

# INDIA

**BUILDING A PROTECTIVE  
ENVIRONMENT FOR CHILDREN**



Ministry of Women  
and Child Development



# INDIA

## BUILDING A PROTECTIVE ENVIRONMENT FOR CHILDREN

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# FOREWORD



## Foreword

Dr. (Smt.) Loveleen Kacker  
Joint Secretary (Child Welfare)  
Ministry of Women and Child Development  
Government of India

India has come a long way since Independence. From a fledgling country struggling with the need of an established sovereignty, we learned to deal with complex issues like ethnic, caste, communal and language divisions. With that came the desire to be self-sufficient and show the world that we could do it all, and we could do it alone. Many Plan periods were spent focusing on welfare till the development and then the liberalisation phases took over. Suddenly the country had wings and was poised to take off! The last 15 years have seen remarkable changes in the country and in the quality of our lives.

One of the fundamental changes the new India is seeing is a realisation that governance is not a matter of welfare but a matter of right. The people of the country demand better governance, better infrastructure, improved services, more jobs, good quality health services and greater protection because it is their right and the duty of the Government to provide for them. The people are awakening to their rights and where they do not get the service they are demanding it through public interest litigations, socially conscious journalism, pressure groups, vocal neighborhood committees and civic forums and so on.

This has dramatically raised the level of awareness and got those responsible for providing services thinking and moving. This wonderful movement has led to great changes in both the approach and expenditure in the social sector as is evident from the schemes and the increasingly high level of expenditure on social issues like poverty alleviation, employment generation, education, empowerment of local bodies etc. However, in all this good news there is one challenge, which calls for greater attention than has been possible so far, and that is "Child Protection".

"Child Protection" means the creation of a protective environment in the home, school, community and society so that children are protected from all kinds of harm and harmful situations. It means providing a safety net for those children who are more vulnerable than others and who need special care and protection. It must be understood that a child's right to protection is part of each and every other right and it is not possible to ensure the other rights without ensuring protection. The newly created Ministry of Women and Child Development is looking at protection holistically. First, the Ministry has looked at legislations and

policies and enacted the National Commission for Protection of Child Rights Act, 2005, the National Plan of Action for Children, 2005 and has in the pipeline the Offences against Children Bill and Crèche and Day Care Bill. Second, the Ministry is planning a comprehensive child protection scheme that will set up the protection infrastructure for both preventive and reactive work as well as advocacy and capacity building of families and communities to deal with the protection needs of the children. The scheme has been titled “Integrated Child Protection Scheme (ICPS)” and would deal with children in conflict with law, adoption, foster care, sponsorship and children in need of care and protection including beggars, street children, working children, runaway and missing children, victims of child marriage, destitute children, children with HIV/AIDS, sexually exploited and abused children, and children affected by disaster (both man-made and natural).

I would also like to write about the Child Abuse Study that is being undertaken by the Ministry in collaboration with Prayas - an NGO, with the support of UNICEF and Save the Children. It was seen that there is very little data and understanding of the nature and extent of child

abuse in India. It was to understand child abuse and measure the magnitude of the problem that this study was undertaken. The detailed report should be available by the end of the year.

In the end, I would like to state that it makes me very happy and hopeful to see the beginnings of a movement towards “child protection” as we get our new laws and schemes in place. More and more people will gain an understanding of the relevance of the issue and will join the movement so that the whole nation will be one protective environment for our children. That is the vision, which inspires us. I would also like to state in the end that this document could not have been prepared without the inputs of child protection experts like Smt. Bharti Ali, HAQ: Centre for Child Rights; Smt. Jyotsna Chatterji, Joint Women’s Programme and Shri Pravesh Kumar, Consultant, Child Protection, UNICEF and without the partnership of the UNICEF Country Office. I thank them for their unstinting support



Dr. (Smt.) Loveleen Kacker  
Joint Secretary (Child Welfare)

# CHAPTER 1

## **PROTECTIVE ENVIRONMENT FOR CHILDREN**



## Protective Environment for Children

While children's rights are human rights, the need to focus on the child and the rights of the child specially, and more specifically, has been recognised the world over. In today's circumstances, growing violence against children, lack of spaces and platforms for children to seek justice, inadequate infrastructure to cater to their needs, the whole perception of children as extensions of parents and their treatment as parent's property are some of the critical child protection issues that call for utmost and immediate attention.

The Constitution of India recognises the vulnerable position of children and their right to protection. Therefore, following the doctrine of protective discrimination, it guarantees in Article 15 special attention to children through necessary and special laws and policies that safeguard their rights. The right to equality, protection of life and personal liberty and the right against exploitation enshrined in Articles 14, 15, 16, 17, 21, 23 and 24 further reiterate India's commitment to the protection, safety, security and well-being of all its people, including children.

The Chapter on Directive Principles of State Policy in the Constitution of India enjoins that the State shall, in particular, direct its policy towards securing:

- that the health and strength of workers, men and women, and the tender age of children

are not abused and the citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

- that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and childhood and youth are protected against exploitation and against moral and material abandonment;
- that the State shall endeavour to provide early childhood care and education to all children until they complete the age of six years.

India's National Policy for Children 1974 provides a framework for policy and planning for children. In 1992 India acceded to the United Nations Convention on the Rights of the Child (UNCRC), committing itself to take measures to ensure the survival, protection, participation and development of its children. At the World Summit for Children in 1990 India adopted the World Declaration for Survival, Protection and Development of children. Additionally, India adopted the Optional Protocols on the Involvement of Children in Armed Conflict and the Sale of Children, Child Prostitution, and Child Pornography. It also reaffirmed its commitment to children by adopting the Millennium Development Goals and the objectives of A World Fit for Children. Moving towards its commitments, the

Government of India introduced the National Charter for Children 2004, which stipulates the duties for the State and community, followed by a National Plan of Action for Children in 2005, which ensures collective commitment and action for the survival, development, protection and participation of children by all sectors and levels of government and civil society.

Several major policies and legislations have been announced and implemented in the country so far to ensure children's protection and improvement in their status including the Guardianship and Wards Act, 1890; Factories Act, 1954; Hindu Adoption and Maintenance Act, 1956; Probation of Offenders Act, 1958; Bombay Prevention of Begging Act, 1959; Orphanages and Other Charitable Homes (Supervision and Control)

Act, 1960; Bonded Labour System (Abolition) Act, 1976; Child Marriage Restraint Act, 1979; Immoral Traffic Prevention Act, 1986; Child Labour (Prohibition and Regulation) Act, 1986; Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1987; Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992; Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994; Persons with Disabilities (Equal Protection of Rights and Full Participation) Act, 2000; Juvenile Justice (Care and Protection of Children) Act, 2000; National Policy on Education, 1986; National Policy on Child Labour, 1987; National Nutrition Policy, 1993; National Health Policy, 2002; National Charter for Children, 2004; and National Plan of Action for Children, 2005.

**The ongoing child protection schemes and programmes and the nodal ministries responsible for them are:**

Sl. No.	Schemes/Programmes	Implementing Ministry
1.	Improvement in Working Conditions of Child/Women Labour	Ministry of Labour
2.	Initiative to Develop Skills, ITIs and Elimination of Child Labour in 10th Plan	Ministry of Labour
3.	A Programme for Juvenile Justice	Ministry of Women and Child Development
4.	Integrated Programme for street children including CHILDLINE Service	Ministry of Women and Child Development
5.	Shishu Greha Scheme for promoting in-country and inter-country adoption through CARA	Ministry of Women and Child Development
6.	Scheme for welfare of working children and children in need for care and protection	Ministry of Women and Child Development
7.	Rajiv Gandhi National Crèche Scheme for Children of Working Mothers	Ministry of Women and Child Development
8.	Integrated Child Development Scheme (ICDS)	Ministry of Women and Child Development
9.	Three Pilot Projects on Trafficking in source areas, destination point and an area where traditional practices prevail	Ministry of Women and Child Development
10.	Kishori Shakti Yojana	Ministry of Women and Child Development
11.	Swadhar, Short Stay Home and Working Women's Hostel	Ministry of Women and Child Development

Despite such clear commitments to child protection, children continue to remain vulnerable with the number of those needing care and protection ever increasing. Clearly, there is need to re-examine the understanding of 'Child Protection' itself. 'Child Protection' needs to be understood in terms of who are the children who need to be protected, from what, whom and how.

Every child has a right to protection. This not only includes children who are in difficult circumstances and those who have suffered violence, abuse and exploitation but also those who are not in any of these adverse situations but nonetheless need to be protected in order to ensure that they remain within the social security and protective net.

'Child Protection' is about protecting children from or against any perceived or real danger/risk to their life, their personhood and childhood. It is about reducing their vulnerability to any kind of harm and in harmful situations. It must ensure that no child falls out of the social security and safety net and those who do, receive necessary care and protection to be brought back into the safety net.

Child protection is integrally linked to every other right of the child. The failure to ensure children's right to protection adversely affects all other rights of the child.

Child protection is about protecting every right of every child.

It must relate to children's capacity for self-reliance and self-defence and to the roles and responsibilities of family, community, society and State.

The need to protect some children is certainly greater than others due to their specific socio-economic and political circumstances and geographical location. These are the children who are more vulnerable in terms of the harm/danger/risk to their right to survival/development/participation. They are recognised by the Government as children in difficult circumstances and include:

- Homeless children (pavement dwellers, displaced/evicted, etc.)
- Refugee and migrant children
- Orphaned, abandoned and destitute children
- Children whose parents cannot, or are not able to take care of them
- Street and working children
- Child beggars
- Victims of child marriage
- Trafficked children
- Child prostitutes
- Children of prostitutes
- Children of prisoners
- Children affected by conflict
- Children affected by disasters both man-made and natural
- Children affected by substance abuse and HIV/AIDS and other terminal diseases
- Disabled children
- Children belonging to ethnic, religious minorities and other socially marginalised groups
- The girl child
- Children who are victims of crime
- Children in conflict with law

## The Approach to Child Protection

The Government's approach to child protection so far has addressed largely those children who have already missed the protective net and fallen into difficult circumstances. Unfortunately, the current coverage falls short of reaching the most vulnerable because the interventions through the

existing schemes do not cover all the categories of children in difficult circumstances. Even where the interventions exist, for instance, institutional care for children in difficult circumstances, there is much room for improving the infrastructure and expanding the outreach. The quality of services needs up-gradation and regional imbalances need to be addressed.

Building on a comprehensive understanding of children's right to protection it becomes important to adopt both a *preventive and a protective approach* to child protection.

The preventive approach: In all these years, application of the preventive approach has been limited to programmes like awareness generation, media advocacy, training and capacity building of various stakeholders, legal literacy sex education in schools. The need of the hour is for a wider outlook that must go beyond the conventional prevention strategies and also take into account the link between child protection and other micro and macro development issues. Such a holistic understanding of prevention alone can help keep children within the protective net. Such a proactive approach includes mapping of areas to identify potentially vulnerable families and families with risky behaviour, where children are more vulnerable or likely to come into vulnerable

situations. Strengthening the families and family environment must follow. Lateral linkages with different sectors, viz. education, health, development, etc. and different Departments and Ministries of Central and State Governments need to be strengthened. A rights-based approach calls for addressing the root causes of any social problem. Therefore, a proactive preventive approach becomes inevitable.

The protective approach: The protective approach is to deal with situations post-harm and must include immediate as well as long-term protection strategies for all children who need it, including programmes for their physical and psychological recovery, rehabilitation and reintegration, legal aid and access to justice through child-friendly laws and procedures, and clear standards for protection of every individual/family/institution dealing with children.

Building on this understanding, several measures have been taken in recent years. The most significant of all has been the carving out of a full-fledged Ministry of Women and Child Development in early 2006 and bringing into its ambit all issues of child protection. Many new initiatives are on the anvil, which provide a strong base for creating and building a protective environment for all children in the country.

# CHAPTER 2

## RECENT INITIATIVES



## Recent Initiatives

The Ministry of Women and Child Development is the nodal Ministry for all matters concerning children including planning and implementation of policies, programmes and other enabling measures for their survival, development and protection. Some of the significant initiatives in the recent past and planned for future are detailed below.

### 2.1 Child Budgeting

Children under the age of 18 constitute 40 percent of India's population. They represent not just India's future, but are integral to securing India's present. Yet, development indicators continue to show slow progress towards securing their welfare and delivering their basic rights. The very survival of the child continues to be at risk for over a million newborns in the country every year. The survival prospects for girls in particular are getting grimmer, with successive Census figures revealing decline in the sex ratio. Despite a booming economy, investments in social development are insufficient and are also not yielding changes rapidly enough.

'Child Budgeting' represents an important policy analysis tool that can help us take stock of our development investments for children and identify

glaring gaps in resource investment. Sufficient resourcing of our progressive policy framework is the first step to making real our Constitutional and national policy commitments. India compares poorly to other countries in allocation of resources for health, development, protection and education for children. As a proportion of Gross Domestic Product, these investments are particularly low and increases are not commensurate with the overall increase in national productivity and income. Under-investment in health, development, protection and education will only serve to widen income gaps and perpetuate inequality, both of which will impede national efforts to meet important development targets. Budgetary analysis helps us to also map the areas which are relatively neglected. The neglect of vulnerable children - street children, orphans, migrant children, trafficked and sexually abused children - in our policy and financial statements is obvious when we review budgetary allocations over the years.

Analysis of the allocations made in the budget and the actual expenditure incurred subsequently on different sectors/programmes/schemes point to the priorities of the government. Better outcomes in any sector, for instance, education, health or rural development, depend not just on allocations but also on proper utilisation of those allocations. In India, there are many

non-financial constraints that impede progress in several sectors, especially the social sector. However, financial constraints could pose serious challenges to development in any sector, and hence the focus on identifying such constraints and making efforts for their removal are essential.

The National Common Minimum Program (NCMP) reiterates the commitment of the United Progressive Alliance led Indian government to rapid economic growth and targeted investments aimed at the poorest of the poor. The NCMP outlines ambitious targets related to public spending on key services, including the following: education will be raised to 6% of GDP, with at least half to be spent on primary and secondary education, while public spending on health will be raised to at least 2-3% of GDP over the next five years, focusing mainly on primary health care.

An analysis of the broad trends in budgetary allocations in India shows that as a result of the growing economy, social sector expenditures have been increasing both as a proportion of aggregate government expenditure and real expenditure (i.e. at constant prices) since the 1990s. Increased policy efforts and the expansion of programmes in nutrition (ICDS) and education (Mid-day Meal Scheme, Sarva Shiksha Abhiyan) have resulted in steady increases in expenditure on children. While the Union Government's expenditure on Social Services (measured as a proportion of Gross Domestic Product (GDP)) has been going up steadily, there is not much change for 2006-07 over 2005-06. Further analysis shows that the increase in allocations between 1996-97 and 2006-07 represents just under 0.4% of GDP, with an increase from 0.71% of GDP in 1996-97 to 1.1% of GDP in the Budget Estimates for 2006-07. Also, almost the entire increase over the decade from

1996-97 to 2006-07 Budget Estimates (BE) has been in Revenue Expenditure (which has gone up from Rs. 9,014.15 crore in 1996-97 to Rs. 41,698.73 crore in 2006-07), while Capital Expenditure has been almost stagnant over this period (Rs. 658.09 crore in 1996-97 and Rs. 1164.83 crore in 2006-07).

The Child Budgeting exercise conducted by the Ministry of Women and Child Development revealed the persisting low level of fund allocation for any measures affecting children, with resources for child protection the lowest of all. The total share of child protection in the Union Budget for 2005-06 was just 0.034% (see table below) and the budget estimate for the current financial year 2006-07 has remained the same. It is evident from these figures that scarcely any allocation has been made for child protection, which in itself is a reflection of the low priority this sector has received in the Government's own planning and implementation.

Ever since child budget analysis has been undertaken in India, the share of child protection in the Union Budget has remained stagnant at 0.03 percent. While there is no denying that education is, and has to be, the most important sector, if children's right to protection is not met every other right is at stake. With more and more children falling out of the safety and protective net, the financial investment on child protection will have to be increased.

In order to bridge this gap the Ministry of Women and Child Development, Government of India has proposed the centrally sponsored scheme "Integrated Child Protection Scheme (ICPS)", which not only brings all existing child protection schemes of the Ministry under one window but also proposes an increased allocation for child protection programmes in the Union Budget.

**Union Government's Budgetary Provisions for Child Protection (2001-02 to 2006-07) (Rs. Crore)**

Sl. No.		2001-02 (RE)	2002-03 (RE)	2003-04 (RE)	2004-05 (RE)	2005-06 (RE)	2006-07 (RE)
1.	Prevention and Control of Juvenile Social Maladjustment (A Programme for Juvenile Justice)	11.25	14.40	14.40	18.90	20.43	23.00
2.	Other Schemes of Child Welfare**	15.8	16.02	14.80	17.50	16.10	19.00
3.	Scheme for Rescue of Victims of Trafficking	--	--	--	--	0.25	0.45
4.	Short Stay Home	12.84	12.84	15.35	14.40	15.00	15.90
5.	Swadhar	--	9.00	0.80	3.69	5.5	7.0
6.	Improvement in Working Conditions of Child/Women Labour	62.0	70.56	68.26	98.38	115.76	127.46
7.	Initiative to Develop Skills, ITIs and Elimination of Child Labour in 10th Plan	--	--	--	--	--	--
8.	Allocations on Child Protection in Union Budget– (1 + 2 + 3 + 4 + 5 + 6 + 7)	101.89	122.82	113.61	152.87	173.04	192.36
9.	Total Expenditure of Union Government	364436	404013	474254	505791	508705	563991
10.	<b>Budget for Child Protection as %age of total Union Budget</b>	0.028	0.030	0.024	0.030	0.034	0.034

\*\* Other Schemes includes schemes for street children, assistance to homes for infant and young children, for promoting in-country and inter-country adoption, CARA and scheme for welfare of working children and children in need of care and protection (Ministry of Women and Child Development)

RE: Revised Estimates.

Note: The above table does not include financial allocation for Rajiv Gandhi National Crèche Scheme for Children of Working Mothers being implemented by the Ministry of Women and Child Development, Government of India, which is Rs. 100 Crores (BE) in the current financial year i.e.2006-07.

**Percentage Share of Sectoral Allocation on Children in Union Budget**

Year	% Share of Child Development in Child Budget	% Share of Child Health in Child Budget	% Share of Child Education in Child Budget	% Share of Child Protection in Child Budget	% Share of Total Child Budget in Union Budget
2004-05	0.422	0.423	1.567	0.033	2.445
2005-06	0.658	0.527	2.638	0.034	3.857
2006-07	0.830	0.556	3.487	0.034	4.907

Source: GOI Expenditure Budget 2004-05, 2005-06, 2006-07 (Vols. 1&2) and HAQ Centre for Child Rights, Delhi.

## 2.2 Children's Commission

In its effort to implement the provisions of the UN Convention on the Rights of the Child (UNCRC), the Government of India formulated the Commission for The Protection of Child Rights Act, 2005, which provides for the constitution of a National Commission and State Commissions for Protection of Child Rights, and Children's Courts for better protection of child rights and for matters connected to this mandate. The National and State Commissions for Protection of Child Rights have the powers to uphold child rights and to take *suo moto* cognizance of child rights violations.

The functions and powers of the National and State Commission are to:

- Examine and review the legal safeguards provided by or under any law for the protection of child rights and recommend measures for their effective implementation
- Prepare and present annual and periodic reports upon the working of these safeguards
- Inquire into violation of child rights and recommend initiation of proceedings in such cases
- Undertake periodic review of policies, programmes and other activities related to child rights in reference to the treaties and other international instruments
- Spread awareness about child rights among various sections of society
- Examine and recommend appropriate remedial measures for all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence/riots, natural disaster, domestic violence, HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography and prostitution
- Undertake and promote research in the field of child rights
- Inspect institutions meant for juvenile/children
- Inquire into complaints of deprivation and violation of child rights, non-implementation of laws and non-compliance policy decisions, guidelines or instructions
- Undertake other necessary functions for the promotion of child rights

The National/State Commission consists of seven members including a Chairperson and six members, of which at least two need to be women. The Act provides for Children's Courts for speedy trial of offences against children or of violation of Child Rights. The Act empowers the State Government to notify at least a court in the State or a Court of Sessions in each district as a Children's Court, with concurrence of the Chief Justice of the concerned High Court. For every Children's Court, the State Government is required to appoint a Public Prosecutor or appoint an advocate who has been in practice for not less than seven years as the Special Public Prosecutor.

## 2.3 National Plan of Action for Children, 2005

The National Plan of Action for Children, 2005 recognises that UNCRC shall be the guiding instrument for implementing all rights for all children up to the age of 18 years. It advocates that the rights of the child as articulated in the Constitution of India and the UNCRC should work in synchrony to ensure all rights to all children. In line with the four sets of rights provided by the UN Convention on the Rights of the Child, the National Plan of Action for Children, 2005 has been divided into four sections, namely, Child Survival, Child Development, Child Protection and Child Participation. The National Plan of Action for Children, 2005 also states that all categories of rights apply to all age groups of children including unborn children.

The National Plan of Action for Children, 2005 mandates the Government of India to ensure

**Guiding principles of the National Plan of Action for Children, 2005**

- To regard the child as an asset and a person with human rights.
- To address issues of discrimination emanating from biases of gender, class, caste, race, religion and legal status in order to ensure equality.
- To accord utmost priority to the most disadvantaged, poorest of the poor and least served child in all policy and programmatic interventions.
- To recognise the diverse stages and settings of childhood, and address the needs of each, providing to all children the entitlements that fulfil[] their rights and meet their needs in each situation.

all measures and an enabling environment for survival, growth, development and protection of all children, so that each child can realise his or her inherent potential and grow up to be a healthy and productive citizen. This calls for collective commitment and action by all sectors and levels of governments and partnership with families, communities, voluntary sector, civil society and children themselves.

The Plan has identified 12 key areas keeping in mind priorities and the intensity of the challenges that require utmost and sustained attention in terms of outreach, programme interventions and resource allocation, so as to achieve the necessary targets and ensure the rights and entitlements of children at each stage of childhood. These are:

- Reducing Infant Mortality Rate;
- Reducing Maternal Mortality Rate;
- Reducing malnutrition among children;

- Achieving 100% civil registration of births;
- Universalisation of early childhood care and development and quality education for all children achieving 100% access and retention in schools, including pre-schools;
- Complete abolition of female foeticide, female infanticide and child marriage and ensuring the survival, development and protection of the girl child;
- Improving water and sanitation coverage both in rural and urban areas;
- Addressing and upholding the rights of children in difficult circumstances;
- Securing for all children all legal and social protection from all kinds of abuse, exploitation and neglect;
- Complete abolition of child labour with the aim of progressively eliminating all forms of economic exploitation of children;
- Monitoring, review and reform of policies, programmes and laws to ensure protection of children's interests and rights;
- Ensuring child participation and choice in matters and decisions affecting their lives.

**2.4 Offences against Children Bill, 2006**

In order to deal with the incidence of abuse, exploitation and neglect of children in the country, the Ministry of Women and Child Development, Government of India has considered enactment of a separate law. The Ministry has prepared a draft Bill, which aims at identifying incidence of offences against children and protecting them from offences; punishing persons who have committed offences against children; and setting up rules to fulfil its objectives<sup>1</sup>. All kinds of abuse including sexual and physical abuse, violence and other forms of physical and mental torture against children have been made a punishable

<sup>1</sup> *Offences Against Children Bill (proposed), 2006, Ministry of Women and Child Development, Govt. of India.*

The Bill proposes to address the legitimate rights of children against sexual abuse, neglect, exploitation, torture, or any form of cruelty; and aims at:

- Identifying offences against children and protecting children from offences;
- Providing for punishment against persons who have committed offences against children;
- Setting the rules to fulfil the objectives of the proposed Bill.

offence under the proposed Bill. The draft Bill seeks to:

- consolidate and define the different offences against the child and to provide a legal remedy for such violation of;
- make the laws uniformly applicable to both boys and girls;
- bring the existing laws and procedures in conformity with international, regional and national standards;
- set forth good practices based on the consensus of contemporary knowledge and relevant norms and principles for the administration of justice to a child;
- provide stringent penalties for any person who violates the provisions of this Bill, creating

In order to ensure that procedures and practices prescribed are child-friendly, the draft Bill is based on eight principles, including:

1. Principle of Best Interest of the Child.
2. Principle of 'Protection' of the Child.
3. Principle of Equality and Non-Discrimination - "Leave no Child behind".
4. Principle of Individuality and Participation.
5. Principle of Privacy and Confidentiality.
6. Principle of Non-stigmatising Semantics, Decisions and Actions.
7. Principle of Avoidance of Harm.
8. Principle of Non-criminalisation of the Child.

a deterrence and thereby emphasising the country's commitment to protect its children;

- ensure that criminal justice machinery functions, keeping the best interests of the child as the focal point at all stages;
- ensure the speedy disposal of cases, with a view to avoiding delays, which can result in intimidation, retaliation and secondary victimisation of the Child.

The Bill provides exclusive chapters to deal with different forms of offences against children including sexual abuse, neglect, exploitation, torture, or any form of cruelty. Chapter III of the draft Bill deals with sexual offences and provides for punishment for sexual assault/abuse of any child, using a child for commercial sexual exploitation, child pornography or even grooming for sexual purposes. The next chapter deals with offences relating to trafficking and prostitution and provides for punishment for physically abusing a child, sale/transfer of a child, trafficking in children, corporal punishment, bullying, economic exploitation of children and other forms of child abuse. The Bill also provides for enhanced punishment on repeated offences. It also provides for punishment for attempt to commit an offence, abetment of offences against children and punishment for false complaints.

The proposed Bill makes reporting of offences mandatory and fixes individual responsibility on different categories of people including persons in position of trust or in position of authority, studio/photographer, tourist resorts and hotels, airports and airline staff. It also provides for punishment in the event of failure to report offences against children.

The other procedure and provisions of the Bill include information, jurisdiction, in-camera proceedings, summary trials, counselling, cognizability of offences, bail, compounding, prohibition of remission, release on probation and fines.

## 2.5 Crèche and Day Care

In view of the many challenges before the government in ensuring care and protection for all children, the Ministry of Women and Child Development proposes to introduce a Bill called the 'Crèches and Day Care in all Establishments and After School Care Services in Educational Institutions for Young Children Bill'.

### Aims and objectives of the bill:

- To ensure care of the child under six and support to working women;
- To establish mechanisms to reach the under-sixes by provision of care arrangements for young children in crèches/day care programmes;
- To provide after-school care and services in educational institutions for children of working mothers.

The Bill proposes to cover all children up to 18 years of age, including the disabled child. It clearly talks of facilities for children of all working women, whether employed directly by an agency or indirectly through contractors and sub-contractors. Every establishment with 20 or more women workers and men workers (where men are the care-giving parent) are required to set up and maintain a crèche for children under six years old. Even contractors employing such number of care-giving parents are required to do so. For establishments with less than 10 women workers, the Bill suggests setting up of a common crèche by two or more such establishments, with financial contribution from each of them. Recreational facilities, educational facilities and teaching aids, nutrition, health care and age appropriate activities are some of the provisions to be met by all crèches/day care centres along with adequate space, ventilation, sanitary conditions and a trained woman supervisor for the care of children and infants.

After-school care is to be compulsorily provided by all schools within the school premises for children whose mothers are working women. One supervisor and one assistant for every 20 children and age-appropriate activities are some of the features of after-school care clearly spelt out in the Bill.

A user charge is also introduced in the Bill, depending on the income of the parent. Finally, the Bill spells out a mechanism for monitoring and supervision of crèches, day care centres, after-school care. It also lays down penalty for employers or contractors for any contravention of the provisions of this law.

The proposed Bill is still in a draft form and is under discussion with civil society groups. For the Ministry of Women and Child Development, which assumed the status of a full-fledged Ministry this year, this Bill will be a significant step in the direction of child care and protection.

## 2.6 Female Foeticide

Chapter Five provides details on the initiatives taken by the Ministry of Women and Child Development, Government of India to curb the menace of female foeticide.

## 2.7 Child Marriage

Chapter Six provides details on the initiatives taken by the Ministry of Women and Child Development, to protect children from becoming the victims of child marriage.

## 2.8 Integrated Child Protection Service (ICPS)

India is home to almost 19% of the world's children. Every year around 26 million children are born in the country – many more than in

any other country<sup>2</sup>. Approximately 42% of the country's total population is aged below 18 years (around 440 million). Children are the future of the nation and the strength of India lies in a healthy, protected, educated and well-developed child population, which will grow up to be a resource of productive citizens. Therefore, it is essential for the country to invest its resources on children in proportion to their huge numbers.

Several major policies and legislations have been announced and implemented in the country so far to ensure children's protection and improve their status. However, in these five decades the country has failed to adequately address the critical issue of 'Child Protection'. At the programmatic level, the existing mechanism for child protection in India is primarily based on several small schemes implemented by different ministries and departments. The experience of implementation of existing programmes has brought out a large number of shortcomings in the child protection system, which needs immediate attention.

In order to reach out to all children, in particular to those in difficult circumstances, the Ministry of Women and Child Development proposes to combine its existing child protection schemes under one centrally sponsored scheme titled "Integrated Child Protection Scheme (ICPS)". The proposed ICPS brings together multiple vertical schemes under one comprehensive child protection programme and integrates interventions for protecting children and preventing harm.

It does not see child protection as the exclusive responsibility of the MWCD but stresses that other sectors have vital roles to play. The Ministry looks at child protection holistically and seeks to rationalise programmes

for creating a strong protective environment for children, diversify and institutionalise essential services for children, mobilise inter-sectoral response for strengthening child protection and set standards for care and services.

ICPS will function as a Government-Civil Society Partnership scheme under the overarching direction and responsibility of the Central/State Governments. It will work closely with all stakeholders including government departments, the voluntary sector, community groups, academia and, most importantly, families and children to create a protective environment for children in the country. Its holistic approach to child protection services and mechanisms is reflected in stronger lateral linkages and complementary systems for vigilance, detection and response.

The proposed scheme seeks to assist the States/Union Territories in setting up State/District Child Protection Units, which will not only ensure implementation of Juvenile Justice (Care and Protection of Children) Act 2000, but also ensure the coordination of associated child protection services for vulnerable and destitute children at district and state levels. The scheme also proposes to set up a State Adoption Cell to promote adoption as well as facilitate, supervise and monitor all the adoption programmes and agencies at State levels with support of the Central Adoption Resource Agency (CARA). The draft scheme is set out in Annexure-I.

## 2.9 Child Abuse Study

The idea of undertaking a National Study on Child Abuse was mooted as a priority task in February 2005. The study is being undertaken by the Ministry of Women and Child Development

<sup>2</sup> *Mapping India's Children: UNICEF in Action, UNICEF, 2004.*

and an NGO, Prayas, with the support of UNICEF and Save the Children.

A National Level Consultation on Child Abuse was held in New Delhi in April 2005 to discuss various issues related to research project formulation, right from defining the concept of child abuse to evolving a methodology for the project, identifying instruments for data collection and identifying the various categories of respondents. For the first time in the country, experts from various disciplines gathered to exchange views on the common theme of child abuse. The experts included academicians, social workers, activists, NGO representatives, teachers, researchers, police, judiciary, representatives from funding agencies like UNICEF, Save the Children, USAID, US Agency, Plan International, Catholic Relief Services and SARI Equity.

The follow-up of this Consultation was a three-day brainstorming meeting at UNICEF, following which Dr. Loveleen Kacker, Joint Secretary, Ministry of Women and Child Development, Government of India convened a series of round-table discussions involving experts from various disciplines, to develop a protocol. A Core Research Team, led jointly by Dr. Loveleen Kacker and Mr. Amod Kanth, General Secretary, Prayas, and headed by Dr. Nadeem Mohsin, Project Director, National Study on Child Abuse, along with a Technical Advisor and other experts, was formed, with a view to supervising and monitoring the project on a continuing basis. A Research Support Team, comprised of experts was also formed, to support effective implementation of the project. Once the State teams were also formed, with the support of State Governments, the number of people directly involved in the study (both at the Centre and the States) rose to more than 600 persons. The involvement of this large number of people from different parts of the country automatically had a

multiplier effect, as more and more people got to learn about the study and started talking about the hitherto neglected issue of child abuse.

The project, right from its inception, automatically also emerged as an advocacy and awareness generation tool, which was extremely useful in a country where child abuse was never discussed, not even in whispers.

### **Major outcome so far**

The process of detailing of the methodology, development of tools for data collection, development of ethical and other guidelines achieved many things. One, the study became scientifically sound, and second, the involvement of so many people across the country ensured that the whole subject of child abuse was brought centre-stage; it was discussed, dissected and internalised and it worked as a tremendous instrument of advocacy and awareness generation. This came as a most welcome bonus, for all those involved began to understand the larger issue of child protection.

Third, many State officials also initiated a dialogue for future partnerships on the issue of child protection. The officials realised that child protection is an area that is terra incognita and a lot needs to be done in each State if the issue is to be meaningfully addressed. In the process, States have also started action-based programmes like capacity-building of various stakeholders through Training of Trainer's (TOT) Programme, orientation workshops, preparation of IEC materials and other media campaign initiatives.

Fourth, the data collection work, which has just been completed, was monitored on a regular basis. This not only helped in motivating the investigators, but also provided an environment for healthy interaction with the community leaders and others taking active

interest in the study. Regular visits to the project locations also helped in establishing networks with other stakeholders – government officials, NGO representatives and social workers/activists. These various groups have, by and large, extended all possible support towards the study and are very keen on all follow up action.

Finally, the most significant contribution of this study has been that it has also been able to mobilise a team of experts whose involvement at various stages of the study has not only facilitated the process of advocacy and awareness generation on issues related to child protection, but has also helped exchange views and ideas on the issue. The study is expected to pave the way for a more focused policy initiative and programme for action to be taken by the Centre and various States, creating thereby, an environment for a proactive stance on the issue

of child protection, both by the government and by civil society.

The study is expected to lead to the following plan of action:

1. Training of various stakeholders on issues related to child abuse;
2. Formulation of a national level plan of action to address child abuse;
3. Developing schemes, strategies and programmes based on targeted interventions at the State level;
4. Developing IEC materials, including audio-visuals on child abuse, for use in schools and other institutions;
5. Organising media campaigns on child abuse through the print, electronic and traditional media, to create awareness among parents, teachers, police and NGOs;
6. Review of existing laws addressing the issue of child abuse.

# CHAPTER 3

## JUVENILE JUSTICE SYSTEM IN INDIA



## Juvenile Justice System in India

The present juvenile justice system in India is a product of a long history of concerns put forward by civil society, and of enactments, policies and programmes of the Government that came into existence over a period of time. Traditionally the joint family, caste groups and village community played a key role in looking after a child in need of care and protection. However, with the spread of urbanisation and industrialisation, the break-down of family structures and religious sanctions, population explosion, prospects of adventure and excitement in cities, this traditional system was no longer able to provide for care of needy children<sup>3</sup>.

In order to provide for care and protection of children in need, the Government of India came up with the first uniform national law for children titled “Children’s Act” in 1960. Among other provisions for children in need, the Children’s Act, 1960 provided for Juvenile Courts or Child Welfare Boards to deal with neglected juveniles with an aim to provide differential treatment to child offenders and non-offenders. This was followed by the enactment of the National Policy for Children, 1974. The first national legislation

on juvenile justice, titled “The Juvenile Justice Act, 1986” was passed by the Parliament, providing a uniform law for the entire country. A progressive legislation, the 1986 Act provided for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles, and for the adjudication of certain matters relating to, and disposition of, delinquent juveniles. The Act replaced various children’s acts in force in different states and brought uniformity in procedures, institutions, court services and facilities for neglected children<sup>4</sup>.

When India ratified the UN Convention on the Rights of the Child in 1992, even the progressive Juvenile Justice Act, 1986 was found to have certain gaps in legal provisions, and shortcomings in the measures for government and non-government linkages for the care, treatment and rehabilitation of such children. In order to rationalise and standardise the approach towards juvenile justice in keeping with relevant provisions of the Constitution of India and international obligations in this regard, the Juvenile Justice (Care and Protection of Children) Act, 2000 was enacted.

<sup>3</sup> *Child Rights in India – Laws, Policy and Practice*, Asha Bajpai, Oxford University Press, 2003.

<sup>4</sup> *Unfinished Journey, Evaluation Study on the implementation of the Centrally Sponsored Scheme – “Programme for Juvenile Justice”*, CRY for Ministry of Social Justice & Empowerment, Government of India.

The Juvenile Justice (Care and Protection of Children) Act, 2000 is a comprehensive legislation to provide justice and opportunities to children for their growth and development. The Act is based upon the provisions of the Indian Constitution and four broad rights<sup>5</sup> of the UN Convention on the Rights of the Child.

The Act lays down the primary law for not only the care and protection of children in need but also for the adjudication and disposition of matters relating to children in conflict with law. It conforms to the UN Convention on the Rights of the Child, the UN Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), 1985, the UN Rules for the Protection of Juveniles Deprived of their Liberty and all other

relevant national and international instruments. It also prescribes a uniform age of 18 years, below which both boys and girls are to be treated as children. A clear distinction has been made in this Act between the juvenile offender and the neglected child. It also aims to offer a juvenile or a child increased access by establishing Juvenile Justice Boards and Child Welfare Committees and Homes in each district or group of districts. The Act has laid special emphasis on rehabilitation and social integration of the children and has provided for alternatives like adoption, foster care, sponsorship, and after care.

This Act also broadens the ambit of the law to groups of children who may need care and protection in view of the fast changing

#### **Assessment of homes being run under juvenile justice**

The Ministry of Women and Child Development has initiated a participatory assessment of the implementation of the Juvenile Justice (Care and Protection of Children) Act, 2000 across the country, with active involvement of the State Governments and UNICEF India Country Office. The assessment aims at:

- Looking at the adequacy of infrastructure vis a vis the standards prescribed in the JJ rules in the states to deal with the issues related to the Act;
- Facilitating preparation of state plans of action to accelerate implementation based on the information collected at the state level;
- Creating a national database on the implementation of the JJ Act in all the states;
- Facilitating formulation of a centrally sponsored comprehensive scheme – “Integrated Child Protection Scheme”;

- Reviewing the adequacy of Central Assistance for the implementation of the Act and identifying areas for support or increased assistance to ensure that the Act is implemented uniformly across the states;
- Comparing norms listed in the rules for implementation of the Act in the states for quality care and support for children;
- Listing out good practices in the implementation of the Act for detailed documentation and sharing among various states and to use the same for exposure visits and capacity building programmes;
- Identifying training and capacity gaps to build a national strategy for capacity building and training.

The data collection process for the assessment is currently on and is likely to be completed by the end of August, 2006. Based on this, the Ministry of Women and Child Development, Government of India will make a National Report.

<sup>5</sup>Right to Survival, Right to Protection, Right to Development and Right to Participation.

socio-economic conditions, and includes in its scope such categories of children who could be street children, child labour, child victims of the flesh trade, children affected by conflict, child victims of natural disasters and children affected by drugs and HIV/AIDS. Importantly, the Act encourages partnerships with voluntary agencies and outlines mechanisms for monitoring its implementation. While providing for institutional care for children in conflict with law and the abandoned, destitute and orphaned, it stipulates mobilisation of community support for outreach programmes and sponsorship for the needy, to strengthen the capacities of families to provide better care and protection.

Five years of implementing the Juvenile Justice (Care and Protection of Children) Act, 2000 has been a challenging experience for the Government of India. During this period, while encouraging uniform implementation of the Act in all the States and Union Territories of the

country by framing the Central Model Rules, the Government of India also provided financial assistance to the State Governments to create adequate infrastructure for children under the purview of the Act.

### **Amendment to the Juvenile Justice Act, 2000**

Although the Juvenile Justice (Care and Protection of Children) Act, 2000 is a progressive and comprehensive legislation for children of India, uniform implementation of the provisions of the Act throughout the country has been a concern for Government of India. In order to strengthen the country-wide implementation of the Act, the Government of India has proposed some key amendments to the Act. The draft Bill "The Juvenile Justice (Care and Protection of Children) Amendment Bill, 2006" has been approved by the Cabinet and scheduled to be placed before both] houses of Parliament in the Monsoon Session of 2006. Some major amendments to the Act are:

Section	Proposed Amendment
2(a)(a)	Inclusion of definition of Adoption: "Adoption" means the process through which the adopted child is permanently separated from his/her biological parents and becomes the legitimate child of his/her adoptive parents with all the rights, privileges and responsibilities that are attached to the relationship.
2(d)(i)	Child beggars to be included in the definition of children in need of care and protection.
10(1)	In no case shall a juvenile in conflict with law be placed in a police lock-up or lodged in jail.
14(2)	Since the provision for enquiry to be completed within four months lacks proper implementation, as inquiries are pending before the Boards for a long period of time, it is proposed that the Chief Judicial Magistrate/Chief Metropolitan Magistrate shall review the pendency of cases of the Board every six months, and shall direct the Board to increase the frequency of its sittings or may cause constitution of additional Boards.
15(1)(g)	The Juvenile Justice Board can make an order directing the juvenile to be sent to a special home for a maximum period of three years.
16(1)	No juvenile in conflict with law can be placed under imprisonment for any term, which may extend to imprisonment for life.
21	Contravention of provisions dealing with prohibition of publication of name etc. of child/juveniles shall be punishable with a fine extending to 25,000 rupees as against the existing 1,000 rupees.

Section	Proposed Amendment
4 & 29	The State Governments to constitute Juvenile Justice Board and Child Welfare Committee for each district within one year of the Amendment Act coming into force.
33(3)	The State Governments may review pendency of cases before the Child Welfare Committee in order to ensure speedy completion of the enquiry process.
34(3)	All State Governments/voluntary organisations running institutions for a child/juvenile shall be registered under this Act within a period of six months from the date of commencement of the Amendment Act, 2006.
41(4)	State Governments shall recognise one or more of their institutions or voluntary organisations in each district as specialised adoption agencies for the placement of orphans, abandoned or surrendered children for adoption. Children's homes and the institutions run by the State Government or voluntary organisations for children who are orphans, abandoned or surrendered, shall ensure that these children are declared free for adoption by the Child Welfare Committee, and all such cases shall be referred to the adoption agency in that district for placement of such children in adoption in accordance with guidelines.
62(A)	Every State Government shall constitute a Child Protection Unit for the State and, such units for every district, consisting of such officers and other employees as may be appointed by that Government to take up matters relating to children/juveniles with a view to ensuring the implementation of this Act.

# CHAPTER 4

## CHILDLINE SERVICE



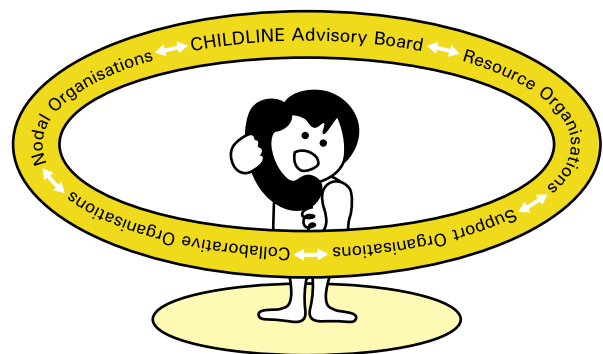
## CHILDLINE Service

CHILDLINE is a 24-hours free telephone help-line service, which can be accessed by a child in distress or an adult on his/her behalf, by dialing the number 1098. It provides emergency assistance and outreach services to a child in distress and subsequently, based upon the child's need, rescues the child and refers him/her to an appropriate organisation for long-term rehabilitation, follow up and care. It is the only service of its kind (a Government of India - civil society partnership) operating in 74 cities and towns in India, offering a bouquet of comprehensive child protection services through its referral network of over 3,000 civil society organisations, academic institutions, state governments, corporations, youth and children. It aims to extend its services to every district in the nation by 2020. To date, CHILDLINE has responded to 10 million calls and assisted 3 million children.

Through its network in 74 cities, the CHILDLINE Service aims at:

- Responding to calls on the national toll-free number 1098 and provision of emergency outreach services for children in need of care and protection;
- Linking children to services for their long term rehabilitation;
- Establishment of a national network for the tracking of missing children;
- Compilation of a national database of child protection related services;
- Creating awareness about the 1098 help-line (CHILDLINE) number;
- Training and sensitisation of the Allied Systems to the needs of children in need of care and protection, thus preventing children from dropping out from the system;
- Research, documentation, awareness and advocacy on issues related to child protection;
- Identifying gaps in services and influencing social policy to bridge the gaps.

CHILDLINE is a project of the Ministry of Women and Child Development (MWCD), Government of India. CHILDLINE India Foundation (CIF) has been established by the Government of India as an umbrella organisation to identify, provide



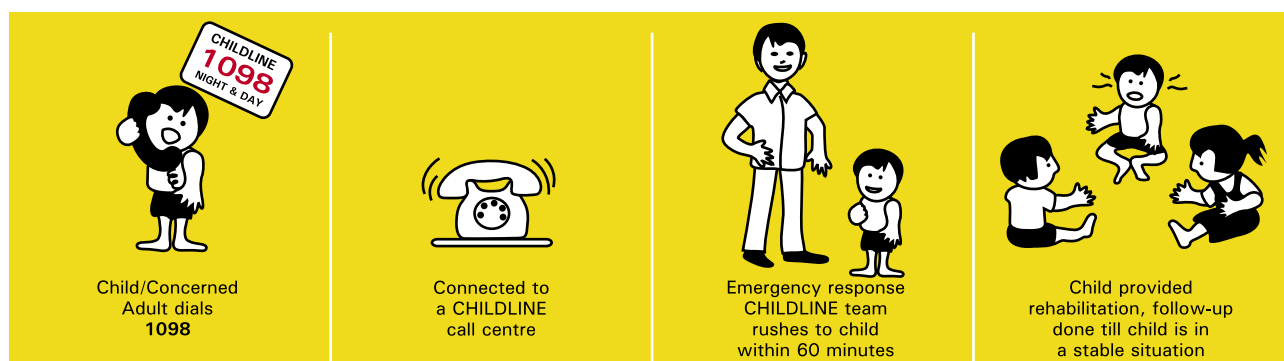
support services and to monitor efficient service delivery of the centres at various locations. CIF serves as a link between the Ministry and the NGOs in the field. The Secretary of the Ministry is the Chairperson of the CIF Governing Board. CHILDLINE is a partnership platform bringing together the Ministry of Women and Child Development, Government of India, UNICEF, the Department of Telecommunications, street and community youth, non-profit organisations, academic institutions, the corporate sector and concerned individuals.

CHILDLINE in each city operates through a structured network of voluntary organisations, including nodal, support, collaborative and resource organisations, under the overall supervision of the City Advisory Board. The collaborative organisations function as call centres and have a team of trained youth, supervised by a professional social worker, who respond to calls on a 24 hours basis. Within minutes of receiving a call, the team rushes to the child and attends to the crisis at hand. This may involve going to a police station, or to the Juvenile Justice Board, or to the Child Welfare Committee, or to a hospital for medical help and constant follow-up till the child tides through the crisis, after which options for long term rehabilitation are presented to the child.

Through its experiences in working with children across the country, CHILDLINE has addressed a

range of child protection issues. The intervention has so far been reactive, reaching out to children who are already in crisis situations. The range of child protection issues addressed by CHILDLINE covers abandoned infants, runaway street children, rescue of children from situations of physical, sexual and emotional abuse in their homes and in situations of employment, providing assistance in medical emergencies, rescue of children being trafficked for labour and commercial sexual exploitation, tracking and restoration of missing and runaway children. Each intervention conducted by CHILDLINE involves multiple cross-sectoral interactions to take a child from rescue to rehabilitation. In most situations it is abject poverty, unemployment, displacement, migration, and disaster (man-made or natural), which drive children into extremely vulnerable situations. Thus, intervening for children would take intervention beyond the individual child to creating a protective environment for children, which would comprise child-friendly policy, legislation, and most importantly child-friendly access and alert mechanisms, as well as services for children.

Since its inception in June 1996, CHILDLINE has registered 9.63 million calls (see table) till March, 2006. The analysis of the total number of calls received by CHILDLINE reveals that during this period around 2% calls were received requesting interventions in the event of severe crisis including rescue, repatriation,



Call Statistics (June 1996 – March 2006)		
Categories		Number of Calls
<b>I. Interventions</b>		
Crisis Interventions:	Medical	47,522
	Shelter	41,838
	Repatriation	23,837
	Rescue	12,309
	Death-related	598
	Sponsorship	23,712
Missing Children		50,686
Emotional Support and Guidance		1,69,610
<b>II. Information</b>		15,23,549
<b>III. Others</b> (Silent/Blank/Follow-up/Did not find/wrong/phone testing/crank/fun/abusive/administrative, etc.)		77,32,943
<b>IV. Unclassified</b>		3,083
<b>Total Calls</b>		<b>96,29,687</b>

medical, death, sponsorship, missing children, etc., 1.7% of calls were for emotional support and guidance, 15.8% of calls were for seeking information on child-related services and a major chunk of calls i.e. 80.3% of all calls are for follow-up, chatting, fun, silent, crank and blank calls. Further analysis of calls received for crisis intervention by the CHILDLINE service reveals that the major category of calls was for medical help, followed by shelter, repatriation, sponsorship, rescue and death-related situations. CHILDLINE intervenes directly in 19.6% of all calls. By international Tele-Helpline standards, this is a healthy statistic<sup>6</sup>.

Its years of experience in working with children in distress and participating in group discussions with children has helped CHILDLINE in laying down new directions. The ChildNET<sup>7</sup> data and the everyday experiences of CHILDLINE city teams are opening up new directions for the

#### CHILDLINE - Way ahead

- Upgrade counselling skills and increase the efficiency of response;
- Deepen skills to convert blank calls into full counselling cases;
- Tighten information management systems.
- Expand its databases;
- Develop new information access mechanisms (such as CHILDLINE booths for children in railway stations and online resource directories for child rights practitioners);
- Deepen service quality levels and focus on consolidating city partnerships.

phone service that will concentrate on:

- Extending 1098 coverage to rural areas to prevent family break-ups and economic migration of children and their families;

<sup>6</sup> Standards set for help-lines globally by Child Helpline International.

<sup>7</sup> ChildNET is a Java software programme developed exclusively for CHILDLINE by Tata Consultancy Services. This user-friendly software classifies and records calls received on 1098 from all parts of the country. The software connects every CHILDLINE call centre to a central server in CIF Mumbai. Each case received by CHILDLINE is documented on ChildNET and uploaded on the central server in Mumbai. The package analyses the data and presents reports and trends, which are returned back to CHILDLINE in each city.

- Setting up services in high-endemic areas affected by child labour and child trafficking;
- Strengthening a gender focus to reach out to girls;
- Developing strategic alliances with people's movements and community-based groups working on livelihood and access issues. Developing local child rights volunteer bases that will work as community child protection watchdogs;

- Developing specialised, issue-based programmes to reach 'invisible children' (political refugees, mentally-challenged, victims of riots and of sexual abuse).

In order to expand its outreach and coverage, the Ministry of Women and Child Development is planning to increase the number of CHILDLINE services. The Ministry envisages providing CHILDLINE service in each district/city in the near future.

# CHAPTER 5

## FEMALE FOETICIDE



## Female Foeticide

The problem of the “missing” girl child or the practice of female foeticide is not uncommon to the region. This practice robs missing daughters not only of their right to a healthy environment, good nutrition and education and the opportunity to reach their full potential, but most basically, their right to birth.

Today, the nationwide average number of girls to every 1000 boys is 927, according to the 2001 Census. However, many states show a worse figure for example, Himachal Pradesh 896, Punjab 793, Chandigarh 845, Haryana 819, Delhi 865 and Gujarat 879. The continued discrimination against the girl child is a matter of concern. In 1901, there were 3.2 million fewer women than men. Today that figure has soared to 35 million. Sex selection is a growing practice of the affluent, raising questions about the ideology of male preference. Studies have found that while male preference is strong, many mothers prefer a balance of sons and daughters, though only 2.6 percent report that they would be happy to have just two girls and 45.9 percent report they would prefer to have more boys. This preference for at least one of two children to be a boy, often leads to the second girl born to a family being treated far worse than her older sister.

The practice of female foeticide is in direct violation of both the international Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) of 1979 and the UN Convention on the Rights of the Child (UNCRC), 1989. The CEDAW is considered to be equivalent to an international bill of rights for women, defining what constitutes discrimination and providing an agenda for action. Non-registration of medical facilities, the use of pre-natal diagnostic techniques, communication of the sex of the foetus, determination of sex, advertisement of sex determination, and non-maintenance of records are all actions that violate the letter and spirit of both CEDAW and UNCRC.

### The Government Response

The Government of India has taken steps to abolish female foeticide. The first legislation against female foeticide, enacted in 1978, banned the misuse of amniocentesis in government health care institutions. In 1994, a substantial legislation, the Pre-Natal Diagnostic Techniques Act (PNDT) was adopted. This Act aimed to regulate diagnostic equipment by allowing for its use only in regulated institutions. Furthermore, it declared that

### **Mechanism for the implementation of the PCPNDT Act**

- A Central Supervisory Board (CSB), constituted under the Chairmanship of the Union Minister for Health and Family Welfare, is empowered to monitor the implementation of the Act.
- State-level Supervisory Boards fulfil this responsibility in the states/union territories where the Act is implemented by the Appropriate Authorities (AAs), constituted at state/district/sub-district levels.
- The State/UT level Appropriate Authority has been made a multi-member body to facilitate implementation and monitoring.
- The AAs are empowered with the powers of a civil court for search, seizure, and sealing of machines, equipment, and records of the violators. Their powers extend to sealing premises and commissioning witnesses.
- It is now mandatory to maintain proper records of the use of ultrasound machines and other equipment capable of detection of the sex of a foetus, and tests and procedures leading to pre-conception selection of sex.
- The sale of ultrasound machines has been regulated by allowing such sale only to the institutions registered under the Act.
- A national inspection and monitoring committee has been constituted at the Centre to assess the ground realities through field visits.

ultrasound tests should be used solely to detect genetic or metabolic disorders and sex-linked disorders, chromosomal abnormalities, and congenital malformations. Most explicitly it aimed to prevent the use

of sex determination leading to foeticide. In 2003, this law was amended and strengthened to become the Pre-Conception and Pre-Natal Diagnostic Techniques Act (PCPNDT) of 2003. In addition to prohibiting determination and disclosure of the sex of the foetus and making it illegal to advertise pre-natal diagnostic capability, it recognises the significant criminal role of doctors in contributing to this problem. The 2003 amendment to the PNDT Act is more explicit about the use, regulation and monitoring of pre-natal diagnostic equipment and provides for imprisonment of up to five years and a fine of up to Rs. 1,00,000 for violators of the Act.

Because the legalisation of abortion in 1971 provided an outlet for families to avoid having female babies, the Amendment of the Medical Termination of Pregnancy Act was drafted in 2002 to prevent the continued use of abortion as a means to such a destructive and unethical end. While it was established as illegal in 1971 to abort a healthy foetus, particularly that of a girl child, the Amendment of 2002 establishes strict guidelines as to where and by whom medical terminations of pregnancies may be carried out, and imposes severe punishments, including imprisonment, on those who violate the Act.

Some exemplary district administrations have taken a lead in combating this problem. A region of Andhra Pradesh with a sex ratio of 942/1000 has had a model campaign that could be replicated in other states. As part of the campaign, the District Collector, in his position as Chairperson of the official Appropriate Authority, introduced a system of methodically auditing all scan centres in the district. Details of the scans and the personal information of the families were noted and authorities were able to follow up on the cases until the birth of the children. Furthermore, where clinics did

**Times of India, June 15, 2006:**

The Union Health Ministry has registered 387 cases of sex selection across the country till May 31, 2006. After the first-ever prison term for sex-selective abortion was recently given to the Haryana-based Dr. Anil Sabhani, four more convictions have taken place – two each in Haryana and Punjab. The Ministry has also set up a four-member National Support Monitoring Cell headed by former police official Maxwell Pereira to curb female foeticide.

not bother to fillout the mandatory Form F, the district handed out 361 notices, suspended 91 registrations, and seized 54 scan machines. Three suppliers were prosecuted for distributing the pre-natal diagnostic machines without proper registration.

With the sex ratio declining steadily in Haryana due to female foeticide, the 'Ladli' scheme for the girl child was drawn up by the State Government to provide incentives to the family. Under this scheme, a sum of Rs. 5000/- per annum for five years is paid to couples giving birth to a second girl child (Rs. 2,500/- for each of the two girl children). This money is invested in Kisan Vikas Patras in the joint names of the second girl child and the mother. In case the mother is not alive, then this money is transferred to a joint account of the second girl child and father.

## Participation by Civil Society and Media

Non-governmental organisations (NGOs), in association with governmental organisations have made efforts to eliminate the problem of female foeticide. For example, in 2005 Swami Agnivesh, a child rights advocate,

led a 2,000 km interfaith pilgrimage through five of the worst afflicted states. They were welcomed by the leaders of over 40 towns with rallies and programmes to raise awareness about female foeticide. Similar awareness initiatives have taken place around the country. In Mumbai, an organisation called "Population First" launched a five-year campaign in 2005 with the slogan, "Celebrate her life because she is precious." The programme engages Mumbai communities to alter social prejudices against girls. The campaign works with various stakeholders including NGOs, media, medical professionals, opinion makers, role models, youth icons and the communities. Smaller scale campaigns targeting the medical community have produced tangible results. Many religious leaders have been eager to join the fight against female foeticide. For example, Sikh leaders have committed to excommunicate from the gurdwara any individuals who resort to sex selection, and religious leaders in Delhi have aligned on the issue.

Media has participated in the campaign and highlighted the problem through investigative reports and articles providing clinching evidence to prosecute the guilty. Media involvement, however, has not been limited to investigative reporting and exposé journalism. In association with the Government and NGOs, the media has launched widespread awareness campaigns in the form of video spots on national and private television stations. One national network even presents a weekly TV series, which confronts the plight of the girl child.

## Moving Forward

- Proposed Cradle Baby Reception Centres in each district under the Integrated Child Protection Scheme (ICPS);

- Piloting of conditional cash transfer scheme in certain areas to support the survival and development of the girl child;
- The Union Health Ministry has developed a special data entry and report-generating software, which when installed in the computers of all the 28,565 registered ultrasound clinics in the country will make it mandatory for them to fill up their Form 'F' online (this form is required to be filled before conducting an ultrasound on a pregnant women);
- Universal birth registration;
- Registration of pregnancies;
- Data on still-born sex ratios and aborted fetuses sex ratio;
- Vigil communities/task forces at each district level;
- Mass campaigns for awareness generation.

# CHAPTER 6

## CHILD MARRIAGE



## Child Marriage

While all the countries in South Asia have ratified the UN Convention of the Rights of the Child (UNCRC) agreeing to protect all persons below 18 years from harm and exploitation, practices such as child marriage continue to pose a challenge. In India, efforts to address child marriage date back to 1929 when social reformers decided to combat it through a law then called the Sharda Act. Post-independence, the Government of India enacted the Child Marriage Restraint Act to stop such marriages from taking place. Marriages before the valid age of 18 years for girls and 21 years for boys are termed as child marriage under this law.

The practice of child marriage is rampant in many parts of the country and the incidence of it is highest in the States of Rajasthan, Bihar, Uttar Pradesh, Chattisgarh and Madhya Pradesh. According to the 1991 Census, the percentage of married females in the total number of females in the age group 10 to 14 was 13.2 in Rajasthan, the highest in the country. In second place was Madhya Pradesh at 8.5 percent, followed by Uttar Pradesh at 7.1. For the country, the percentage of married women under the age of 18 stood at 53.3 percent. The situation did not change substantially in the following decade.

The 2001 Census reports that there are nearly 300,000 girls under 15 who have given birth to at least one child. According to the Rapid Household Survey conducted across the country, 58.9 percent of women in Bihar were married before the age of 18, with 55.5 percent in Rajasthan, 54.9 percent in West Bengal, 53.8 percent in UP and 53.2 percent in Madhya Pradesh and 39.3 percent in Karnataka. Jammu and Kashmir has the lowest percentage of under-age marriage, which is 3.4, followed by Himachal Pradesh (3.5) and Goa (4.1). Despite high female literacy in Kerala, close to one-tenth of women are married before attaining the legal age of 18<sup>8</sup> years. National Family Health Survey (II) data suggests that the median age for the marriage of girls in India is 16.4 years. The survey also found that 65% of the girls are married by the time they are 18 years old.

Child marriage undermines the 'best interest of the child,' as it leaves a negative impact on the health and overall well-being of the child. From the rights perspective, there are three major concerns. One, the denial of childhood and adolescence; two, the curtailment of personal freedom and the lack of opportunity to develop to a full sense of selfhood as well as the denial

<sup>8</sup> Human Rights Law Network, *Child Marriages and the Law in India*, Aparna Bhat, Aatreyee Sen, Uma Pradhan (Ed.), 2005

### **The reasons for child marriage**

- Illiteracy and lack of education.
- Gender discrimination and unequal status of women.
- Traditions and customs, eg. the season of Akha Teej is considered auspicious for marriages.
- Economic reasons, eg. higher dowry needs to be given to daughters when they are married at a later age.
- Lacunae and shortcomings in the existing Child Marriage Restraint Act: for example, the law does not declare the child marriage null and void.
- Lack of protective environment for a young girl.
- Lack of administrative will and action.

of psycho-social and emotional well-being; and three, the lack of reproductive health and educational opportunities. The most affected in the practice of child marriage are the girl children, who are very often unable to protect themselves against these violations. In addition to the violation of the right to personal freedom and growth, child marriage does irreparable damage to the physical, mental, psychological and emotional development of girl children.

## **Impact of Child Marriage**

**Education:** Education is recognised by the Constitution of India as a fundamental right for all children in the age group of 6-14 years. Early child marriage denies this basic right to the girl child. Factors like poverty and puberty combine to make the girl a school dropout and pushed into early marriage. The dropout rate among girls is highest at the elementary level often

because of early marriage. The lack of proper and complete education renders girls incapable of acquiring any skill that can empower them. Needless to say, lack of education also affects reproductive behaviour, use of contraceptives, health of the new born child and proper care and hygienic practices. Every year of education added strengthens a mother's ability to nurture and care for her children.

**Health<sup>9</sup>:** Child marriage affects girl children's reproductive and sexual health. They suffer from high rates of obstetric complications, anaemia, malnutrition, obstructed labour because of small pelvis, postpartum haemorrhage, toxemia, vesico-vaginal fistula, intra-uterine growth retardation, pregnancy induced hypertension, premature delivery, higher maternal mortality rates, high incidence of reproductive tract and sexually transmitted infections (RTIs and STIs) and foetal wastage (miscarriages or still-birth). The neonatal and infant mortality rates are also high along with incidences of premature delivery and low birth-weight of the new born. Adolescent mothers are twice as likely to die of complications arising out of pregnancy compared to women 20 years or older. The IMR is 40 percent higher for adolescent mothers than for adult mothers (107.3 and 78.5 per thousand live birth respectively). Adolescent girls also face riskier and unprotected sexual exposure within their marriage, leading to a higher risk of contracting HIV/AIDS and other RTIs and STIs.

**Well-being:** Child marriage is a gross violation of the UN Convention on the Rights of the Child and the Constitutional provisions of right to life, liberty, and security, right to health, right to freedom from slavery, right to education, right to non-discrimination on the grounds of sex, and right to equality. In addition to the health effects, the emotional effects of child marriage are

<sup>9</sup> *Ibid*, 18.

immeasurable. Early marriage and forced sexual activity throw the girl's identity into a state of crisis. There is an early burden of responsibilities, a higher risk of violence and abuse within the family, threat of being rejected by the family because of the propensity of child grooms going in for more than one marriage. Child marriage is a complete violation of a child's human rights, self-worth and dignity. It denies children participation in decision-making, recreation, and space of their own. The emotional impact of child marriage on a girl is far worse than in the case of a boy child. However, from that perspective, getting married at an early age violates the human rights of both boys and girls.

**Changing face of Child Marriage:** In India, child marriage is a centuries old tradition, where children as young as two to three years were often married or given away in marriage. However, in traditional societies in spite of early commitment of children into wedlock, marriages were not consummated till children were much older and were perceived to be able to understand the responsibilities intrinsic to marriage. Over time, giving children in marriage has turned into a major social evil entailing issues of child rights, dowry, sexual abuse, among others detailed earlier. Some of the emerging trends in child marriage have far-reaching adverse consequences in the life of a child. For example, child marriages have come to be used as a means to traffic young girls and women into the sex trade and labour both within the country and outside. Children are married, trafficked and sent to work in places like Delhi, Haryana, Uttar Pradesh, and Kolkata. Imbalance in the sex ratio in some states is emerging as a reason for trafficking of young girls for the purposes of marriage. In states with very low sex ratio, there is a tremendous shortage of marriageable girls, resulting in the need to buy young brides from other states. In some cases, these girls may be forced to serve as a wife to two or three brothers in the same family.

In some situations, economic circumstances have forced parents to give away their young daughters in marriage to much older or physically or mentally challenged men. Incidents of girls being given away to rich/old Arab 'sheikhs' in the city of Hyderabad in Andhra Pradesh have received much attention nationally and internationally.

The media representation of marriages attracts the adolescent mind to courtships and marriages of choice. Such relationships have only further increased the vulnerability of girls to sexual abuse, exploitation, desertion, mental and physical torture. Of late, some runaway marriages have led to negative consequences for the young boys as well, as they have been booked for kidnapping, abduction and rape, thereby getting marked as young child offenders.

## Government Intervention

A multi-pronged strategy has been adopted in India to address both the systemic as well as social barriers to the empowerment of the girl child. Interventions from the Elementary Education Department as well as the Ministry of Women and Child Development are some steps in this direction.

The Sarva Shiksha Abhiyan (SSA), the national flagship programme for universalisation of elementary education provides for the following to bring out-of-school girls into schools and improve the quality of education for the girl child:

- Free text books for girls up to Class Eight within the ceiling limit of Rs. 150 per child;
- Separate toilets for girls;
- At least 50% of the teachers to be appointed;
- School/Education Guarantee Centres like an alternative facility to be set up within one kilometre of the habitation;
- Up-gradation of Education Guarantee Centres to regular schools;

- Special mainstreaming camps for out-of-school girls under the alternative and innovative education component;
- Community mobilisation to target girls' enrolment and retention;
- Process-based community participation with a special focus on participation of women;
- Context-specific innovative interventions for girls education, such as strengthening of madaras and maktabas for formal education to girls, and remedial/coaching classes.
- Training of teachers for gender sensitisation;
- Gender sensitisation of text books and curriculum;
- The National Programme for Education of Girls at the Elementary Level (NPEGEL) and the Kasturba Gandhi Balika Vidyalaya Scheme specifically target girls from the marginalised groups who are out of schools or who have not completed elementary education.

Many State Governments have successfully implemented policies and programmes/schemes providing incentives to parents to ensure the education of their girl children with the aim of increasing their age of marriage.

The Kishori Shakti Yojana of the Ministry of Women and Child Development targets adolescent girls in the age group of 11-18 years, to address their needs of self-development, nutrition and health, literacy, numeracy, and vocational skills. The need for investing in this age group is linked to raising the marriageable age of girls. The self-help group (SHG) programme for social and economic empowerment of women has also impacted positively on raising awareness about the negative consequences of child marriage.

The National Plan of Action for Children (NPA), 2005 aims at eliminating child marriages by 2010. Amongst various objectives listed in the NPA, expansion of Nehru Yuvak Kendra

Sangathan and Youth Development Centres to all districts by the Ministry of Youth Affairs and Sports will ensure empowerment of adolescent girls and boys to realise their rights and develop their full potential. The NPA also aims at checking the trafficking of children for and through marriage through appropriate legislation. A mass awareness campaign and a new law against child marriage are critical strategies listed out in the NPA.

In February 2006, the Supreme Court of India ruled that all marriages, existing and future, would have to be registered. The Centre, State Governments and the Union Territories were accordingly directed by the apex Court to frame a uniform set of rules and procedures for registration of marriages.

Taking into account the shortcomings in the existing Child Marriage Restraint Act and its implementation, the Government proposed an improved legislation – The Prevention of Child Marriage Bill, 2004. The National Commission for Women and the National Human Rights Commission played an important role in the preparation of the draft Bill, which was introduced in the Rajya Sabha on December 20, 2004. The Bill aims at :

- Providing for declaration of all child marriages voidable at the option of the contracting party to the marriage, who was a child;
- Making a provision for declaring the child marriage as void in certain circumstances;
- Requiring the husband or, if he is a minor at the material time, his guardian, to pay maintenance to the minor girl until her remarriage;
- Providing for legitimisation of children born of a child marriage even if the marriage has been annulled, including providing for the custody and maintenance of the children born of child marriages;

- (v) Empowering the district court to add to, modify or revoke any order relating to the maintenance of the female petitioner and her residence and custody or maintenance of her children; Empowering the courts to issue injunctions prohibiting solemnisation of marriages in contravention of the provisions of the proposed legislation;
- (vi) Making the offences under the proposed legislations cognizable for the purposes of investigations and for other purposes;
- (vii) Providing for State Governments to appoint Child Marriage Prevention officers;
- (viii) Empowering the State Governments to make rules for effective administration of the legislation.

The Parliament constituted a Standing Committee to receive written and oral evidence from several experts in the civil society to get their comments and suggestions on the proposed legislation. At the time of making this report the Bill is still under discussion. Some of the concerns and issues that have been raised by civil society groups include:

- The Bill should provide for abolition of child marriages and not just prevention;
- All child marriages solemnised after the commencement of this Act be declared void;
- Compensation in addition to maintenance for both the children till attainment of majority, towards meeting their development,

protection, education, well-being and other needs;

- The financial responsibility for the child's security and well-being should lie with the State; in such cases where it is not possible for the child to go back to the parents, the child becomes the ward of the court;
- Child Marriage Prevention officers must be fully empowered and sensitised to act in every State, District and Panchayat. NGOs should also be given responsibility to act in preventing child marriage.

The Government of India realises that change in the mindset of people and the need to raise awareness against the harmful effects of this cultural practice are imperative for addressing child marriage. Child marriage cannot be viewed in isolation as it has various social and legal dimensions including its relationship with child rape, child trafficking, domestic violence and abuse. Strong advocacy with NGOs, activists, government representatives, panchayats and society is needed to harness support against this practice of child marriage. Strong networks of organisations could build an advocacy programme against child marriage. This could be promoted with the support of the youth and adolescent groups who are the primary victims of this practice. This would also be strengthened through the school curriculum, by including a chapter on violence due to child marriage.

# CHAPTER 7

## CHILD TRAFFICKING



## Child Trafficking

*The Kavi Nagar Police arrested a 95 year old blind man for attempting to marry a 14 year old girl in Ghaziabad's Sadarpur locality, right opposite the district police lines. Tej Bir Singh of Hassanpur allegedly gave a sum of Rs. 90,000/- to the brother and uncle for the bride.....*

*14 year old Savita (name changed) from Nuh District in Haryana was almost sold into marriage for Rs. 40,000/- by her own father. Timely intervention of the District Child Welfare Officer and the local police resulted in the arrest of the accused, who was her father's friend. Then came the challenge of how to remove the child from her own family in to a safer environment.....*

Trafficking, a growing problem in India, can be most aptly defined as being the recruitment, transportation, transfer, harbouring or reception of persons, by means of threat, force, coercion, abduction, fraud, abuse of power, deception or payment for the purposes of exploitation. While trafficking is often thought of solely in terms of sexual exploitation, forced labour, slavery, servitude, marriage, and the removal of organs are also common purposes for trafficking. Throughout the world, more than two million people are reportedly trafficked every year. The most common uses for trafficked children are for labour exploitation in brick kilns, factories,

construction work, sweatshops, domestic settings, and on plantations. Camel jockeying in the Middle East, and, of course, sexual exploitation in the form of prostitution and pornography are also common. Worldwide, prostitution alone is thought to yield at least Rs. 315 million for the traffickers.

In India, trafficking has been recognised as an organised crime and thus needs a holistic approach for its eradication. The greatest challenge in any plan for intervention is lack of a thorough understanding of the problem and the absence of reliable data on the magnitude of the problem. Even the definition of "trafficking" is still confined to trafficking for prostitution. But, as the recent National Human Rights Commission report states, "it goes beyond trafficking for prostitution".

In 2004, the National Crime Records Bureau reported 205 cases of procurement of minor girls, 21 of buying of girls for prostitution, 19 of selling of girls for prostitution, 89 for importation of girls and 715 of exposure and abandonment. A further study of the data shows that there were 2265 cases of kidnapping and abduction in 2004, which may have been cases of trafficking. Of these, 1593 were of kidnapping and abduction for the

Crime Head/Year	Year					
	1999	2000	2001	2002	2003	2004
Kidnapping and Abduction	6882	6562	5589	1986	2571	2265
Exposure and Abandonment	593	660	678	644	722	715
Procurator of minor girls	172	147	138	124	171	205
Buying of girls for prostitution	5	53	6	9	24	21
Selling of girls for prostitution	13	15	8	5	36	19
Child Marriage Restraint Act	58	92	85	113	63	93
Immoral Traffic Prevention Act	75	82	125	49	48	47
Child Rape	3153	3132	2113	2532	2949	3542
NDPS Act	9	16	52	56	62	54
Importation of girls	01	64	114	76	46	89
<b>Grand Total</b>	<b>10961</b>	<b>10823</b>	<b>8908</b>	<b>5594</b>	<b>6692</b>	<b>7981</b>
<i>Source: National Crime Records Bureau, Crime in India (1999-2004)</i>						

purposes of marriage, 414 for illicit intercourse, 101 for prostitution, 92 for unlawful activity, 15 for adoption, 13 for sale, 20 for begging and 16 for slavery. While 47 cases involving children were reported under the Immoral Traffic (Prevention) Act, 54 cases of juvenile delinquency were reported under the Narcotic Drugs and Psychotropic Substance Abuses Act<sup>10</sup>. The NHRC report states “it is bewildering to note that in India, on an average, 44,476 children go missing every year and that out of these, 11,008 children remain untraced annually”. This indicates that many of these persons may have been trafficked.

## Domestic Labour

An area of concern is the trafficking of children for domestic labour. The existing Child Labour (Prohibition and Regulation) Act, 1986 does not address the issue of children in domestic work. Yet domestic work is hazardous and often children who are trafficked as domestic labour face physical abuse and sexual exploitation. The Child Welfare Committee in Nirmal Chhaya,

Tihar Jail Complex, Delhi, has expressed serious concern at the increasing phenomenon of child trafficking and states that in most cases children brought to it are found to be trafficked for domestic labour.

## Child Marriage

The custom of child marriage is an age-old one and the information in the media about young girls being bought and sold for marriage is not new. All trafficking of girls in the name of marriage is not for the purposes of marriage. Marriage is a means of recruiting young girls for prostitution and labour. In most cases the grooms are married men, often twice the age of the girls. Girl brides are therefore forced to become part of the labour force for agricultural purposes and care of domestic animals. This is their job during the day, and at night they are required to cater to the sexual needs of the so-called husbands and other male members of the family.

The fall in the sex ratio in several of the states due to son preference and foeticide, has

<sup>10</sup> National Crime Records Bureau, Crime in India, 2004

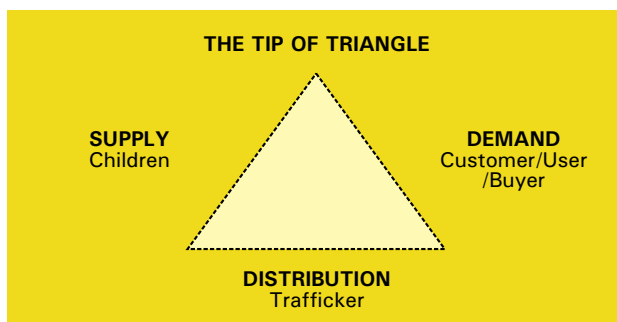
**Sahara Times, New Delhi, 15th November 2003 reports:**

“Due to demographic imbalance in Haryana – about 850 girls to every 1000 boys – there is a shortage of women in many villages. So the easy way out is to buy girls from other regions through a network of touts who help the men – young, old and widowed – to find women from states like West Bengal, Assam and Bihar. Women come cheap. Many of them are bought for prices cheaper than buffaloes. A healthy looking minor, on the other hand, can fetch Rs. 10,000 to her seller.”

increased the demand for girls, thus helping traffickers to provide girls from other states for the purposes of marriage. For quite some time media has been reporting the fact that poor young girls are being sold into marriage with Arab men, thereby saving the dowry expenses.

## Causes Contributing to the Problem

Every country in the world has a trafficking problem, and the contributions of various countries to the problem can be divided into three different categories: supply (of children), demand (customer/user/buyer), and distribution (trafficker). The Andhra Pradesh Police Academy illustrates this paradigm as a triangle, demonstrating the



ways in which the causes of human trafficking reinforce each other.

The victims who compose the supply element become implicated in child trafficking because of many diverse factors. While they are often kidnapped from their families, it is also common that poverty, the perceived prospects of higher wages and standard of living, problems such as regional disparities, lack of employment, organised crime, corruption, and armed conflict, provide an impetus for trafficking to occur. The countries/states of origin tend to be resource-poor and unstable. The demand side is typically driven by a vigorous sex industry, including sex tourism and pornography and a growing demand for cheap and exploitable labor. The countries/states constituting the demand aspect of the triangle are resource-rich developed countries/states. The people who facilitate the trafficking of children act as the distribution mechanism. India, with its dramatic regional disparity, is a country of origin, transit and destination.

## The Indian Scenario

Many children are trafficked from one state to another within India, and are also trafficked internationally. The most common destination for Indian children is the Middle East where they are forced into working as camel jockeys and beggars, and where there is an insatiable demand for “virgin” brides for all ages of men. Smuggling of children from the Punjab region in India to European destinations is also common these days. Children trafficked to India from international locations primarily hail from Bangladesh and Nepal. Furthermore, India provides a layover for traffickers and children in transit, primarily from Bangladesh to the Middle East. Because of this status, India has to confront the hard task of tackling both intrastate and international child trafficking.

## The Social and Health Cost

The practice of child trafficking has a heavy social cost. Those trafficked endure brutal conditions and malnutrition, which cause irreparable psychological and physical harm ranging from disease (including HIV/AIDS, sexually transmitted infections, pelvic inflammatory disease, tuberculosis and scabies), stunted growth, drug addiction, abuse, and reproductive problems. Emotional problems are also common. As a result of child trafficking, victims are likely to suffer from anxiety, depression, and post-traumatic stress disorder. The cycle of trafficking is often inexhaustible. A child sold into one form of trafficking is not freed, but is sold into another form of trafficking upon entering into adulthood. Statistics show that 60 to 70 percent of females who are trafficked into the sex trade are raped and that 70 to 95 percent are physically assaulted. The abuses inflicted by trafficking fly in the face of a person's basic human rights. They violate the universal human right to life, liberty and freedom from slavery in all forms. Furthermore, they violate the right of a child to grow up in a protective environment and to be free from all forms of abuse and exploitation.

The link between HIV/AIDS and child trafficking is an important one to highlight. Worldwide, approximately 42 million people are living with HIV/AIDS, and the problem is on the rise in India. Around the world, prostitutes have a high incidence of HIV/AIDS and other sexually transmitted infections, and the same is true in India. Thus, trafficking has been a leading cause in the spread of HIV/AIDS. AIDS cannot be eliminated without eliminating child trafficking.

## The Government Response

The primary legislation that deals with the problem of trafficking is the Immoral Traffic

Prevention Act (ITPA) of 1986. The provisions of the Indian Penal Code (IPC) further supplement this. The ITPA criminalises the offences of selling, procuring, and exploiting any person for commercial sex as well as profiting from prostitution. It does not prohibit prostitution, but punishes solicitation. Problematically, the law has loopholes that allow for the pimps, brothel keepers, and clients to go unpunished even when they are responsible for the prostitution of girls under the age of 18. However, the proposed removal of Section 8 will increase the protection of victims by prohibiting their arrest and punishment. Other changes to the law include, but are not limited to, an amendment to Section 3 which will enhance the punishment for a person who keeps, manages, acts, or assists in the keeping or management of a brothel. The insertion of Section 5A to define the offence of "Trafficking in Persons," and the inclusion of section 5B to provide punishment for the offence are some suggested changes in the ITPA. The Bill is still under consideration and suggestions are being invited to make it a comprehensive legislation on trafficking.

The Juvenile Justice Act of 1986 did not address any offences against children. In 2000, the Government of India amended the law and called it the Juvenile Justice (Care and Protection of Children) Act, which clearly included a separate section on "Special Offences against Children" including forcing children into labour, begging, drug abuse and sexual exploitation. The Act focuses on providing for the care, protection, treatment, education, vocational training, development and rehabilitation of children aged 6-18 years who have been rescued from prostitution. The Child Welfare Committees and protection homes authorised in each state as part of the Act provide strong support for child victims. Importantly, the Act provides for and

requires the participation of non-governmental organisations. Voluntary institutions are responsible for contributing in the form of running children's homes.

The Child Labour (Prohibition and Regulation) Act of 1986 was introduced by the Government in 1989 and has provisions for the freeing and rehabilitation of children found in forced labour. However, the criminal sentence advised by the Act is insufficient and there is no provision to deal with trafficking of children into labour. The Act is under consideration for amendment.

A contribution to the government response has come from the Ministry of Women and Child Development, which has activated the Central Advisory Committee on Combating Child Prostitution. Monthly meetings are held in which State Committees are invited to share their action against trafficking and give suggestions for combating the problem.

Another contribution from the Government has come in the form of the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002. The Convention condemns trafficking for the purpose of prostitution and provides for an agreed-upon way for South Asian countries to deal effectively and consistently with the various aspects of prevention, interdiction, and suppression of trafficking in women and children. Importantly, it provides for the repatriation and rehabilitation of the trafficked women and children. Recently consultations have been held to discuss the operationalisation of the SAARC Convention. An internal task force in the Ministry of External Affairs has been set up to formulate an action plan to operationalise the SAARC Convention and to set up a nodal cell for anti-trafficking measures in the Ministry of Home Affairs (MHA). This

internal task force at national level will address the issue of enabling legislation, programmes and schemes. It will consist of representatives from MHA and MWCD. It will hold periodic meetings to assess the problem and draw up action plans.

A special help-line for trafficked victims and survivors may be initiated by the proposed nodal cell. Though the help-line for women does exist, victims of trafficking, because of their vulnerable position, may require a separate exclusive help-line which is immediately connected to the local police stations or designated help centre.

State governments are planning to ensure better coordination between states to reduce delay in rescue of girls and conviction of brothel owners, pimps and traffickers. There is a need to lay down guidelines for interstate trafficking measures to facilitate coordination, specially in cases of rescue action. There is a possibility of the national nodal cell constituting regional cells in the East, West, North and South zones, for sharing of information and intelligence between state governments and for coordinated action. This has been visualised under the nodal cell set up in the MHA.

The Government has also set up several measures for relief, rescue, protection and rehabilitation of children rescued.

Among these are:

- 342 Short Stay Homes are now in operation to provide shelter, counselling, guidance, medical treatments etc.;
- The MWCD also put in place a protocol to prevent, suppress and punish trafficking in persons. This protocol is for pre-rescue, rescue and post-rescue operation and rehabilitation of child victims of trafficking. The protocol marks the beginning of a positive approach to victim protection and witness assistance.

Although limited to the needs of child victims of trafficking for prostitution, the protocol is a good beginning towards establishing basic standards for care and protection of victims of trafficking (**Annexure-III**);

- Recognising the need to build capacities of persons dealing with the issues of child trafficking and victims of trafficking, NIPCCD, an autonomous body under the Ministry of Women and Child Development and UNICEF Country Office have prepared a training manual on “Counselling Services for Child Survivors of Trafficking”. Specific manuals for social workers, medical practitioners, media etc. have also been prepared by the UNICEF Country Office and widely disseminated for use;
- India is committed to the fight against child trafficking and ratification of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons has been clearly spelt out as a critical strategy in the National Plan of Action for Children, 2005.

## The Non-Governmental Organisation Response

Non-governmental organisations (NGOs) have been constantly working in the areas of prevention, rescue and rehabilitation for the victims of child trafficking. Also, networks of organisations – within the state, intrastate, and at international level have been formed to address these concerns. Several rescue and repatriation operations have been successful. What now needs to be strengthened is the joint action with those organisations, which are working with communities in source areas, to form community watch groups, to ensure that children, daughters, and sisters do not go “missing.” They also need to identify perpetrators so that they can be booked for legal action.

Trafficked persons often find themselves victimised again and again because of the callous attitude of the law enforcement agencies. This hampers the process of rehabilitation and thus needs to be seriously addressed.

Traditionally, law enforcement agencies have been targeting, arresting, and prosecuting sex workers in order to combat trafficking. However, very little has been done to punish the perpetrators of this social evil. Furthermore, an effective programme against child trafficking will involve a coordinated effort between local, state, national, and regional NGOs. The Government along with NGOs will need to attract public attention to the problem, in order to enlist the masses in the fight against child trafficking. The most effective and comprehensive anti-trafficking strategies will come from programmes developed in partnership with NGOs and other actors in civil society.

Knowledge about trafficking must be systematically collated in order to understand the new and emerging dimensions of the problem. Anti-trafficking networks also need to be strengthened. This means creating a coalition of religious leaders, NGOs, schools, community associations, police, judiciary, media and policy makers. Finally, victims and their families are important to consult in the fight against child trafficking.

In order for legislation to be appropriately implemented, government officials from the police, judiciary, and from the Ministry of Women and Child Development, and NGO activists must be trained and sensitised to the issue of child trafficking, and the trends of trafficking must be monitored closely.

# CHAPTER 8

## CONCLUSION AND WAY AHEAD



## Conclusion and Way Ahead

All over the world, recognition of child protection as a human rights concept has been fairly recent. The literary works of the times have only romanticised children and their conditions, and has viewed children as their father's property. Legally also, the father is seen as the natural guardian of the child. Patriarchy and its structures approve of this position and in fact justify extreme forms of chastisement of children. The fact of working children, children in institutions and orphans and destitute children living in inhuman conditions is not new to any civilisation. The child rights movement in itself is young, much younger than the women's movement. However, ever since the movement for betterment of a child's conditions started gaining momentum and acquired strength, there has been a paradigm shift from care and nurturance to protection in a healthy and caring environment. Social justice and the right to life and well-being form the new ideological basis for action.

In India, the concept of child rights and the need to create a protective environment has started to gain ground. However, there is still a great deal that needs to be done. The foremost thing required is the understanding of the fact that as a country with the highest child population in the world, and one that wishes to rest on the laurels of its human resource, it is essential for India to put in place the protective environment the child deserves without any further delay.

The particular economic and socio-political factors in the country also leave certain groups of children more vulnerable and at risk. Such children are dependent on the Government for providing support, education, health care, skill development, protection from violence and freedom from exploitation and other needs. It cannot be denied that in the entire South Asian region they are a particularly neglected group and need special attention. In this, the girl child is even more vulnerable than others. It is essential that the creation of a protective environment be addressed at three levels:

- Policy and legislation
- Schemes, and funding for their implementation
- Advocacy and creation of a cadre of professionals to carry it forward

Besides the role of the Government, the role of each and every individual, all communities and families is critical, as mindsets must change for any improvement to come about in the lives of our children. Just as people have come to understand the importance and relevance of education, and there has been a strong movement in the country in this regard, with people willing to even contribute as tax payers towards ensuring that all children are in school, protection of children must also receive similar priority. In this movement, all actors in civil society and the Government have to cooperate and work towards a coordinated effort.

# ANNEXURES



## Annexures

### ANNEXURE-I:

#### "THE INTEGRATED CHILD PROTECTION SCHEME (ICPS)-

*A Centrally Sponsored Scheme of Government–Civil Society Partnership" (Draft)*

#### Chapter- I CONCEPTUAL BACKGROUND OF THE SCHEME

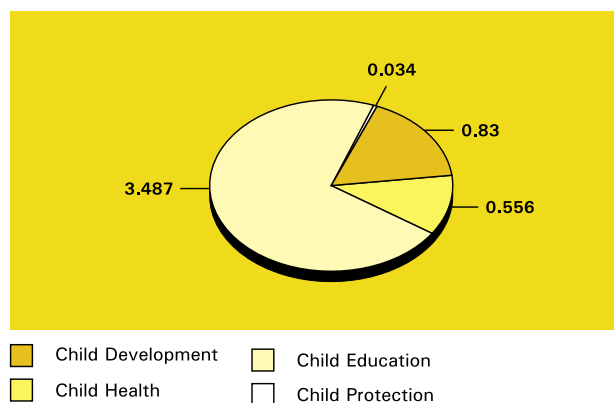
##### 1. Introduction

India is home to almost 19% of the world's children. More than one third of the country's population, around 440 million, is below 18 years. The future and strength of the nation lies in a healthy, protected, educated and well-developed child population that will grow up to be productive citizens of the country. India must invest resources in children proportionate

Year	Total Union Budget (BE) (Rs. Crore)	Total Child Budget (BE) (Rs. Crore)	% Share of Child Budget in Union Budget
2004-05	477829.04	11695.72	2.45
2005-06	514343.82	19841.01	3.86
2006-07	563991.13	27674.58	4.91

*Source: GOI Expenditure Budget, 2004-05. 2005-06 (Vols. 1&2) and "What does Union Budget 2006-07 have for Children", HAQ Centre for Child Rights, Delhi*

#### % Share of Sectoral Allocation on Children in Union Budget, 2006-07



to their huge numbers. An exercise on child budgeting carried out by the Ministry of Women and Child Development revealed that total expenditure on children in 2005-2006 in health, education, development and protection together amounted to merely 3.86%, rising to 4.91% in 2006-07. However, the share of resources for child protection were an abysmal low of 0.034% in 2005-06 and the same in 2006-07.

There is an urgent case for increasing expenditure on child protection so that the rights of the children of India are protected. The neglect of child protection issues not only violates the rights of the children but also increases their vulnerability to abuse, neglect and exploitation.

The Constitution of India recognises the vulnerable position of children and their right to protection. It guarantees in Article 15, special attention to children through necessary and special laws and policies that safeguard their rights. The Right to equality, protection of life and personal liberty and the right against exploitation is enshrined in Articles 14, 15, 16, 17, 21, 23 and 24.

The concern for children has also been expressed in various international Conventions and Standards on child protection including the UN Convention of the Rights of the Child (UNCRC) 1989, the UN Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), 1985, and the UN Rules for the Protection of Juveniles Deprived of their Liberty, 1990. The Government of India ratified the UN Convention on the Rights of the Child (UNCRC) in 1992. The Convention prescribes standards to be adhered to by all State parties in securing the best interest of the child. It emphasises social reintegration of child victims, without resorting to judicial proceedings. The UNCRC outlines the fundamental rights of children, including the right to be protected from economic exploitation and harmful work, from all forms of sexual exploitation and abuse, and from physical or mental violence, as well as ensuring that children will not be separated from their family against their will.

Major policies and legislations issued in the country to ensure children's protection

and improvement in their status include the Guardian and Wards Act, 1890; Factories Act, 1954; Hindu Adoption and Maintenance Act, 1956; Probation of Offenders Act, 1958; Bombay Prevention of Begging Act, 1959; Orphanages and Other Charitable Homes (Supervision and Control) Act, 1960; National Policy for Children, 1974; Bonded Labour System (Abolition) Act, 1976; Child Marriage Restraint Act, 1979; Immoral Traffic Prevention Act, 1986; Child Labour (Prohibition and Regulation) Act, 1986; National Policy on Education, 1986; Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1987; National Policy on Child Labour, 1987; Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992; National Nutrition Policy, 1993; Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994; Persons with Disabilities (Equal Protection of Rights and Full Participation) Act, 2000; Juvenile Justice (Care and Protection of Children) Act, 2000; National Health Policy, 2002; National Charter for Children, 2004 and National Plan of Action for Children in 2005.

However, these policies and legislations for children have on the whole suffered from weak implementation, owing to scant attention to issues of child protection, resulting in scarce resources, minimal infrastructure, and inadequate services to address child protection problems.

'Child Protection' is about protecting children from or against any perceived or real danger or risk to their life, their personhood and childhood. It is about reducing their vulnerability to any kind of harm and protecting them in harmful situations. It is about ensuring that no child falls out of the social security and safety net and those

who do, receive necessary care, protection and support so as to bring them back into the safety net. While protection is a right of every child, some children are more vulnerable than others and need special attention. The Government recognises these children as 'children in difficult circumstances', characterised by their specific social, economic and geo-political situations. In addition to providing a safe environment for these children, it is imperative to ensure that all other children also remain protected. Child protection is integrally linked to every other right of the child. Failure to ensure children's right to protection adversely affects all other rights of the child. Thus, the Millennium Development Goals (MDGs) also cannot be achieved unless child protection is an integral part of programming strategies and plans. Failure to protect children from such issues as violence in schools, child labour, harmful traditional practices, child marriage, child abuse, the absence of parental care and commercial sexual exploitation among others, means failure in fulfilling both the Constitutional and international commitments towards children.

In light of its expanded mandate, the new Ministry of Women and Child Development views Child Protection as an essential component of the country's strategy to place ***'Development of the child at the centre of the 11<sup>th</sup> Plan'***. Violations of the child's right to protection, in addition to being human rights violations, are massive, under-recognised and under-reported obstacles to child survival and development. Failure to protect children has serious consequences for the physical, mental, emotional, social development of the child, with consequences in loss in productivity and the loss in human capital for the nation.

The National Plan of Action for Children, 2005 articulated the rights agenda for the development of children. The NPAC 2005 is the basis for planning for children in the XI Plan in all sectors and the principles articulated in it should guide the planning and investments for children. Moreover, to achieve the Millennium Development Goals also, such a comprehensive approach to child protection is required. All budgets for child protection schemes and programmes should be in the plan category and not in the non-plan category.

The Ministry of Women and Child Development, therefore, endeavors to create a strong foundation for a protective environment for children. Child protection incorporates both prevention and care and recovery aspects. Children have a right to be prevented from becoming subjects of violence, abuse, neglect and exploitation, and once victimised, are entitled to services, which hasten their recovery and reduce further trauma. The Ministry will undertake a strong advocacy and implementation strategy to enhance the infrastructure for protection services, increase access to a wider range and better quality of services, and increase the investment for protection of children.

## 2. Existing Child Protection Mechanisms

The existing mechanisms for child protection in India primarily flow from the provisions under the Juvenile Justice (Care and Protection of Children) Act, 2000 and National Plan of Action for Children, 2005. These comprise several programmes and schemes implemented by different ministries and departments addressing child protection issues among which are:

- **A Programme for Juvenile Justice** for children in need of care and protection and children in conflict with law. The Government of

India provides financial assistance to the State Governments/UT Administrations for establishment and maintenance of various homes, salary of staff, food, clothing, etc. for children in need of care and protection and juveniles in conflict with law. Financial assistance is based on proposals submitted by States on a 50-50 cost sharing basis.

- **An Integrated Programme for Street Children** without homes and family ties. Under the scheme, NGOs are supported to run 24 hours drop-in shelters and provide food, clothing, shelter, non-formal education, recreation, counselling, guidance and referral services to them. The other components of the scheme include enrollment in schools, vocational training, occupational placement, mobilising preventive health services and reducing the incidence of drug and substance abuse, HIV/AIDS etc.
- **CHILDLINE Service** for children in distress, especially children in need of care and protection so as to provide them medical services, shelter, rescue from abuse, counselling and repatriation.
- **Shishu Greha Scheme** for care and protection of orphans/abandoned/destitute infants or children up to 6 years and promote in-country adoption for rehabilitating them.
- **Scheme for Working Children in Need of Care and Protection** for children working as domestic help, at roadside dhabas, mechanic shops, etc. The scheme provides for bridge education and vocational training, medicine, food, recreation/sports equipments, etc.
- **Rajiv Gandhi National Crèche Scheme for the Children of Working Mothers** in the age group of 0-6 years. The scheme provides for

comprehensive day-care services including facilities like food, shelter, medical, recreation, etc.

- **Pilot Project to Combat the Trafficking of Women and Children for Commercial Sexual Exploitation** in source and destination areas for providing care and protection to trafficked and sexually abused women and children. Components of the scheme include networking with law enforcement agencies, rescue operation, temporary shelter for the victims, repatriation to hometown and legal services, etc.
- **Central Adoption Resource Agency (CARA)** is an autonomous body under the Ministry of Women and Child Development to help both Indian and foreign agencies involved in inter country adoption of Indian children to function within a prescribed framework so that such children are adopted legally through recognised agencies and no exploitation takes place.
- **National Child Labour Project (NCLP)** for the rehabilitation of child labour. Under the scheme, Project Societies at the district level are fully funded for opening up of special school/rehabilitation centres for the rehabilitation of child labour. These special schools/rehabilitation centres provide non-formal education, vocational training, supplementary nutrition, stipend etc. to children withdrawn from employment.

In early 2006, the Department of Women and Child Development became a full-fledged Ministry and the juvenile justice and adoption related matters were transferred to this new Ministry. However, Child Protection has never been a programme of any one Ministry/Department and in spite of this

rationalisation, child labour issues continue to be dealt with by the Labour Ministry. However, for Child Protection to be dealt with more effectively there is a need for lateral linkages by the Ministry of Women and Child Development with relevant sectors such as Railways, Industry, Trade and Commerce, Rural Development, Urban Affairs, Tourism, Banking, Legal Affairs, Home Affairs, Health and Family Welfare, and Information and Broadcasting.

Some of the schemes of the Ministry of Women and Child Development under the women's welfare section address issues concerning protection of the girl child even though there is no girl child specific component and budget under these schemes. These need to be considered as child protection schemes and in the years to come they could perhaps have a clearly defined child protection component and budget. These schemes include:

- Swadhar
- Short Stay Home
- Scheme for rescue of victims of trafficking
- Relief and rehabilitation of rape victims

The Kishori Shakti Yojana is another scheme of the Ministry of Women and Child Development that can be used to meet protection goals. While its main focus is nutrition for adolescent girls, the scheme provides a platform for raising protection concerns with this age group and empowering them with information, knowledge and skills to be able to protect themselves.

The Rajiv Gandhi National Scheme for the Children of Working Mothers, implemented by the Ministry of Women and Child Development, is primarily seen as fulfilling child development goals only. However, protection

needs of children aged 0-6 years are also met through crèche and day care facilities and hence it may well be taken as a child protection scheme also.

There are some schemes for disabled persons under the Ministry of Social Justice and Empowerment. Since they do not have a child focus or specific component for children, issues of disabled children get very little attention.

### **3. Limited Resources/Budget Allocations**

All the above schemes put together have an abysmally low budget. A Child Budget exercise carried out by the Ministry of Women and Child Development revealed the persistently low level of fund allocation for child protection. The total share of child protection in the Union Budget for 2005-06 was just 0.034% (see table on next page) and the budget estimates for the current financial year 2006-07 has remained the same. Scarcely any allocations have been made for child protection since independence, a reflection of the low priority this sector has received in government's own planning and implementation, resulting in scant State interventions toward child protection.

The share of child protection in the Union Budget has remained at 0.03 percent. However, over the years the share of child protection in the overall budget for children has seen a decline. Child protection is an overarching issue, which if not covered will affect each and every right of children. The meagre financial resources invested in child protection translate into serious gaps in child protection measures and programmes.

# Union Government's Budgetary Provisions for Child Protection (2001-02 to 2006-07) (Rs. Crore)

Child Protection	2000-01 RE	2000-01 AE	2001-02 RE	2001-02 AE	2002-03 RE	2002-03 AE	2003-04 RE	2003-04 AE	2004-05 RE	2004-05 AE	2005-06 RE	2006-07 BE
Central Adoption Resource Agency	1.500	0.468	1.800	0.950	1.300	1.300	1.200	1.030	1.300	1.150	1.300	1.500
Asst. for promoting in-country adoption	2.700	1.880	3.200	1.578	2.600	2.129	2.700	2.289	2.650	2.225	2.000	3.000
Scheme for street children	9.500	7.243	10.800	8.052	11.000	10.996	9.900	9.899	12.550	11.784	10.800	13.000
Welfare of Working Children in Need of Care and Protection	0.000	0.000	0.000	0.000	1.120	0.000	1.000	0.000	1.000	0.000	2.000	3.000
Programme for Juvenile Justice (Prevention and Control of Juvenile Maladjustment)	10.550	10.500	11.250	15.188	14.400	14.329	14.400	16.330	18.900	19.714	20.430	25.000
Child Labour Cell	34.630	37.590	61.800	61.809	70.100	65.072	67.950	67.336	98.120	93.140	115.450	127.050
Assistance to voluntary organisations for setting up of Short Stay Homes	9.770	9.770	12.840	6.033	12.840	13.26	15.350	15.689	14.400	15.260	15.000	17.500
Swadhar					9.000	4.042	0.800	1.115	3.690	4.213	5.500	8.000
Scheme for rescue of victims of trafficking											0.250	0.500
Relief and rehabilitation of rape victims												1.000
<b>Total – Child Protection</b>	<b>68.650</b>	<b>67.451</b>	<b>101.690</b>	<b>93.612</b>	<b>122.360</b>	<b>111.128</b>	<b>113.300</b>	<b>113.688</b>	<b>152.610</b>	<b>147.486</b>	<b>172.730</b>	<b>199.550</b>
Source: Demand for grants – Ministry of Labour, MSJE and HRD for the year 2000-01 to 2006-07												
** Other Schemes in adoption, CARA al												
RE: Revised Estimates												
Note: The above table does not include financial allocation for Rajiv Gandhi National Crèche Scheme for Children of Working Mothers being implemented by the Ministry of Women and Child Development, Government of India, which is Rs. 100 Crores (BE) in the current financial year, i.e. 2006-07												

## Percentage Share of Sectoral Allocation on Children in Union Budget

Year	% Share of Child Development in Child Budget	% Share of Child Health in Child Budget	% Share of Child Education in Child Budget	% Share of Child Protection in Child Budget	% Share of Total Child Budget in Union Budget
2004-05	0.422	0.423	1.567	0.033	2.445
2005-06	0.658	0.527	2.638	0.034	3.857
2006-07	0.830	0.556	3.487	0.034	4.907

Source: GOI Expenditure Budget 2004-05, 2005-06, 2006-07 (Vols. 1&2) and HAQ Centre for Child Rights, Delhi

### 4. Glaring Gaps in Services

A close examination by the newly created Ministry of Women and Child Development of existing child protection schemes has revealed major shortcomings and gaps in the infrastructure, set-up and outreach services for children. The minimal government structure that exists is rigid and a lot of time and energy goes in maintaining the structure itself rather than concentrating on programmatic outcomes. Existing programmes and schemes are marked by limitations such as:

#### *Poor planning and coordination*

- Lack of linkages with essential lateral services for children, for example education, health, police, judiciary, services for the disabled, etc.
- No mapping has been done of the children in need of care and protection or of the services available for them at the district/city/state level;
- Lack of coordination and convergence of programmes/services;
- Supervision, monitoring and evaluation of the juvenile justice system is weak.

#### *Low coverage*

- Large percentage of children in need of care and protection are outside the safety net and get no support and services;
- Allotment of negligible resource to child protection and uneven utilisation

of allotted resources in terms of geographical spread;

- Existing Schemes inadequate in outreach and funding leading to marginal coverage of destitute children;
- Realising that poverty and desire for a better life is leading to a large scale migration of rural populations to urban and semi urban centres, which in turn has created a large number of vulnerable children in urban situations, demands focused strategies and interventions;
- Inadequate addressal of issues like child marriage, female foeticide, street children, working children, discrimination against the girl child, etc.;
- No interventions for children affected by HIV/AIDS, drug abuse, militancy, disaster (both manmade and natural), abused and exploited children and children of vulnerable groups like commercial sex workers, prisoners, migrant population, etc.

#### *Poor Infrastructure*

- Inadequate implementation of laws and legislations in terms of structures prescribed by those legislations not being in place;
- Lack of institutional infrastructure to deal with child protection;
- The CWCs and JJBs not provided with requisite facilities for their efficient functioning, resulting in delayed enquiries and disposal of cases.

*Inadequate Human Resources*

- Inadequate number of Child Welfare Committees (CWC) and Juvenile Justice Boards (JJB);
- Training of personnel working under the juvenile justice system and on other child protection programmes is inadequate and inequitable among States.

*Serious Service Gaps*

- Lack of support services to families at risk leads to more children becoming vulnerable;
- Overbearing focus on institutional support and non-institutional services negligent;
- Inter-state and Intra-state transfer of children specially for their restoration to their families have not been provided for in the existing schemes;
- Lack of standards of care (accommodation, sanitation, leisure, food, etc.) in children/ observation homes due to lower funding

norms and also due to lack of supervision and commitment;

- Most 24-hour shelters do not provide all the basic facilities required, specially availability of shelter, food and mainstream education;
- Not all programmes address issues of drug abuse, HIV/AIDS and sexual abuse related vulnerabilities of children;
- None of the existing schemes address the needs of child beggars;
- Minimal use of non-institutional care options like adoption, foster care and sponsorship, etc. to children without home and family ties;
- Number of Shishu Grehas are inadequate leading to few adoptions;
- Lack of rehabilitation services for older children not adopted through the regular adoption process;
- Aftercare and rehabilitation programme for children above 18 years are not available in all States, and where they do exist they are run as any other institutions under the JJ Act, 2000.

## Chapter- II

### THE INTEGRATED CHILD PROTECTION SCHEME

The Integrated Child Protection Scheme concretises the Government/State responsibility for creating a system to protect children in the country. Such a system is influenced by the nature of regulatory frameworks, structures, resources, professionals, and the relationships between them. When the child protection system functions in the best interest of the child, adequate state and voluntary institutions, services and structures are put in place, backed strongly by policies, laws and regulations. Professionals providing services for children are competent and bound by professional standards. Children's views are taken into account.

The Integrated Child Protection Scheme is based on the cardinal principles of "protection of child rights" and "best interests of the child". The ICPS aims to promote the best interests of the child and prevent violations of child rights through appropriate punitive measure against perpetrators of abuse and crimes against children and to ensure rehabilitation for all children in need of care and protection. It aims to create a protective environment by improving regulatory frameworks, strengthening structures and professional capacities at national, state and district levels so as to cover all child protection issues and provide child-friendly services at all levels.

#### 1. Principles of ICPS

The following key principles underlie the ICPS approach:

- (i) **Child protection, a shared responsibility:**  
The responsibility for child protection is a shared responsibility of government, family, community, professionals, and civil

society. It is important that each role is articulated clearly and understood by all engaged in the effort to protect children. Government has an obligation to ensure a range of services at all levels.

- (ii) **Reducing child vulnerability:** There is a need for a focus on systematic preventive measures not just programmes and schemes to address protection failures at various levels. A strong element of prevention will be integrated into programmes, converging the provisions and services of various sectors on the vulnerable families, like livelihood support (NREGS), SHGs, PDS, health, child day care, education, to strengthen families and reduce the likelihood of child neglect, abuse and vulnerability.
- (iii) **Strengthen family:** Children are best cared for in their own families and have a right to family care and parenting by both parents. Therefore a major thrust will be to strengthen the family capabilities to care for and protect the child by capacity building, family counselling and support services and linking to development and community support services.
- (iv) **Promote non-institutional care:** There is a need to shift the focus of interventions from an over-reliance on institutionalisation of children and move towards more family and community – based alternatives for care. Institutionalisation should be used as a measure of last resort after all other options have been explored.
- (v) **Intersectoral linkages and responsibilities:** Child protection needs dedicated sectoral focus as well as strengthening protection awareness and protection response from other sectors outside the traditional protection sector including in emergencies and HIV/AIDS programming.
- (vi) **Create a network of services at community level:** An appropriate network of essential

protection services is required at all levels for supporting children and communities.

- (vii) **Establishing standards for care and protection:** All protection services should have prescribed standards, protocols for key actions and should be monitored regularly. Institutionalisation should be for the shortest period of time with strict criteria being established for residential placement and all cases of institutionalisation reviewed periodically.
- (viii) **Building capacities:** Protection services require skilled, sensitive staff, equipped with knowledge of child rights and standards of care and protection. Capacities of all those in contact with children require strengthening on a continuing basis, including families and communities.
- (ix) **Providing child protection professional services at all levels:** There is a need for varied special services for the many situations of child neglect, exploitation and abuse, including for shelter, care, psychological recovery, social reintegration, legal services etc. which have to be professional and child-focused.
- (x) **Strengthening crisis management system at all levels:** First response and coordinated inter-sectoral actions for responding to crisis need to be established and institutionalised.
- (xi) **Reintegration with family and community:** systems to be put in place for efforts to reintegrate children with their families and community and regular review of efforts instituted.
- (xii) **Addressing protection of children in urban poverty:** Children in urban poverty are at high risk/increased vulnerability; constantly under threat of eviction; denial or exclusion from basic services; social turmoil; and the stretched capacity of the adults to function as adequate caretakers due to

their poverty. This indicates the need for developing a strong social support and service system.

- (xiii) **Child impact monitoring:** All policies, initiatives and services will be monitored for their child impact and reports made public, including for children themselves through child-friendly reports.

## 2. The Approach

In order to reach out to all children, in particular to those in difficult circumstances, the Ministry of Women and Child Development proposes to combine its existing child protection schemes under one centrally sponsored scheme titled **“Integrated Child Protection Scheme (ICPS)”**. The proposed ICPS brings together multiple vertical schemes under one comprehensive child protection programme and integrates interventions for protecting children and preventing harm.

It does not see child protection as the exclusive responsibility of the MWCD but stresses that other sectors have vital roles to play. The Ministry looks at child protection holistically and seeks to rationalise programmes for creating a strong protective environment for children, diversify and institutionalise essential services for children, mobilise inter-sectoral response for strengthening child protection and set standards for care and services.

ICPS will function as a **Government-Civil Society Partnership** scheme under the overarching direction and responsibility of the Central/State Governments. It will work closely with all stakeholders including government departments, the voluntary sector, community groups, academia and, most importantly, families and children to create a protective environment for children in the country. Its holistic approach to child protection services and mechanisms is reflected in stronger lateral linkages and

complementary systems for vigilance, detection and response. The scheme visualises a structure for providing services as well as monitoring and supervising the effective functioning of child protection system, involving:

- **Government:** To hold primary responsibility for the development, funding and operation of the service covered under the scheme. In order to ensure effective functioning of the system, the Government shall provide flexibility by cutting down rigid structures and norms. To attract the best professional talent and strengthen public-private partnership, the scheme proposes to hire services of professionals on a contractual basis.
- **Civil society organisations:**
  - Voluntary sector: To provide vibrant, responsive and child-friendly services for detection, counselling, rehabilitation for all children in need as well as provide technical support; these may be financially supported by the State.
  - Research and training institutions: To carry out activities related to research and capacity building of existing manpower as well as support creation of a cadre of professional manpower.
  - Media and advocacy groups: To promote rights of the child and child protection issues with sensitivity and promote child's dignity and worth.
  - Corporate sector:
- **Community groups and local leaders, youth groups, families and children:** To provide protective and corrective environment for children, to act as watchdog and monitor child protection services as well as service providers, both Government and NGO functionaries.

### 3. Target Groups

**Child in need of care and protection** means a child who:

- is found without any home or settled place or abode and without any ostensible means of subsistence;
- resides with a person (whether a guardian of the child or not) and such person has threatened to kill or injure the child and there is a reasonable likelihood of the threat being carried out, or has killed, abused or neglected some other child or children and there is a reasonable likelihood of the child in question being killed, abused or neglected by that person;
- is a mentally or physically challenged or ill child or a child suffering from terminal diseases or incurable diseases, and/or having no one to support or look after him/her;
- has a parent or guardian and such parent or guardian is unfit or incapacitated to care for or exercise control over the child;
- does not have a parent/parents and no one is willing to take care of him/her, or whose parents have abandoned him/her or who is a missing and/or runaway child and whose parents cannot be found after reasonable inquiry;
- is being or is likely to be grossly abused, tortured or exploited for the purpose of sexual abuse or illegal acts;
- is found vulnerable and is likely to be inducted into drug abuse or trafficking;
- is being or is likely to be abused for unconscionable gains;
- is a victim of any armed conflict, civil commotion or natural calamity.

**Children in conflict with the law** is one who is alleged to have committed an offence.

**Children in contact with law** is one who has come in contact with the law either as victim or as a witness or due to any

other circumstance.

**Any other vulnerable child including, but not limited, to** children of potentially vulnerable families and families at risk, children of socially excluded groups like migrant families, families living in extreme poverty, lower caste families, families subjected to or affected by discrimination, minorities, children infected and/or affected by HIV/AIDS, orphans, child drug abusers, children of substance abusers, child beggars, trafficked or sexually exploited children, children of prisoners, and street and working children, would also be covered under the Scheme.

#### 4. Objectives of the Scheme:

- (i) To create a safety net for children in need of care and protection and children in conflict with law by building a protective environment for them, keeping their best interests in mind;
- (ii) To promote preventive measures to protect children from falling in the situations of vulnerability, risk and abuse;
- (iii) To promote preventive measure to address the vulnerabilities of families and build their ability and capacity protect their children;
- (iv) To supplement and strengthen the infrastructure established under the Juvenile Justice (Care and Protection) Act, 2000;
- (v) To build capacities of families, communities, and NGOs to strengthen care, protection and response to children;
- (vi) To create State and District Child Protection Units as well as State Adoption Cells;
- (vii) To promote in-country adoption and regulate inter-country adoption as well as ensure minimum standards;
- (viii) To provide services to the more vulnerable categories of children through specialised programmes;
- (ix) To establish linkages for restoration of children to their biological families and placement with adoptive families or foster families, where necessary;
- (x) To provide specialised institutional care to infants and children up to 6 years of age who are either abandoned or orphaned/destitute;
- (xi) To check and end female foeticide and infanticide in the country;
- (xii) To provide services to street and destitute children, including child beggars;
- (xiii) To provide for care and support services for children affected by HIV/AIDS;
- (xiv) To establish CHILDLINE in every district, for creating access in emergencies by providing counselling, restoration and rehabilitative services to children along with linkages to other available services under various schemes of the Government of India/State Governments;
- (xv) To train and sensitise local bodies, police, judiciary and other concerned departments of State Governments to undertake related responsibilities;
- (xvi) To strengthen the knowledge base by undertaking research and documentation, resource mapping of services, the creation of a Management Information System (MIS) for tracking vulnerable children, and database management;
- (xvii) To carry out advocacy and spread awareness about child and family-related issues for supporting the family;
- (xviii) To network with the Allied Systems, i.e. Government departments and Non-Government agencies;
- (xix) To initiate any other need-based specialised innovative services through families, community and panchayats/ local bodies, including child guidance and counselling, especially to combat drug

abuse, sexual abuse, child marriage, and discrimination against the girl child.

## 5. Strategies

The ICPS will be guided by the critical child protection strategies and priorities visualised under the National Plan of Action for Children, 2005. These strategies will be based on four major parameters, including:

### Prevention

- Preventing destitution and exploitation of children through care, protection and developmental programmes;
- Achieving 100% registration of births, deaths and marriages by 2010;
- Establishing support services for families at risk;
- Eradication of harmful, traditional and customary practices that put children at risk, particularly of trafficking and sexual exploitation;
- Ensuring survival, development and protection of the girl child and restoring her dignity by eliminating harmful, discriminatory and unethical traditional practices, and providing legal, medical, social and psychological support services and opportunities for development of their full potential;
- Ensuring enforcement of all laws relating to children, particularly the Child Marriage Restraint Act, PNDT Act, ITPA, Juvenile Justice (Care and Protection of Children) Act, Child Labour (Prohibition and Regulation) Act, amongst others;
- Prevention of cross-border trafficking and creation of nodal authorities and other infrastructure to deal with all kinds of child trafficking;
- Adoption of a national law to deal with child trafficking, including ratification of the international instruments such as the

UN Protocol on Trafficking in Persons;

- Ensuring access to mainstream education for all child labourers by 2012 and access to nutrition, clothing and protection from all forms of abuse and neglect;
- Elimination of child marriages;
- Eliminate disability due to poliomyelitis by 2007 ;
- Creation of effective links and quick referrals between ICDS, Primary Health Centres, mother and child programmes and hospitals (paediatric units) for early detection of high risk babies and children with disabilities
- Access to neighbourhood schools and inclusive education, accessible and disable-friendly infrastructure, early childhood care for the disabled child, inclusion of children with mental illness in all existing schemes for children with disability, vocational training, capacity building of caregivers, access to services, support and protection, implementation of the disability law;
- Prevention of mother-to-child transmission of HIV/AIDS;
- Requisite counselling, awareness generation and support services for adolescents to prevent them from becoming vulnerable and protect them from harm;
- Contingency planning and emergency preparedness;
- Convergence with related Ministries/ Department at Central and State levels;
- Enlisting support from the private sector;
- Ensuring child-specific interventions in all urban planning.

### Protection

- Special measures for protection of children in urban and semi-urban situations;
- Special attention to certain categories of children requiring greater focus such as, child beggars, child labour, street children, children in need of care and protection and children in

conflict with law as covered by the juvenile justice act, trafficked children, child victims of sexual abuse and exploitation, children affected by natural and man made disasters, children of sex workers and prisoners, children affected by armed conflict and civil disorders;

- Ensuring a supportive and enabling environment for care and protection of children affected by HIV/AIDS;
- Quality health care and services, including free Anti-Retroviral therapy for children infected with HIV virus;
- Development of special packages for children abandoned on account of HIV/AIDS
- Promoting community based care and rehabilitation for all children in difficult circumstances;
- CHILDLINE and other necessary support service, infrastructure, referral for children in emergency situations;
- Promotion of quality institutional and alternative care;
- Upgradation of standards of existing services;
- Infrastructural support to NGOs for destitute, orphan children through in-country adoption;
- Combating trafficking of narcotic drugs, psychotropic substance to prevent the use by children and creating mechanisms for rehabilitation of child substance abusers;
- Drop-in shelters which encourage children's voluntary attendance and participation in activities such as music, theater, yoga and meditation, computers, games and other creative activities so as to ensure their overall development, care and protection and to reduce social deviance;
- Implementation of juvenile justice law;
- Creation of child-friendly judicial and administrative procedures for dealing with children;
- Free legal aid and advice for children in conflict with law;

- Assistance to child victims of abuse and exploitation for their full physical and psychological recovery, development and social reintegration;
- Institution of a rights-based uniform definition of child labour and bonded labour;
- Elimination of all forms of child labour by linking it with ensuring right to education for all children;
- Convergence with related Ministries/ Department at Central and State levels;
- Enlisting support from the private sector.

### **Awareness and Capacity Building**

- Public awareness, sensitisation and mobilisation of parents, caregivers, community and other actors in civil society;
- Professional counselling services for children in psychological trauma and establishment of accredited training courses/institutions for creating a cadre of trained counsellors;
- Large-scale investment in capacity building of all caregivers and service providers;
- Sensitise Allied Systems to the problems of children;
- Convergence with related Ministries/ Department at Central and State levels;
- Enlisting support from the private sector.

### **Research and Documentation**

- Development of a system of identification, investigation, reporting, follow-up and referral of children at risk within and outside homes/institutional care;
- Maintaining disaggregated database for all categories of children in difficult circumstances, including child labour, child marriage, disabled children etc. through Census and programme specific Management Information System (MIS);
- Convergence with related Ministries/ Department at Central and State levels;
- Enlisting support from the private sector.

## **Chapter- III**

### **PROGRAMME FRAMEWORK**

Through ICPS, the Ministry of Women and Child Development envisages to carve out a broad and comprehensive framework for child protection in the XI Plan and set the foundation for creating and strengthening a robust protective environment for children. Child protection concept incorporates prevention, protection and rehabilitation aspects. Children have a right to be prevented from becoming subjects of violence, abuse, neglect and exploitation, and at the same time if they do become victims, the State has a duty to address the impact of violation of their rights through appropriate law, policy and action. This should be carried out with strong advocacy and a detailed implementation strategy for enhancing the infrastructure for protection services, increasing the access and range of services and increasing the investment for protection of children.

The Integrated Child Protection Scheme will focus on mapping of needs and services for children and families at risk and preparation of child protection plans at district and state levels, strengthening the service delivery mechanisms and programmes including capacity development of service providers, counselling and family support, strengthening knowledge base, awareness and advocacy. ICPS aims at greater outreach by bringing the existing programmes under one umbrella and initiating new interventions. The programme components of ICPS include:

#### **1. Improved Reporting and Redressal Mechanism**

##### **1.1. CHILDLINE Service:**

CHILDLINE is a 24 hour emergency phone outreach service for children in need of care and protection linking them to long-term services for rehabilitation. The service can be

accessed by a child in difficulty or an adult on his behalf by dialing 1098. At present the CHILDLINE service is operational in 74 cities of the country. In order to create a protective environment for children in the country, it is important to expand the CHILDLINE service to all the districts/cities.

##### **CHILDLINE India Foundation (CIF) and its Four Regional Centres:**

The CHILDLINE India Foundation is a voluntary organisation established by the Government of India in 1999 as the nodal agency for the CHILDLINE service to initiate and monitor the performance of CHILDLINE service in new cities and to conduct training/sensitisation, research and advocacy at the national level on child protection issues.

Under the ICPS, CIF shall be given the status of a "Mother NGO" for running CHILDLINE Service in the country. The Ministry of Women and Child Development shall provide a bulk grant to CIF every year in two installments of 50% each, which shall be further released to the partner NGOs of CHILDLINE network by CIF. The Scheme shall strengthen the capacity of CIF by launching its Four Regional Centres in the country, besides supporting CIF's Headquarters in Mumbai.

In order to support CIF and its Four Regional Centres in carrying out the nodal responsibility of expansion and monitoring of CHILDLINE services in the country, the Scheme shall provide financial support. The details are being worked out.

##### **1.2. Special Juvenile Police Units (SJPU):**

The Juvenile Justice Act, 2000 provides for setting up Special Juvenile Police Units in every district and city to coordinate and upgrade the police interface with children.

All the police officers designated as juvenile/child welfare officers in the district or city are members of the SJPU. While some States/UT's have formed the SJPU, there are many State/UT's who have either not set up SJPU or are in the process of setting up. The scheme shall provide for two social workers in each SJPU for supporting the unit. This is also a statutory requirement as the Juvenile Justice Act, 2000 provides for two paid social workers to be placed in each SJPU. The District Child Protection Unit (refer page-29) in consultation with the Police Department shall appoint these social workers on contractual basis and their performance shall be evaluated at the end of the year before extending their services for another term.

The Scheme would facilitate the setting up of SJPU in each district or city expeditiously by providing financial assistance to the State Government. The Scheme shall provide financial support for setting up Special Juvenile Police Units. The detailed guidelines are being worked out.

### **1.3. Child Welfare Committees (CWCs):**

The Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 recently passed by both the houses of Parliament makes it mandatory to have one Child Welfare Committee in each district as the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection and to provide for their basic needs and protection of human rights. While many State Governments and UT Administrations have set up the CWCs, there are still some State/UTs that are yet to set up the CWCs. Further, the number of CWCs constituted in many States/UTs are not adequate leaving a gap

in implementation of the Juvenile Justice Act, 2000.

In an effort to facilitate setting up of CWC's in every district and ensure their effective functioning, the Scheme shall provide adequate infrastructure and support in addition to financial assistance to the State Government and UT Administration. The Scheme shall provide financial support for setting up Child Welfare Committees. The detailed guidelines are being worked out.

### **1.4. Juvenile Justice Boards (JJBs):**

The Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 recently passed by both the houses of Parliament makes it mandatory to have one Juvenile Justice Board in each district to deal with matters relating to juveniles in conflict with law. There are many States/UT's in the country, which have not yet established JJBs. Even in those States/UT's where JJBs have been established, the infrastructure is inadequate making it difficult for the JJBs to effectively discharge their duties. In some States/UTs the number of JJBs are inadequate in terms of overall coverage of the total number of juveniles in conflict with law, which puts a lot of burden on the existing JJBs. All these ultimately result in unnecessary delays in disposition of matters pending before these Boards.

In an effort to facilitate setting up of a JJB in each district and ensure their effective functioning, the Scheme shall provide adequate infrastructure and support in addition to financial assistance to State Governments/UT Administrations. The Scheme shall provide financial support for setting up Juvenile Justice Boards. The detailed guidelines are being worked out.

## **2.Improved Institutional Care**

### **2.1. Shelter Homes:**

The Juvenile Justice Act empowers State Governments to recognise reputed and capable voluntary organisations and provide them assistance to set up and administer Shelter Homes for children in need of care and protection. These homes function as drop-in-centres cum night-shelter for children in need of urgent support brought to such homes.

In order to facilitate and expedite setting up of Shelter Homes in every district or group of districts, the scheme would provide financial support to the State Governments and Union Territories.

The Scheme shall provide financial support for setting up Shelter Homes. The detailed guidelines are being worked out.

### **2.2. Children's Homes:**

The Juvenile Justice Act empowers the State Government either by itself or in association with the voluntary organisations to set up Children's Homes in every district or group of districts for the reception of the child in need of care and protection during the pendency of any inquiry and subsequently for their care, treatment, education, training, development and rehabilitation.

In order to facilitate and expedite setting up of Children's Homes in every district or group of districts, the scheme would provide financial support to the State Governments and Union Territories. The Scheme shall provide financial support for setting up Children's Homes. The detailed guidelines are being worked out.

### **2.3. Observation Homes:**

As provided for under the Juvenile Justice Act, 2000, the State Government is

empowered to establish and maintain either by itself or under an agreement with voluntary organisations, observation homes in every district or group of districts for the temporary reception of juveniles in conflict with law during the pendency of any inquiry regarding them under the Act.

In order to facilitate and expedite setting up of Observation Homes in every district or group of districts, the scheme would provide financial support to the State Governments and Union Territories. The detailed guidelines are being worked out. While setting up an Observation Home, the Minimum Standards of Care for Juveniles in institutions set up under the Act given in **Annexure-'A'** shall be adhered to.

### **2.4. Special Homes:**

The State Governments are empowered to establish and maintain either by itself or under an agreement with voluntary organisations, special homes in every district or group of districts for the reception and rehabilitation of juveniles in conflict with law.

In order to facilitate and expedite setting up of Special Homes in every district or group of districts, the scheme shall provide financial support to the State Governments and Union Territories. The Scheme shall provide financial support for setting up Special Homes. The detailed guidelines are being worked out.

### **2.5. Special Shelter and Care Measure for Children Infected and Affected by HIV/AIDS:**

The growing epidemic of HIV/AIDS in India has affected the lives of children in many ways. Majority of them affected by the prevalence of HIV/AIDS include those children who have either lost their parents/siblings/ extended family or those who are vulnerable

because of their existing situation. There is a direct effect of the infection on children's health, nutrition, education and emotional well being. The indirect effects can be seen in increase of poverty, homelessness, malnutrition, discrimination including lack of access to mainstream resources like school and health care, psychological distress, neglect and maltreatment. The gender related risks like female foeticide, child sexual abuse, child marriage, etc. also increase.

In order to provide protection, care and support to meet both psychological and material needs of children infected/affected by and vulnerable to HIV/AIDS, the scheme shall support setting up of specialised shelter homes. These shelter homes shall create necessary infrastructure and promote all round development of children. Such homes shall have a child-friendly atmosphere. The Scheme shall provide financial support for setting up Shelters Homes for Children infected and affected by HIV/AIDS. The details are being worked out. The Scheme shall also support non-institutional care for children infected and affected by HIV/AIDS, which is part of the Sponsorship and Foster Care Placement programme at district level.

### 3. Quality Non-institutional and Alternative Care:

#### 3.1. Shishu Grehas cum Cradle Baby Reception Centres:

It is an accepted fact that the child develops best in his or her own cultural and social milieu in a family environment. Thus placement of a child through adoption in an indigenous setting is ideal for his or her growth and development. Inter-country adoption, i.e. adoption of Indian children by adoptive parents residing abroad, shall be

resorted to only if all efforts to place the child with adoptive parents residing in India prove unsuccessful. Generally, in all matters concerning adoption, whether within the country or abroad, the welfare and interest of the child shall be paramount.

In order to encourage voluntary organisations to take on the responsibility for providing care, protection and nurturing of orphaned/abandoned children as well as to find placement for them in families for ensuring their proper growth and development, the scheme shall support setting up Homes (Shishu Grehas) for children in the age group of 0-6 in all the districts/cities of the country. These Shishu Grehas shall also function as Cradle Baby Reception Centres to receive abandoned babies for attempting to reduce and check female foeticide/infanticide.

#### Cradle Baby Reception Centre

At least 60 million girls who would otherwise be expected to be alive are "missing" from various populations, mostly in Asia, as a result of sex-selective abortions, infanticide or neglect<sup>11</sup>. In India too, female infanticide is a cause of growing concern, especially in states like Punjab, Haryana, Himachal Pradesh and Gujarat, where the ratio has "drastically declined" to fewer than 800 girls for every 1,000 boys. A national decline from 945 to 927 in the number of girls per 1,000 boys aged 0-6 between 1991 and 2001 indicates the seriousness of the problem.<sup>12</sup>

In order to address this issue, the scheme shall support the existing Shishu Grehas for setting up Cradle Baby Reception Centres in every district. Further, the scheme shall

<sup>11</sup>State of World's Population, UNFPA, 2005

<sup>12</sup>Missing: Mapping the Adverse Child Sex Ratio in India, UNFPA, <http://www.unfpa.org/news/news.cfm?ID=388>

also provide for financial support in placing cradles in all the Primary Health Care Centres, Shishu Grehas and in the office of District Social Welfare or Women and Child Development Department of States/UTs to receive abandoned babies.

The Scheme shall provide financial support for setting up Shishu Grehas cum Cradle Baby Reception Centres in every district and placing cradles at important locations. The detailed guidelines are being worked out.

### **3.2. Adoption Coordinating Agency:**

The Hon'ble Supreme Court in its judgement dated 27th September, 1995 in the case of L. K. Pandey Vs. Union of India, observed that there may be Voluntary Coordinating Agency (VCA) in a State or in a city where there are more adoption agencies, for facilitating the search for a suitable Indian parent for the child within the country before he/she is proposed for inter-country adoption.

In order to facilitate VCAs (which are redesignated as Adoption Coordinating Agencies (ACAs) under the Revised Guidelines, 2004 laid down by GOI-CARA on Adoption) to achieve the objective of promoting the cause of in-country adoption for the permanent rehabilitation of orphaned, abandoned and surrendered children in family environment, and to popularise the concept of unrelated adoption for wider acceptance in Indian society, the scheme shall provide financial support. The Scheme shall provide financial support for setting up Adoption Coordinating Agencies. The detailed guidelines are being worked out.

### **3.3. Sponsorship and Foster Placement Agencies (SFPA):**

Recognising the family as the best place for a child, the scheme shall make sincere efforts to place an orphaned, surrendered

or relinquished child in a family through adoption. However, if a suitable family for placing the child in adoption is not found, the next effort would be on identifying a foster family for the child. Fostering is an arrangement whereby a child lives with an unrelated family, usually on a temporary basis. Such an arrangement ensures that the birth parents do not lose any of their parental rights or responsibilities.

Sponsorship includes providing financial assistance to the family for preventing disintegration and increasing the capacity of the family to take care of the child. It prevents institutionalisation of the children or relinquishment in case of severe economic crisis. The main objective is to help the family in difficult circumstances for a temporary period till they are able to take care of the children. Therefore, sponsorship programme shall not only cover those children who are in institutions, but also those children who are within their families and it is difficult for their family to meet all the basic needs of the child.

In order to promote foster care and sponsorship, the scheme will support setting up of a Sponsorship and Foster Placement Agency (SFPA) in every district. The SFPA shall be a registered voluntary organisation with experience of having worked on children's issues for a minimum period of three years which will be responsible for the placement of children with foster families in accordance with the provisions laid down under the proposed Foster Care and Sponsorship Guidelines. The SFPA shall promote, coordinate and monitor the foster care and sponsorship of children in need of care and protection at district levels under overall supervision of State Adoption Cell and the District Child Protection Unit. (Refer

page-29 & 30). The SFPA shall identify a pool of competent foster caregivers in each district, who can provide children with care and protection while maintaining ties to family, community and cultural groups. The agency shall provide support and counselling services to foster carers at regular intervals first to prepare them for foster care and later for handling children and providing the child with proper care and protection. The SFPA shall encourage establishment of Foster Care Associations at district levels to enable the foster carers in providing mutual support and contribute to practice and policy development.

SFPA shall be responsible for sponsorship programme and it should be carried out through individual-to-individual sponsorship, group sponsorship or community sponsorship. On experimental basis, the Scheme shall pilot Conditional Cash Transfer in three districts. The Scheme shall provide financial support for setting up Shelters Homes for Sponsorship and Foster Placement Agencies and piloting Conditional Cash Transfer in three districts. The details are being worked out.

### 3.4. Drop-in Shelters for all Children in Need:

Nearly 29% of India's population lives in urban areas. An average of 50% of the urban population live in conditions of extreme deprivation - compounded by lack of access to basic services and legal housing and poor urban governance<sup>13</sup>. The urban population is also rapidly expanding due to large-scale migration to cities for a possible better life. The cities and towns are also expanding but the sheer volume of people compromises the ability of the city to meet their basic needs. A large proportion of this

migrating population ends up residing in slums in inhuman conditions. As a result, urban poverty and hunger are increasing<sup>14</sup>. All of this has led to a huge number of homeless children, pavement dwellers, street and working children and child beggars, who are left alone to fend for themselves.

In order to provide for the growing needs of all children in need, the Scheme would facilitate setting up of drop-in shelters, which would largely be established in urban areas with high numbers of children in need of care and protection. Such centres shall focus on providing space for children where they can play and engage themselves in creative activities through music, dance, drama, yoga and meditation, computers, indoor and outdoor games, etc. and use their time productively. These activities would encourage meaningful peer group participation and interaction. This will ensure their overall growth and development, and keep them away from socially deviant behaviours in addition to fulfilling their basic requirements of food, nutrition and health. These shelters shall also have provisions where children can safely keep their belongings and earnings. Financial assistance shall be provided through the State Government/UT Administration to voluntary organisations for establishing such Drop-in Shelters. The Scheme shall provide financial support for setting up Drop-in Shelters for all Children in Need. The details are being worked out.

### 3.5. After-care Organisations:

The Act outlines for setting up an After-care Organisation and empowers the

<sup>13</sup>Consortium for Street Children 2004, <http://www.streetchildren.org.uk/>

<sup>14</sup>Nutritional Problems in Urban Slum Children, <http://www.indianpediatrics.net/july2004/682.pdf>

State Government to recognise a voluntary organisation as “After-care Organisation” to function as transitional homes to take care of juveniles or children after they leave special homes and children’s homes to enable them to lead an honest and industrious life. The objective of these After-care Organisations shall be to enable children/youths to adapt to the society and during their stay in these transitional homes these children/youths shall be encouraged to move away from an institution-based life into the mainstream society. The After-care Organisation is meant for both the categories, juvenile in conflict with law and children in need of care and protection. The key component of these After-care Organisation shall be setting up temporary homes for a group of youths, who can be encouraged to learn a trade and contribute towards the rent as well as the running of the home. A voluntary organisation designated as After-care Organisation shall work towards preparing children/youths to assume self-reliance and to integrating them fully in the community through the acquisition of social and life skills. The organisation shall provide for regular educational and vocational training opportunities to children/young people for helping them to become financially independent and generate their own income. Child/youth in after-care programme shall also be provided access to social, legal and medical services together with appropriate financial support. Once a child/youth is reintegrated in community/society, the After-care Organisation shall ensure regular follow-up and support. The participation of members of community, panchayat and local bodies shall also be ensured to create an enabling environment for reintegration of children into the mainstream society and thereafter for follow-up and support.

The Scheme shall provide financial assistance for carrying out after care programme for juvenile in conflict with law and children in need of care and protection. The Scheme shall provide financial support for setting up After-care Organisations The details are being worked out.

#### **4. Counselling and Family Support:**

Programme initiatives to offer children protection, healing, care and rehabilitation are constrained by a serious lack of counselling institutions and services, and a lack of people who are professionally trained and socially enlightened to provide children in need the kind and standard of counselling they require, to enable them to recover from adverse experience or treatment, and to help build or re-build a caring and protective environment for them.

Many conditions and settings create or aggravate counselling needs. Children in need include those who may not be in a ‘visible’ trauma or post-trauma situation stemming from an external disaster, but who are in socially, psychologically or emotionally ‘at risk’ situations, including in family or household settings, as also in settings where they come in contact with services of the State and other institutions.

Besides children, counselling for families at risk as well as families of children in difficult circumstances will be an integral component of the ICPS. The Counsellors in the District Child Protection Units shall be responsible for providing counselling services to children and families.

Counselling skills and action are urgently required in a range of service delivery and service contact settings and infrastructures. There is need to invest in increasing training and educational capacity of institutions.

This places on the State the three-fold responsibility of (i) ensuring education and training at professional standard, (ii) development/establishment of a competent and accountable counselling infrastructure as an integral component of all relevant delivery systems affecting the child, and (iii) recruitment and placement of trained personnel.

The ICPS shall address the priority need for improved and expanded provision of training in counselling and child rights, and aim at a significant increase in the provision of counselling services to children in need and at risk. The Scheme shall provide financial support for setting up counselling and family support. The details are being worked out.

## **5. Training and Capacity Building:**

Training and capacity building of all personnel involved in the child protection sector throughout the country including those working under the ICPS shall be taken up on priority basis. There is an acute shortage of professionally trained manpower to provide all kinds of services to children in difficult circumstances. There are a large number of personnel working in existing institutions, whether run by Government or by non-governmental organisations, who need to be provided with adequate skills and hands on experiences for dealing with children in an effective manner and providing them quality services. Besides, there is a need to train a cadre of professionals who are currently not a part of the child protection service delivery mechanism. Such personnel need to be trained and groomed to join the child protection workforce to provide child friendly services at all levels. In order to meet these challenges, the ICPS shall adopt following strategies:

### **5.1 Training and Capacity Building of Service Providers:**

In order to ensure effective service delivery to children in need, regular training and

capacity building of all service providers (Government and Non-Government) at various intervals including at the time of induction and subsequently through refresher courses is a necessary requirement. These trainings should be made mandatory. Different packages based on category/level of staff and subject should be developed to carry out such trainings.

### **5.2 Sensitisation Programme for Members of the Allied Systems:**

The members of Allied Systems, viz. police, judiciary, health care system, education system, transport, labour and telecommunication departments, media, corporate sector, teachers, elected representatives and members of community, etc. should also be reached through specialised training and sensitisation programmes. These programmes should be focused on rights of the child, protection issues and services available as well as their roles and responsibilities towards children.

### **5.3 Training of Trainers:**

In order to ensure wider outreach of capacity building programmes, a cadre of master trainers on Child Protection issues should be developed at district, state and national levels. Skill up-gradation of these master trainers should be an integral component of any capacity development programme. This will help ensure uniformity in dissemination of information and knowledge as well as ensure continuity in capacity building of service providers at grassroots levels.

### **5.4 Development of Training Modules and Course Curricula:**

In order to carry out above mentioned training and capacity building courses, subject specific training modules and course curricula should be developed keeping in view the

level and requirements of the personnel to be trained. The existing training modules and course curricula on child protection should be examined to see whether they cover the important aspects of child protection issues including child rights, counselling, juvenile justice, trafficking and other protection issues and on the basis of that, need based modules and curricula should be developed. In this process, help of professionals, experts and agencies (both national and international) working in the field of child protection should be taken. Facilitators' Manuals should be developed to enable trainers in effectively conducting training and capacity building programmes at local levels.

#### **5.5 Sharing of Experiences and Best Practices:**

Promoting sharing of experiences and best practices through district, state and national level workshops, exchange programmes and exposure visits that provide a platform to the functionaries to interact and share their experiences and expertise with others is highly recommended. Sharing of best practices promotes healthy competition amongst the functionaries and units. During such workshops, awards and recognition to best performing unit and workers can be given as a token of appreciation and to promote healthy competition.

#### **5.6 Linkage with Universities and Educational Institutions:**

The linkage with universities and educational institutions for formulating new courses on Child Protection issues and developing a cadre of professionally equipped manpower to deal with children is necessary. The scheme shall work with Universities and Educational Institutions for formulating new courses on Counselling and other specialised child protection issues for building a cadre of professionally equipped manpower to work

for the child protection sector in the country. Proposals for such innovative courses shall be welcomed by the scheme and it would provide financial assistance to such Universities and Educational Institutions for formulating and launching such innovative courses.

#### **5.7 Life Skill Education for Children:**

Children in difficult circumstances, especially those in institutions shall be provided life skill education to enable them to deal effectively with demands and challenges of everyday life and promote their physical, mental and emotional well-being. Life skills education would help these children prepare themselves for facing the realities of life and effectively manage the demands and challenge. The scheme shall provide financial assistance for developing course curricula and conducting such life skill education programmes for children to bring out a behaviour change and facilitate them to improve their thinking levels.

These shall be achieved through the Regional Centres of NIPCCD. The scheme (ICPS) proposes to set up a Child Protection Section within NIPCCD to facilitate implementation of all child protection training and capacity building activities. Strong networking and coordination shall be developed with NISD, NIMHANS, National Judicial Academies, Police Training Schools and Administrative Institutions/Academies, CHILDLINE and recognised schools/institutes of social work and law and other relevant experts for introducing child rights and child protection issues in their on-going training courses and also for providing necessary expertise in developing child protection training modules and packages as well as in carrying out capacity building programmes.

The scheme shall provide bulk grant to State and District Child Protection Units and State

Adoption Cells for implementing training and capacity building programmes. The Scheme shall provide financial support for supporting training and capacity building initiatives. The details are being worked out.

## **6. Strengthening the Knowledge-base:**

A protective environment for children requires an effective monitoring system that records the incidence and nature of child protection abuses and allows for developing informed and strategic responses. Lack of data adversely affects planning of appropriate access and nature of services required for children. Under the ICPS, following specific measures shall be developed and strengthened:

### **6.1. Child Tracking System including Web-enabled Child Protection Data Management Software and Website for Missing Children:**

Under this component, the ICPS intends to create a systematic and centralised mechanism for data collection and management to follow up on and track children in institutional care or other non-institutional care alternatives and children who remain out of the safety net. It would develop a system of data collection and indicators consistent with the Convention and disaggregated by gender, age, social status (Scheduled Castes and Tribes), marginalised groups and urban and rural area and make it publicly available. This system would cover all children upto the age of 18 years with specific emphasis on those who are particularly vulnerable, are marginalised, have disabilities, HIV/AIDS, etc. It would enable the Ministry to develop information systems and regular monitoring and analysis of key indicators on child protection. It would help promote reporting on key child protection indicators

to policymakers, general public and regional and international monitoring mechanisms.

The Ministry of WCD, with support of UNICEF, has already started working on developing an effective system for child protection data management and reporting as well as a tool for monitoring the implementation of all its child protection schemes. This is to be achieved by developing a web-enabled data management system on child protection by creating a resource base for child protection issues within the National Institute of Public Cooperation and Child Development (NIPCCD) and at State and District Child Protection Units. It is also planned to develop a national website for tracking missing children and their ultimate repatriation and rehabilitation. The website will be linked to the State and District Child Protection Unit, all Police Stations and CHILDLINES. The project is part of the present GOI-UNICEF Annual Work Plan of Cooperation for 2006 under which the process of developing data management system as well as website for missing children is ongoing. UNICEF proposes to support the entire activity for initial project period of 2-3 years after which the project is to be handed over to a fully trained manpower within NIPCCD. A separate cell has been proposed at NIPCCD for carrying out this activity, which will be manned by the contractual staff under GOI-UNICEF Project for initial period of 2-3 years, during which a permanent team comprising of Government Officials within NIPCCD will be appointed and trained. The Scheme shall provide assistance for establishing the Data Management Cell within NIPCCD and in the State and District level structures for implementation of the scheme. The details are being worked out.

## 6.2. Research and Documentation

The focus shall be on strengthening capacities at various levels (including those of children and adolescents) to conduct rapid assessment of protection issues related to children in difficult circumstances as well as analyzing and applying data and research on child protection. This would help in planning, monitoring and strengthening policy and programme implementation at different levels. Child impact studies will be undertaken when planning programmes relating to economic and social policies. The scheme would facilitate in carrying out comprehensive studies to assess the causes, nature and extent of specific child protection issues like trafficking and commercial sexual exploitation of children; violence; children in conflict with the law and any other area for which data and information cannot be gathered through regular systems.

The scheme would also provide support to investigate and research areas of potential or new threats to child protection to build knowledge, evidence and integrate it into policy and programmes, such as livelihood security, migration, internal displacement, internet and other technologies and their relationship to child rights. The State and District Child Protection Units shall have adequate budgetary provisions for supporting such activities. The details are being worked out.

## 7. Advocacy and Communication

It is an accepted fact that the awareness about child protection issues is almost negligible in the country. Not only that, even the understanding of the term 'Child Protection' is almost non-existent. The role of advocacy and communication in changing mindsets at all levels is important for achieving child protection goals. People are not

aware about the rights of the child and existing mechanisms in terms of policies and legislations to protect those rights of children. Every day thousands of children become victims of neglect, abuse and exploitation in the country.

There are various schemes/programmes being implemented by Government of India and State Governments on child protection. However, the awareness about such programmes is generally poor and therefore people are not able to avail services under those programmes. People are not even aware about the competent authority in their State/district to provide for care and protection of children in difficult circumstances. The lack of awareness about adoption programmes amongst childless parents works as a barrier to promotion of child adoption as a form of alternate care.

ICPS shall facilitate and evolve an effective communication strategy for child protection, seeking partnership with international organisations including UNICEF, UNDP, UNIFEM, UNAIDS, ILO, WHO, etc. and convergence with the Ministry of Information and Broadcasting. The Ministry of Women and Child Development would take the help of the Ministry of Information and Broadcasting in getting support of Prasar Bharati, Private televisions channels, All India Radio, Private Radio Broadcast (FM), cable operators, etc. for:

- Broadcasting special child protection messages through audio-visual spots, talk shows, quiz competitions, news broadcasts, educational programmes, etc.;
- Regular dissemination of information regarding services available for children in distress;
- Building media understanding on child rights and ensuring sensitivity to child protection issues and respect for child's dignity and worth.

In addition, a comprehensive media campaign on child protection in the country will be launched under the ICPS through all the means

of mass media including television, newspapers, periodicals, magazines, cinema halls, radio, etc. The campaign will include advertisements in newspapers, periodical, magazines, etc. on child protection issues and services; printing and dissemination of Information, Education and Communication (IEC) materials like Posters, Pamphlets/handbills, Booklets, etc. on child protection issues; consultations and Advocacy Workshops with members of Allied Systems, communities and local bodies and awareness generation programmes through folk media (street plays, puppet shows, etc.). The Scheme shall provide financial support for developing and implementing advocacy and communication strategies. The details are being worked out.

### **8. General Grant-in-aid for Need-based/Innovative Interventions**

While an attempt has been made to incorporate all major interventions/services for all children in difficult circumstance in the ICPS, the Ministry recognises the importance of supporting other need-based/innovative intervention programmes also. Such programmes shall depend on the specific needs of a district/city and can be initiated as pilot projects. There shall be an impact assessment and evaluation of the project and based on the assessment report and its recommendations the project can be extended for the required period. Under this component the Scheme shall provide flexibility to the State Government to initiate innovative projects on those issues, which are not covered under the components of this scheme. The State Child Protection Unit shall have a general grant-in-aid fund under which such projects can be supported. The Scheme shall provide financial

support for running need-based/innovative child protection projects/interventions under ICPS. The details are being worked out.

### **9. Monitoring and Supervision**

The monitoring and supervision of the implementation of the ICPS shall be taken up at various levels. At State level, the State Child Protection Unit and State Adoption Cell would carry out supervision and monitoring of all the District Child Protection Units and all other child protection schemes and programmes being run in the State/UT. At district level, the District Child Protection Unit shall monitor and supervise all the child protection programmes. The reporting authority at State level would be the State Secretary heading the State Child Protection Unit and at District level, the District Magistrate. At local and grassroots levels local bodies, panchayats and voluntary organisations including CHILDLINE will be involved in planning, monitoring and supervision of child protection programmes under the overall ambit of public-private partnership. At central level the Ministry of Women and Child Development shall monitor and supervise the entire programme. The scheme shall provide flexibility to the Ministry of WCD for having the monitoring and supervision exercise conducted by independent agencies once in three years.

At State levels, the disbursement of grant-in-aid to voluntary organisations shall be on the basis of their performance leading to course correction. The Scheme shall provide financial support for monitoring and supervision. The details are being worked out.

## Chapter- IV

### PROGRAMME IMPLEMENTATION (SERVICE DELIVERY) STRUCTURE

#### 1. State and District Child Protection Units

The National Plan of Action for Children, 2005 formulated by Government of India in its objectives on Child Protection has asserted the need for creation of an effective support system for all children in all kinds of difficult circumstances and vulnerable situations through the creation of an appropriate Authority for Child Protection.

In order to put this objective of the National Plan of Action for Children, 2005 in to practice, the Scheme proposes to set up a “**State Child Protection Unit**” in each State/UT and “**District Child Protection Unit**” in each district to ensure effective implementation of Juvenile Justice (Care and Protection of Children) Act, 2000 and ensure the coordination of associated child protection services for vulnerable and destitute children including juveniles in conflict with law. The unit shall implement, supervise, monitor and evaluate all the child protection programmes being implemented under the Integrated Child Protection Scheme including Grant-in-aid schemes. An officer of the rank of Secretary to the State Government/UT Administration dealing with child related programmes/services shall head the Unit.

#### Duties of State Child Protection Unit

The specific duties of the State Child Protection Unit shall include:

1. Implementation, supervision and monitoring of the Integrated Child Protection Scheme (ICPS) and all other child protection schemes/programmes and agencies/institutions at State levels;
2. Guide, support and monitor functioning of the District Child Protection Unit and ensure

proper flow and utilisation of funds to the districts through ICPS and other grant-in-aid schemes;

3. Ensure effective implementation of the Juvenile Justice (Care and Protection of Children) Act, 2000 by:
  - Supporting creation of adequate infrastructure, viz. setting up of JJBs, CWCs and homes in each district;
  - Supporting inter-state and intra-state transfer of children to ensure restoration to their families;
  - Training and capacity building of functionaries (Government/Non-Government) working under juvenile justice system;
  - Supervision, monitoring of all institutions in the State/UT being run under the Act.
4. Ensure effective implementation of other legislations and policies for child protection in the State, viz. National/State Plan of Action for Children, 2005; Hindu Adoption and Maintenance Act (HAMA), 1956; Guardians and Wards Act (GAWA), 1890; Child Labour (Prohibition and Regulation) Act, 1986; Child Marriage Restraint Act, 1979 and Immoral Traffic Prevention Act, 1986 etc. and any other Act that comes into force during the implementation of this scheme and deals with child protection issues;
5. Network and coordinate with all other departments/organisations dealing with child related issues, viz. Department of Health, Directorate of Education, State AIDS Control Society, Urban Basic Services and Department of Labour, etc. so as to establish linkages for providing effective services to children;
6. Carry out need-based research and documentation activities at state-level for assessing the number of children in difficult circumstance and creating

State-specific databases to monitor trends and patterns of children in difficult circumstances;

7. Training and capacity building of all personnel (Government and Non-government) working under child protection system to provide effective services to children;
8. Quarterly Progress report to the Ministry of Women and Child Development, Government of India on programme implementation and fund utilisation;
9. Liaisoning with the Ministry of Women and Child Development, Government of India and State Child Protection Units of other States/UTs.

#### **Duties of District Child Protection Unit**

The District Child Protection Units shall coordinate and implement all child protection activities at district levels. The specific duties of the District Child Protection Unit shall include:

1. Identify families at risk and children in need of care and protection through effective networking and linkages with the ICDS functionaries, Sponsorship and Foster Placement Agencies (SFPA), NGOs dealing with child protection issues and local bodies, viz. Panchayats, Gram Sabhas, Urban Local Bodies, etc.;
2. Implement, supervise, monitor and evaluate the Integrated Child Protection Scheme (ICPS) and all other child protection programmes/schemes and agencies/institutions at district/city levels;
3. Ensure effective implementation of the Juvenile Justice (Care and Protection of Children) Act, 2000 at district/city levels by:
  - Supporting creation of adequate infrastructure, viz. setting up JJBs, CWCs and homes in each district;
  - Supporting transfer of children at district levels for either their restoration to their families or placing the child in long/short-term rehabilitation through adoption, foster care and sponsorship;
  - Training and capacity building of functionaries (Government/Non-Government) working under juvenile justice system in district in consultation with Joint Director (Training) from the State Child Protection Unit;
  - Supervision, monitoring of all institutions in the district being run under the Act.
4. Ensure effective implementation of other legislations and policies for child protection in the State, viz. National/State Plan of Action for Children, 2005; Hindu Adoption and Maintenance Act (HAMA), 1956; Guardians and Wards Act (GAWA), 1890; Child Labour (Prohibition and Regulation) Act, 1986; Child Marriage Restraint Act, 1979 and Immoral Traffic Prevention Act, 1986 etc. and any other Act that comes into force during the implementation of this scheme;
5. Support State Adoption Cell in identifying adoptable children from the district preparing a district-level database of adoptable children;
6. Promote and facilitate adoption, foster care and sponsorship in the district with the help of Shishu Grehas cum Cradle Baby Reception Centre and Sponsorship and Foster Placement Agency (SFPA);
7. Network and coordinate with all other departments/organisations dealing with child related issues, viz. Department of Health, Directorate of Education, State AIDS Control Society, Urban Basic Services and Department of Labour, etc. so as to establish linkages for providing effective services;

8. Carry out need-based research and documentation activities at district-level for assessing the number of children in difficult circumstance and creating district-specific databases to monitor trends and patterns of children in difficult circumstances;
9. Develop parameters and tools as well as supervise and monitor child protection programme in the district;
10. Develop and manage a child tracking system at district levels including management of online data management system and website for missing children;
11. Supervise and monitor all institutions/agencies providing residential facilities to children in district;
12. Train and build capacity of all personnel (Government and Non-government) working under child protection system to provide effective services to children;
13. Organise quarterly meeting with all stakeholders at district level including CHILDLINE, SFPA, superintendents of homes, NGOs and members of public to review the progress and achievement of child protection activities;
14. Submit quarterly report to the State Child Protection Unit and State Adoption Cell on status of implementation of its programmes and services;
15. Liaison with the State Child Protection Unit, State Adoption Cell and District Child Protection Units of other districts.

The Scheme shall provide financial support for setting up State/District Child Protection Units. The details are being worked out.

## 2. State Adoption Cell

The In-country Guidelines of Central Adoption Resource Agency (CARA) for regulating in-country adoptions of children provides for setting up a State Adoption Cell in every

State/UT. However, very few States/UTs have set up these Cells so far. The ICPS shall provide support to the State Governments/UT Administrations in setting up such Cells.

The State Adoption Cell shall be set up at each State/UT to facilitate, supervise and monitor all the adoption programmes and agencies at State levels with support of the Central Adoption Resource Agency (CARA). The Cell shall liaison with the District Child Protection Unit at District levels and provided technical support to the Child Welfare Committees and Juvenile Justice Boards in carrying out the process of rehabilitation and social reintegration of all children through adoption, foster care and sponsorship.

### Duties of State Adoption Cell

- Ensure that all Adoptions/permanent placements of children are done in accordance with the Laws and Guidelines of the Supreme Court of India and Government of India;
- Promote in-country and regulate inter-country adoptions;
- Identify adoptable children with the help of District Child Protection Units, ICDS functionaries and local bodies and maintain a centralised (state-specific) database of adoptable children;
- Coordinate the Adoption Coordinating Agency (ACA) and Sponsorship and Foster Placement Agencies (SFPA);
- License Child Care Institutions (CCIs) to do Indian Adoptions and recommend to CARA appropriate CCIs to be recognised as Inter-country Placement Agencies;
- Maintain a comprehensive List of CCIs involved in adoption;
- Ensure that all adoptable children are registered and place adoptable children with Prospective Adoptive Parents (PAPs) and to handle matters incidental thereto;

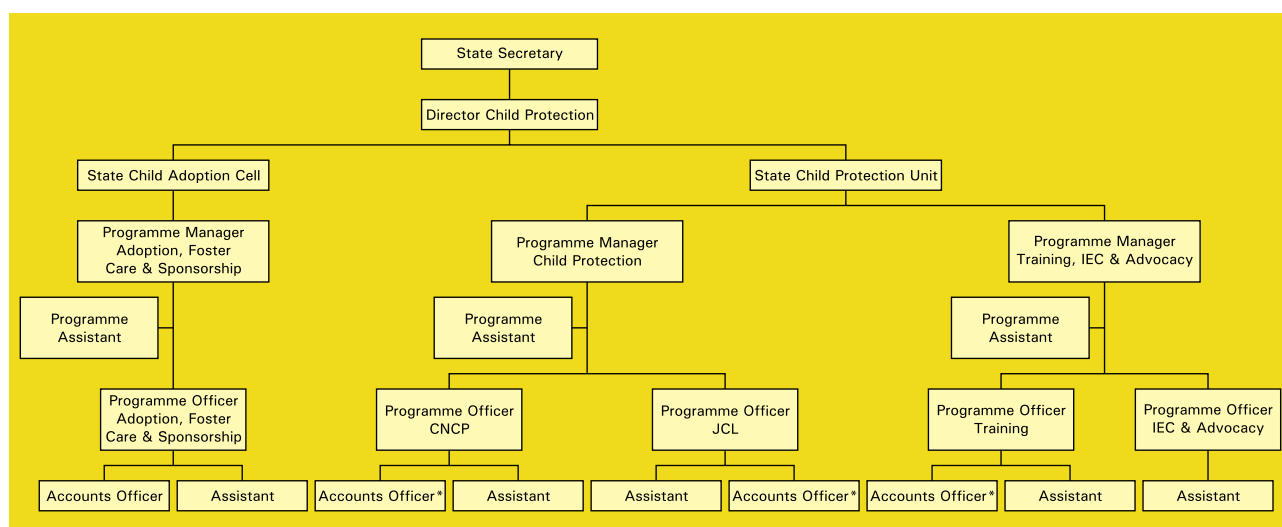
- Act as the clearing house of adoption information at the state level;
- Furnish the list of adoptable children and prospective adoptive parents to CARA and facilitate inter-state placement of children, where necessary;
- Enhance capacity of district level functionaries involved in adoption including child protection officers and counsellors;
- Provide comprehensive and desegregated adoption data to CARA in the prescribed format on monthly basis;
- Take necessary punitive action when malpractices occur in the adoption

programme whether by licensed/recognised adoption agencies or by unlicensed individuals or organisations;

- Check and take necessary action in all malpractices in adoption including illegal adoptions;
- Awareness generation for promoting adoptions in the State.

The Scheme shall provide financial support for setting up State/District Child Protection Units alongwith financial support to be provided by the Central Government. The details are being worked out.

### 3. Structure of State Child Protection Units and State Adoption Cell

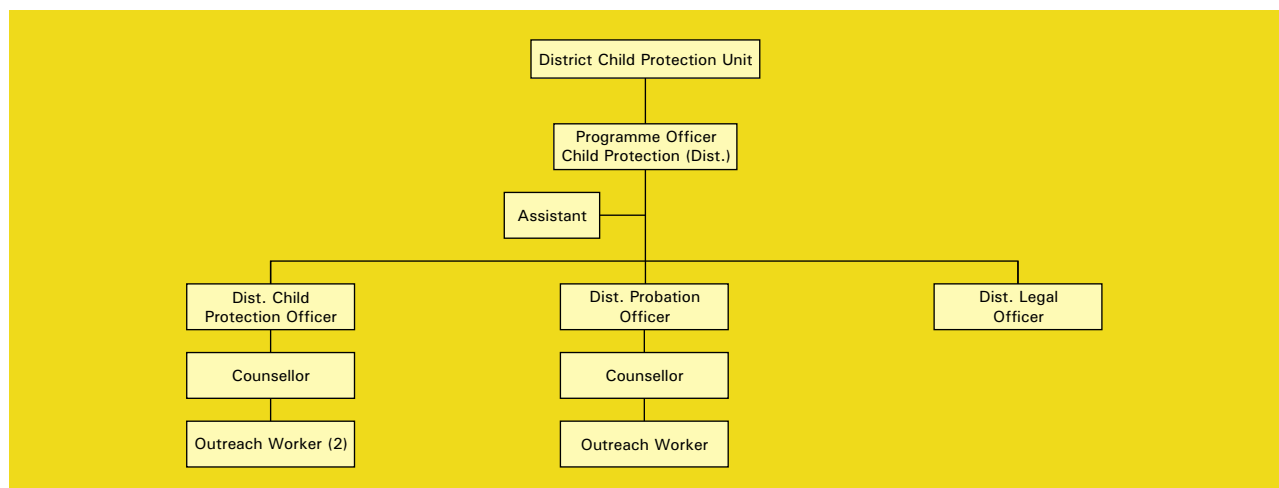


\*Same person, one Accounts Officer for the State Child Protection Unit.

#### Note:

- Except State Secretary and Director dealing with child-related services all other staff members to the unit shall be engaged on contractual basis. The scheme shall allow the flexibility to increase the number of staff on the basis of the geographical spread and population of the State.
- At District level, the State Adoption Cell shall coordinate with the Programme Officer Child Protection and District Child Protection Officer.
- Programme Manager Training shall be responsible for training and capacity building of all personnel including those working in Adoption System.

#### 4. Structure of District Child Protection Units



#### Note:

- All the staff members to the unit shall be engaged on contractual basis. The Probation Officer already on the existing pay scale of the State shall continue to receive the same scale. However, the new recruits on the post of Probation Officer shall receive a consolidated salary as indicated in the budget under the detailed guidelines given in Annexure-I. The scheme shall allow the flexibility to increase the number of staff on the basis of the geographical spread and population of the State.
- One Counsellor shall be appointed in a District Child Protection Unit and the same person will work under both Dist. Child Protection Officer and Dist. Probation Officer.

#### Rationale for Government-Civil Society Partnership

A programme of this magnitude and nature requires multidisciplinary staff that is professional and committed to children and their rights. It has been consciously decided to have these personnel on a contractual basis for the following reasons:

- Implementation of scheme would be more effective if staff is recruited on contractual basis – minimum of three years and extendable for a period of 5 years based on performance. They can be paid consolidated

remuneration with built-in increment provisions that is performance based;

- It will attract professional talent, strengthen public-private partnership and reduce permanent liability on government;
- Contractual employment, outsourcing and performance linked promotion will ensure that the establishment is trim, active and responsive to the needs of the children;
- By doing away with rigid government structures, the programme will have flexibility and scope for innovation.

## ANNEXURE-II

### “CHILD ABUSE STUDY – THE METHODOLOGY”

#### Overall Goal

To develop a comprehensive understanding of the phenomenon of the child abuse, with a view to formulating appropriate policies and programmes in order to effectively curb and control the problem of child abuse in India.

#### Specific Objectives

The specific objectives of the study are as follows:

- To assess the magnitude and forms of child abuse in India;
- To study the profile of the abused children and the social and economic circumstances leading to their abuse;
- To critically analyse the existing legal framework to deal with the problem of child abuse in the country. Recommend strategies and measures for further streamlining child development policies and programmes.

#### Operational Definition of Child Abuse

Child abuse refers to the intended, unintended and perceived maltreatment, whether habitual or not, of the child which includes may of the following:

- Psychological and physical abuse, neglect, cruelty, sexual and emotional maltreatment.
- Any act, deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being.
- Unreasonable deprivation of his/her basic needs for survival such as, food and shelter; or failure to immediately give medical treatment to an injured child resulting in serious impairment of his/her growth and development or in his/her permanent incapacity or death.

#### Forms of Child Abuse

The various forms of abuse specified for the study included:

- Emotional abuse (also known as verbal abuse, mental abuse, and psychological maltreatment) includes acts or the failures to act by parents, caretakers, peers and other that have caused or could cause, serious behavioural, cognitive, emotional, or mental distress/trauma.
- Physical abuse is inflicting of physical injury upon a child. This may include, burning, hitting, punching, shaking, kicking, beating, forcing the child to beg, or otherwise harming a child.
- Sexual abuse is the inappropriate sexual behaviour with a child. It includes fondling a child's genital, making the child fondle the adult's genital, intercourse, incest, rape, sodomy, exhibitionism, pornography and sexual exploitation. To be considered child abuse, these acts have to be committed by a person responsible for the care of a child (for example a baby-sitter, a parent, neighbour, relatives, extended family, peers, older children, friends/strangers or a day care provider) or related to the child. If a stranger commits these acts, it would be considered sexual assault and handled solely by the police and criminal courts.
- Substance abuse includes forcing or allowing the child to take/sell drugs, get involved in drug peddling and trading, take alcohol or any other forms of addiction which retards the child's physical and mental growth.
- Child neglect is an act of omission or commission leading to the denial of the child's basic entitlements/needs. Neglect

can be physical, educational or emotional. Physical neglect can include not providing adequate food clothing, appropriate medical care, supervision. It may include abandonment. Educational neglect includes failure to provide appropriate schooling or special educational needs. Psychological neglect includes lack of any emotional support and love.

### **Indicators of Child Abuse**

The study identified five different forms of abuse namely, emotional abuse, physical abuse, sexual abuse, neglect and substance abuse. Indicators for each of these forms of abuse were developed as given below:

#### **Emotional Abuse**

- Extreme forms of punishment
- Rejection
- Use of derogatory terms to describe the child
- Blaming the child
- Making comparisons
- Labeling or nicknaming

#### **Physical Abuse**

- Burning
- Hitting
- Punching
- Shaking
- Kicking
- Beating

#### **Sexual Abuse**

- Fondling a child's genitals
- Making the child fondle the adult's genitals
- Intercourse
- Incest
- Rape
- Sodomy
- Exhibitionism
- Voyeurism
- Pornography

#### **Neglect**

- Not providing adequate food or clothing to the child
- Not providing adequate medical care
- Rejection and abandonment
- Failure to provide appropriate schooling
- Lack of emotional support and love

#### **Substance Abuse**

- Forcing a child to take/sell drugs
- Involving a child in drug peddling/trading
- Forcing a child to take alcohol and other forms of addiction

#### **Assumption**

The study is based on the assumption that child abuse is a fairly common phenomenon cutting across socio-economic and cultural barriers.

#### **Definition of a Child:**

For the purpose of this study, a child has been defined as a person not having completed eighteen years of age.

### **Coverage of the Study**

#### **Sampling Design**

The study is located in India. A multi stage sampling design has been used for the study. State, district, block and respondents constitute the four stages of sampling.

#### **Zonal Division**

For the identification of States as well as for administrative purposes, the country was divided into six zones, based on its standardised classification, as under:

1. North
2. South
3. East
4. West
5. Central
6. North East

The Project Director was the person overall in-charge of the project. The Project Director was assisted by the Assistant Project Director. From each zone, a Zonal Advisor was identified for the supervision and monitoring of the project at the zonal level. For each of the selected State, falling under of the six zones, a State Coordinator and a Project Assistant was identified for supervising and monitoring the project at the State Level, and for assisting the investigators in data collection. The data collection through the group discussion with children was the responsibility of the investigators.

The project also had a Technical Advisor (a person with a background of applied Statistics) who provided technical support on an on-going basis.

### Selection of States

All States in the respective zones were arranged in descending order of literacy and one State was selected from the upper quartile and one from the lower quartile from each zone. Literacy has been taken as an indicator, as it is expected that higher the level of literacy, the less would be the chances of child abuse.

### States belonging to different Zones arranged in descending order of Literacy Rates (2001 Census)

North	Central	Eastern	Western	Southern	North Eastern
Delhi (81.8)	Uttaranchal* (72.3)	Sikkim (69.7)	Goa (82.3)	Kerala (90.9)	Mizoram (88.5)
Himachal Pradesh (77.1)	Madhya Pradesh (64.1)	West Bengal (69.2)	Maharashtra** (77.3)	Tamil Nadu (73.5)	Tripura (73.7)
Punjab (70.0)	Uttar Pradesh (57.4)	Chattishgarh (65.2)	Gujarat (69.9)	Karnataka (67.0)	Manipur (68.9)
Haryana (68.6)		Orissa (63.6)		Andhra Pradesh (61.1)	Nagaland (67.1)
Rajasthan (61.0)		Jharkhand (54.1)			Assam (64.28)
Jammu & Kashmir (54.5)		Bihar (47.5)			Meghalaya (63.4)
					Arunachal Pradesh (54.7)

The States thus selected were as follows:

North Zone : Delhi and Rajasthan

Central Zone : Madhya Pradesh and  
Uttar Pradesh

Eastern Zone : West Bengal and Bihar

Western Zone : Goa, Gujarat and Maharashtra

Southern Zone : Kerala and Andhra Pradesh

North Eastern Zone : Mizoram and Assam

\*A/

owing to its extremely difficult terrain. Uttar Pradesh was selected instead.

\*\* Maharashtra was also selected because of its being the commercial hub of India and also because of the high degree of migrant population in the State, leading to an increasing number of children on the streets and available for work.

### **Selection of Districts**

All districts in the selected States were arranged in descending order on the basis of literacy rates. In order to have a contrast, one district was selected from the upper quartile and one from the lower quartile. The total number of districts thus selected was 26.

### **Selection of Blocks**

Subsequently from each district, two contrasting development blocks were selected on the basis of literacy rates, available with the office of the District Information Officer. Thus, 52 development blocks were selected. In doing this, an attempt was made to select at least one development block having such institutional child services as children's home, observation home, special home and orphanages. Development blocks constituted the basic study unit.

### **Selection of Respondents**

For the purpose of this study, a child has been defined as a person not exceeding 18 years of age.

The following categories of respondents were selected for the study:

- (a) Street children
- (b) Working children
- (c) Children in schools
- (d) Children in institutional care
- (e) Children in family groups not attending school

An effort was made to have a representation of girls, particularly in (a), (b) and (d).

- (f) Besides, the views of those individuals who are now working also needed to be accommodated. These were young adults, aged between 18 and 21 years, were in business (self-employment), in offices, in factories, or working in agricultural farms.

- (g) Yet another category of respondents was that of stakeholders, who included school teachers, police officers (sub-inspectors and above), municipal committee members, panchayat members, and welfare officers.

From each category from (a) to (g), 50 respondents were selected. Thus, from each block, there were  $7 \times 50 = 350$  respondents. The total sample size of the study was thus  $350 \text{ respondents} \times 52 \text{ blocks} = 18,200$ , which is a dependable representation of the 'study universe' and which will provide dependable insight into the phenomenon of child abuse.

Out of this, the number of child respondents was  $5 \times 50 = 250 \times 52 = 13,000$  child respondents. The number of young adult respondents was  $50 \times 52 = 2600$  and the number of respondents from the Stakeholders category was  $50 \times 52 = 2600$ .

The State Project Coordinators established partnerships with all NGOs working with street children and children in work situations, including CHILDLINE. Child respondents from each of the two categories, that is, street children and children in work situation were selected for the study by the State Project Coordinators, after seeking consent of children, parents and guardians.

The total number of schools (government, private and non-formal education centres) were listed by the State Project Coordinators in the identified blocks. Through the process of random sampling, schools were selected depending on the number of child respondents to be covered from that block. An effort was made to have equal representation of girls. The permission and consent of principal, children and parents/guardian was also ensured.

Children in the institutions were selected from the institutions present in the identified blocks with the help of Government records and NGOs. An effort was made to ensure equal representation from both the sexes.

From the identified blocks, children in family groups not attending schools were selected on the basis of non-probability quota sampling. Non-probability quota sampling is generally used in social situations where databases around study variables do not

exist and where cost-effective information gathering is desired. It guarantees the inclusion of diverse elements of the population and makes sure that they are taken account of in proportion in which they occur in the population. (Judd, et. Al.1991).

In the present study, since a diverse range of informants (male-female, rural-urban and those belonging to different age categories) are covered and data have been collected within a time frame, quota sampling design was adopted.

Respondent Category	Data Collection Method	Tool for Data Collection
(a) Street Children	FGDs & Interview	FGD & Interview Guide
(b) Working Children	FGDs & Interview	FGD & Interview Guide
(c) Children in Schools	FGDs & Interview	FGD & Interview Guide
(d) Children in Institutional Care	FGDs & Interview	FGD & Interview Guide
(e) Children in Family Groups Not Attending Schools	FGDs & Interview	FGD & Interview Guide
(f) Young Adults	Interview	Interview Schedule
(g) Stakeholders	Interview	Interview Schedule

#### Pre-testing of Interview Schedule

The children's schedule was pre-tested on a small sample from Delhi and the items in the schedule were added or deleted accordingly.

#### Expected Outcome of the Study

The study is expected to lead to the following outcome:

- Defining child abuse in the context of the prevalent situation reflecting from the study;
- Emergence of a national scenario on child abuse;
- Likely coping strategies on child abuse based on adults and children's perspectives;
- Need and justification for legal measures to tackle the problem at the national level;
- Training of various stakeholders on issues related to child rights and abuse;
- Formulation of a national level plan of action to address child abuse;
- Developing schemes, strategies and programmes based on targeted interventions at the state level;
- Developing IEC materials on child abuse to be used in schools and other institutions..

#### Development of a Protocol

- Step 1 : Development of guidelines for Zonal Advisors, State Project Coordinators and Project Assistants
- Step 2 : Mapping of support services
- Step 3 : Identifying criteria for selection of NGO partners and selection and recruitment of staff
- Step 4 : Developing a methodology for eliciting information from secondary sources

## ANNEXURE-III

### **"PROTOCOL FOR PRE-RESCUE, RESCUE AND POST-RESCUE OPERATIONS OF CHILD VICTIMS OF TRAFFICKING FOR COMMERCIAL SEXUAL EXPLOITATION"**

#### **I. GUIDELINES FOR STATE GOVERNMENTS**

1. Develop an Anti-Trafficking Policy specifying victim-friendly provisions and structures.
2. Create an Anti-Trafficking Cell at the State and District level to co-ordinate with other relevant Departments and NGOs on the issues pertaining to trafficking, especially on the rescue and rehabilitation of child victims of trafficking for commercial sexual exploitation.
3. Create a Database on traffickers, brothel owners, informants, decoy customers, number of cases registered, status of each case, source and destination areas in the State/District and any other relevant information. The information in the Database should be kept confidential and should be imparted only to genuine information seekers.
4. Form Community Vigilant Groups (CVGs) at the Community level. The CVGs can help in rescue and rehabilitation of victims at the community level.
5. Assign sufficient number of police personnel especially women police personnel for the rescue operations.
6. Prominently display signboards in hotels, tourist places, restaurants, beaches, airports, bus stands, railway stations and other susceptible places, warning people against trafficking and use of children for commercial sexual exploitation. In case, any child is seen under suspicious circumstances in these places, the informant should inform the Police/ CHILDLINE/NGO immediately.
7. Repatriate the victim from the destination State to the Home State. The State would be responsible for transportation and all expenses towards travel for the victim and escort, food and incidental would be met by the State Government. The State Government should provide a separate budget for repatriation of the victims.
8. Give adequate publicity, through both print and electronic media, on child-lines and women help-lines over a sustained period of time.
9. Declare names of fit people and fit institutions, where victims of trafficking can be kept in safe custody. The list should be circulated to all Police Head Quarters, Police Stations at State and District Levels, Courts and NGOs.
10. Declare fit institutions where mentally challenged or ill child victims and women can be kept in safe custody and proper medical treatment can be provided.
11. Issue directives that all Court proceedings related to child victims of trafficking are carried out in-camera.
12. Assign trained Child Welfare Officers in every Police Station.
13. Every Police Station should have separate clean and hygienic toilet(s) for women.

#### **II. FOR RESCUE TEAM MEMBERS**

##### **A. STRATEGY FOR PRE-RESCUE OPERATIONS**

##### **1. For Rescue of Trafficked Child Victims:**

- Cultivate networks of informants who will provide specific information about trafficked under-aged child victims (below 18 years)

or women willing to be rescued from brothels. Specific information may be in the form of letters, emails, photographs, personality traits, identification marks and scars, addresses, physical presence of relatives and people known to child victim, computer graphics generated by the description and mannerisms (e.g. accent, distinctive body language like frequent rubbing of fingers, blinking of eyes or any other). It is desirable, that a small remuneration is paid to the informant, which sustains their motivation.

- Identify the child victim by the use of decoy customers and authenticate the available information. The decoy customer should try to motivate the child to talk on a one-to-one basis and to facilitate further rescue operations.
- Involve NGOs and Social Workers in Rescue operations carried out by the Police or the Community.
- Prepare a strategic plan for rescue operation with minimum loss of time. The plan should include the following:
  - (i) Compilation of all available valid information. For example, physical layout of the brothels and hideouts, specific characteristics of the location, etc. Seek help of key informants/people such as petty-shop owners, sweepers, part-time maids, milkmen or any other persons who may provide their service to the brothels/hide-outs, local contractors and builders who would know the layout of the brothels/hideouts.
  - (ii) Rescue team, preferably trained, should consist of the designated Special Police Officer as defined under Section 13 of Immoral Traffic Prevention Act, 1956, Assistant Commissioner of Police and/or District Commissioner of Police, police personnel including women, NGO representative and social worker.

The number of rescue team members should be constituted depending on the size (number of brothels/victims) of the rescue operation.

- (iii) Maintain confidentiality and secrecy of the rescue operation, all members of the rescue operation should gather at a common place or location at least 2 hours before the actual rescue operation.
- (iv) To prevent leakage of information, prior to the actual rescue operation, mobile phones and any other modes of communication belonging to the rescue operation team members should be taken in custody by the rescue team leader.
- (v) The strategy that would be adopted for the rescue operations and its various steps should be explained at this time. To each team member, explain his/her role in the rescue operation and clear any doubts that she/he may have.
- (vi) Preparing key players: Formation of teams would depend upon the situation and targeted number of brothels to be covered and expected number of minors to be recovered.
- (vii) Under no circumstances should the decoy customer(s) be exposed before, during and after the rescue operations.
- (viii) Under no circumstances should the rescue operation be revealed to any person(s) other than those directly involved. If by any chance, the media does happen to get word of it, they should not be allowed to cover the rescue operation.
- (ix) Check/verify vacancies available in Government and other certified Homes, so that the rescued victims can be taken to the appropriate Homes for safe custody. This should be done in total confidentiality, so that any information on the rescue operation is not leaked.

- (x) Before conducting rescue operations, all police formalities should be completed.
- (xi) During the rescue operations, the rescue team members should not physically touch the girls, women, or their belongings. Only female members of the rescue team should deal with the girl victims.
- (xii) During the rescue operations, no rescue team member should use abusive language towards the girls and women.

## **2. Rescue Operation at a Community level:**

- The community should be sensitised about trafficking, the harm resulting out of this exploitative situation and what to do in case they have knowledge of such an incident. Community members should be motivated to keep a watch in the community for irregular movement of child victims to and from the area, their possible traffickers and hideouts.
- The Community members should immediately provide information on suspicious people to the nearest NGO working on rescue of trafficked victims. In the absence of an NGO, the nearest police station may be informed.
- Involve community group in rehabilitation of the victim, if he/she is from the same community.

## **B. STRATEGY FOR RESCUE OPERATIONS**

1. Planned rescue operations should be carried out in brothel communities.
2. Place the rescue team members in strategic locations as pre-planned for the rescue operation, before entering the brothel/community.
3. Immediately go to the place/area where the child is being kept/confined.
4. Remove the child from the brothel/community as quickly as possible. He/she should collect all his/her belongings.

In case, she has a child or children of her own, make sure that she is not separated from them.

5. Treat the child victim with sympathy and not as a criminal.
6. Remove any mentally-challenged or ill child victim or woman in the brothel, irrespective of their age.
7. Be aware of your body language and do not make any unnecessary contact, unwelcome gesture, use physical force, cause physical harm, use vulgar or inappropriate language on any inmates of the brothel.
8. Seize/collect all records showing expenses/income/payment/financial transactions and any other important document from the brothel owners, as they would form important piece of material evidence in the Court.
9. Identification of the victims should be kept confidential, her name, address, photograph or any other information should not be published in any newspaper, magazine, news-sheet or visual media. This is mandatory as per Section 21 of the Juvenile Justice (Care and Protection of Children) Act, 2000.
10. Identity and location of decoy customer should be kept confidential.
11. The rescue team members should be accountable to the rescue team leader and any violation of the rights of the victim should be dealt in an appropriate manner.

## **C. STRATEGY FOR POST-RESCUE OPERATIONS**

1. Separate the victims by sight and sound from the accused. While taking the child victim to the Police Station, the child and brothel owners/traffickers should be taken in a separate vehicle. If this is not possible, they should be kept separate from each other. This is to prevent the accused from threatening or intimidating the child.
2. Do not keep the child in the lock-up under any circumstances. The victim should be

immediately taken to a certified place of safety after the raid. The victim is not an accused person and should not receive the same treatment as the accused. Keep her separately from the brothel owners/traffickers.

3. Document the rescue operation in the diary, in presence of two independent reliable witnesses and get it signed by them for authentication.
4. The First Information Report (FIR) should be immediately registered by the victims or NGO in the Police Station and it should contain details of location of crime, description of offence, victim and accused, chronology of crime right from the time the child was trafficked. The FIR should be as detailed as possible. The child should receive a copy of the FIR and it should be kept in safe custody of the NGO/Protective/Children Home, where the child is kept.
5. Invoke all relevant Sections of Indian Penal Code, 1860 and Immoral Traffic Prevention Act, 1956 and Juvenile Justice (Care and Protection of Children) Act, 2000 against the trafficker and brothel owners.
6. Hand over the child to a representative from the Protective/Children Home run by either the Government or NGO. The child should be counselled about her stay in protective custody and that she has been kept there for her safety and well-being.
7. It is important to ensure the following:
  - Only plain-clothes police accompany the child to the Protective/Children Home.
  - The functionaries of the Protective/Children Home should ensure that the child does not come in contact with its traffickers, pimps, brothel owners or any such persons, who may have a bad influence on him/her.
  - The medical examination, including age verification test is carried out properly and scientifically. The age verification test is mandatory as per Section 15 (5A) of Immoral Traffic Prevention Act, 1956 and

Section 49 of Juvenile Justice (Care and Protection of Children) Act, 2000.

- The child victim is produced before the Child Welfare Committee within 24 hours of taking him/her into custody. In case, the Child Welfare Committee is not available, then he/she should be produced before concerned Magistrate for relief.
- The child has immediate access to standardised counselling, health care and legal aid. On behalf of the victim, the Personnel from the NGO, including Social Worker or Protective/Children Home should sign the *vakalatnama* (or the consent for a lawyer's representation).
- A social worker accompanies the child whenever he/she leaves the place of safety.
- A counselor is present whenever a child is giving testimony in the Court.
- The concerned Magistrate or the members of the competent authority as the case may be, visits the rescue home once in every 15 days to conduct legal proceedings.
- The child is prepared by explaining to him/her about court proceedings, so that he/she is aware of the procedures and is mentally well prepared. After every hearing of the case, the child should be informed about the court order, if any, so that he/she is kept fully updated on his/her case.
- It is recommended that trafficking cases be fast tracked under Speedy Trial to reduce the trauma and suffering of the child.

#### **D. STRATEGY FOR REHABILITATION (for functionaries in the Protective/Children Home)**

1. Ensure that the child is informally welcomed and is introduced to other residents and shown around. She should be shown her

room and her locker where she can keep her personal belongings. It is advisable that for the first few days, she should be given space for privacy and if possible, kept separately from the others or with those who have been rescued like her.

2. Provide a welcome kit, that includes a change of clothes, towel, undergarments, chappals/slippers and toiletries (soap, oil, hair brush/comb, toothbrush, paste, powder, rubberband, shampoo, sanitary napkins etc.), to the child on arrival.
3. Explain to him/her the rules and regulation of the Protective/Children Homes and their objectives, once he/she settles down,. This will make him/her feel comfortable and secure in his/her new environment. Also, explain to the child his/her responsibilities and duties during his/her stay in the Home.
4. A registered medical doctor should examine the child for any ailments, allergies, skin rashes and psychological disorders or problems. Routine blood, urine, lung X-rays and stool tests should be carried out. In case, the child is suffering from any ailment, she

should be given appropriate medication as prescribed by the doctor and there should be continuous follow-up on her condition.

5. Talk to the child and find out whether he/she is interested in continuing with his/her education and accordingly, admit him/her to a regular school or make arrangements for non-formal education or tutoring so that he/she can catch up with his/her studies. In any case, the child should be given some basic education which will help him/her be independent when he/she leaves the Home.
6. Provide the child with vocational training, including marketing strategies that are marketable, sustainable and practical. (Please check that providing a child with vocational training and marketing strategies is not contravening any child rights or child labour laws).
7. Prepare the child for his/her repatriation/ integration with his/her family. No rescued child should be sent back to his/her family without ensuring social acceptance and family support, to prevent re-trafficking and further exploitation.





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Ministry of Women and Child Development  
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