecution's case.

Under Section 301(2) of the CrPC the victim/complainant can file written arguments even after the stage of evidence is closed (with the permission of the Court).

Learn More & Take Action

Format for written submissions: Refer to **Appendix 31** for a format for written submissions.

STEP 2.15 Obtaining the Judgment

Timeline: Obtaining an official copy of the Judgment could take 15 days.

NGO

The NGO should assist the Advocate in obtaining certified copies of the final judgement from the Court.

ADVOCATE

The Advocate should make applications for certified copies of the final judgement.

Commentary

After the Judgment is pronounced, the NGO should assist the Advocate in obtaining certified copies of the Final judgment.

Advocate should make applications for certified copies of the Final Judgment from the Court.

Learn More & Take Action

The Advocate must be aware of the formats of Appeal as per the requisite Court of jurisdiction.

Contact JVI if further information is required on steps to be taken after the judgment is given.

STEP 2.16 Filing of Appeal

Timeline: Appeal should be filed within 60 days of the Judgment being passed.

NGO

NGO should assist the Advocate with the preparation of an appeal, if required.

ADVOCATE

The Advocate should file an appeal or revision application on an adverse judgment, if required.

Commentary

If the NGO representatives along with the victims want to appeal the judgment of the Court, they must approach the Advocate for the same.

The Advocate must file the appeal or revision application in the prescribed format within the stipulated time and as soon as possible.

Points to Note

Once the trial has ended, the Advocate must be vigilant in ensuring that an appeal filed by the Accused is not missed or if an appeal is to be filed on behalf of survivors it is filed within the period of limitation¹⁶.

If an appeal is filed by the accused, the Advocate must be ready to oppose the appeal. However, if the accused is acquitted, the Advocate may file an appeal or revision application against the acquittal in the High Court.

Learn More & Take Action

The Advocate must be aware of the formats of appeal or revision as per the requisite Court of jurisdiction.

A Revision application may be filed on grounds provided under Sections 397 to 401 of the CrPC.

Contact JVI for further information on steps to be taken in order to file an appeal or revision or for formats with regard to appeal/revision.

¹⁶Time allowed for filing of an appeal after the judgement of a lower court is passed.



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