

Minutes of the Third Meeting of the Core Group on Trafficking, Women and Children Held on 28 April 2017 at 2:30 pm in Room No. 114, Manav Adhikar Bhawan, C-Block, GPO Complex, INA, New Delhi

The third meeting of the Core Group on Trafficking, Women and Children was held in the Commission on 28 April 2017 at 2:30 pm to discuss the structure and sub-headings of Guidelines and SoP on Trafficking. The meeting was held under the chairmanship of Joint Secretary (Training and Research), Shri J. S. Kochher, NHRC. The list of participants who attended the meeting is at Annexure I.

2. Welcoming the participants Shri Kochher began by enquiring if the SOP and Guidelines should contain the same sections specifically the preventive aspect. Both Prof. Indu Agnihotri from the Centre of Women's Development Studies and Ms. Razia Ismail from India Alliance for Child Rights emphasized that prevention aspect is important and should be there in both the SOP as well as the Guidelines. Further Prof. Indu elaborated that the envisaged Guidelines should have a broad framework within which the SOP will operate.

3. Shri Kochher then referred to the outline provided by Shri Bhuwan Ribhu for both the SOP and Guidelines. Beginning with the 'Preface' of the Guidelines, Shri Kochher asked the Core Group Members to give their comments.

4. Prof. Agnihotri highlighted two issues in the preface. She cautioned every one for using the word 'prostitution' as there are debates going around to replace it with 'sex worker' or 'sex- trade'. Second issue to which she drew attention was that there are legitimate places like the massage parlor, adoption centers, etc., but by mentioning it here even these parlors and centers will too come under scrutiny and might suffer.

5. Ms. Razia Ismail found the first paragraph of the preface drifting in nature. Ms. Komal Ganotra from CRY stated that since the preface is made by one person with a particular thought, we tend to differ and disagree. By critiquing it and discussing it line by line we will arrive at a third perspective. Instead we should all collectively decide what all is there that we should include in the preface. This approach she felt, is much productive to start with.

6. Shri Kochher agreeing with Ms. Ganotra, invited the members to give their ideas as to what should be the main components of the preface for Guidelines.

7. Prof. Agnihotri suggested that the preface should begin with trafficking and the major sites, how it is an organized crime, forms of it with respect to Section 370 of IPC, then bring in the vulnerability. The third part can refer to preventive aspect and the final part can end with a commitment of what we want to do, i.e. the objective of the guidelines. Ms. Komal Ganotra asked clarification on what exactly do we want to include in relation with vulnerability. Do we limit it to the definition and legislative framework or beyond?

8. It was decided that the definition of trafficking would be taken so that those who do not know much could also make sense of the Guidelines. Ms. Komal Ganotra briefed Shri Ribhu with the ongoing discussion as he joined in late. The final framework that emerged through consensus of all the participants present for the guidelines was **(i) Definition, which will include what trafficking is, (ii) vulnerability, which will address age, circumstances like natural calamities, economic and social reasons, (iii) acknowledge the fact that it may manifest into other forms due to changing demands.**

9. Shri Kochher pointed out that while talking about vulnerability it is important for us to focus on supply rather than on demand. He opined that vulnerability is more because of economic deprivation and therefore there is a need to focus more on supply.

10. Ms. Ismail suggested that there is a need to acknowledge that even though economic deprivation acts as an important and strong factor in increasing the vulnerability, it is not the only factor. Various other factors contribute to it like socio-cultural, circumstances like natural calamities earthquake, changing demands for instance; recently, there has been an increase in the demand for smaller children.

11. Shri Ribhu agreeing with Shri Kochher said that it is the supply that is fueling the demand. Taking back the discussion to the final framework it was then decided that next part of the Guidelines will address **(iv) Prevention and, (v) Objective or Reasons as to why these Guidelines are being formulated.**

12. Moving to the next section, i.e. 'Introduction', Shri Kochher enquired whether there is a need to have the introduction in Guidelines? He further suggested that introduction and preface could be merged together and made into a background. Shri Ribhu added that the content of the introduction, page 7 (the responsibility of the State) and preface could all be combined under the 'Preface'.

13. Ms Bhoomika Choudhury from Prayas pointed out that as both the Guidelines and SoP are separate documents, the objective of framing each of them should be made clear and these should not overlap with one another.

14. In the next section 'Vision and Objectives of Guidelines', Prof. Indu Agnihotri suggested replacing the word 'protect' with 'prevent'. Ms. Razia Ismail emphasized that it is equally faulty to use only 'prevent'. Shri Kochher opined that instead of replacing the words, 'prevent' should be incorporated in the Vision statement.

15. Discussing further, Shri Ribhu stated that this section can have two subsections. First one on 'Enforcement of the existing law and policy of the States' and second on 'Rehabilitation'.

16. Ms. Komal Ganotra said that law, policy and guidelines are made with different objectives. Therefore the objectives mentioned here needs to be broad and specific at the same time. The objectives should be limited for this document. However, the objectives as stated appears to be very ambitious and overly promising which are above the law. Shri Ribhu explained that the purpose of the Guidelines is to set standard whereas it is the SoP which is meant to be under the purview of law.

17. Ms. Chhaya Sharma, DIG, NHRC said that the guidelines needs to be broad in direction and it should not miss out on the important elements. So that when people strategize, they translate and include all possible aspects. Ms. Choudhury added that the vision of the guidelines could be mentioned in the preface but here under this section, a clear two line objective of this document should be stated which could explain the purpose of formulating these Guidelines.

18. Further, Prof. Agnihotri opined that the section on 'Vision and Objective' should be made more crisp and to the point and the length could be reduced by reframing the sentences for easy comprehension. She added that the sub-points needs to be re-ordered. The prevention aspect should come first, then investigation followed by rehabilitation and data base of offenders.

19. Ms. Ganotra proposed that the tone of the document needs to be set first. The document could be made aspirational and idealistic or it could be made into a suggestive mechanism which can exist in the framework, accessible with law.

20. Shri Kochher proposed that separate headings within 'Objective' should be there, one stating the purpose and what this Guidelines will do and the other stating the operational objective of the Guidelines.

21. Further, Prof. Agnihotri suggested that on page 7, it should be mentioned that after rehabilitation, the State shall ensure the safety of the victim. She also mentioned

reframing the sentence. Ms. Ismail opined that assuming these steps (mentioned on page 7) will suffice if taken into actual practice but this appears incomplete as it misses the prevention aspect.

22. The section on 'Identification and Vulnerability Mapping' was discussed next. Ms. Ismail said that due importance should be given to 'age'. She also said that the purpose of the document should be to change the attitude of people.

23. Ms. Komal Ganotra stated that while defining vulnerability the parameters of vulnerability should include age, urban-rural factor. Mapping as an exercise should define the roles, like who should do, what should be done, role of panchayats, etc. Prof. Agnihotri added that vulnerability mapping should be district wise. Shri Kochher added that vulnerabilities of women and children are different thus, should be taken separately. Ms. Ganotra highlighted that there is no framework for women

24. Moving ahead, Shri Kochher enquired if the title of section four 'Establishing Roles and Responsibility' fits in here properly in terms of the sequence, being placed after introduction, vision and objectives. Ms. Razia Ismail assured that the section follows a logical sequence and is placed rightly after the previous sections.

25. Further in this section on 'Establishing Roles and Responsibility' few stakeholders were added under Centre, State and District level. Ministry of External Affairs and Road & Transport Department were added under Centre. Department of Home and Department of Labour were added under State. SJPU, AHTU and DCPU were added at the District level.

26. Discussing the next section, Smt Chhaya Sharma pointed out that we should include the preventive aspect in the SOP. Ms. Ismail added that the prevention aspect is important in the guidelines too. If we do not include it in the Guidelines then the Guidelines will be incomplete.

27. Shri Ribhu explained that 'prevention' would be elaborated in detail within the section on 'Vulnerability Mapping' and should not be dealt with separately. Ms. Ganotra added that, Vulnerability mapping must constitute an essential part under prevention. Thus the section can elaborate on it and mention Vulnerability mapping as one of the aspects. Shri Ribhu said the section will include prevention from re-trafficking too. Prof. Agnihotri added that shelter homes should also find a mention somewhere. She also said that the role of National Commission for Women (NCW) could also be included somewhere within the Guidelines.

28. While discussing the section on 'Rehabilitation Schemes', Prof. Agnihotri stated that it seems like jumping from prevention to rehabilitation. Ms. Komal Ganotra agreeing with Prof. Agnihotri said that from prevention, the focus should be on rescue and then to rehabilitation.

29. Shri Kochher pointed out that the section under rehabilitation is not dealing with proper rehabilitating matter. He added that the names of Ministries and Schemes mentioned individually appear to be uncoordinated. Shri Ribhu explained that Ministry wise schemes have been just listed to check if there is anything missing. It will not appear like this in the final document. He added that rehabilitation should focus on the social, economic, skill building, and vocational training schemes.

30. In the last section on 'Monitoring, Accountability and Transparency Mechanisms' Prof. Agnihotri stated a need to put more emphasis on enforceability. Shri Ribhu agreeing with Prof. Agnihotri said that enforcement of law and even of programmes needs to be strengthened. He mentioned that institutional gaps will be covered too under this section.

31. Shri Akhil Dobhal from Prayas suggested if it should also include indicators like conviction rate, time frame, CWC data of trafficking, trafficking cases over a period of time to monitor and analyze the improvements made over time, etc. He added that this would also help in assessing the impact and effectiveness of the document.

32. Prof Indu Agnihotri pondered where the gap between the complaint and actual registration can be included. In some cases it takes around 6-8 months to actually register the complaint. Acknowledging the point made by Shri Dobhal, Shri Ribhu questioned who could be that body to keep a check? If NHRC can be made one to look into the parameters. He also questioned that who should these indicators be for?

33. Shri Akhil Dobhal clarified that it should be for every stakeholder mentioned in the Guidelines. Pointers could be included to be given to the monitoring agency. Prof Indu Agnihotri stated that review of data or area/ district wise analysis would also be of help. Shri Ribhu mentioned like there is police review in practice. Similarly NHRC can be made a body to review it. Prof. Agnihotri said a multiple stakeholder review could also be considered.

34. Shri Kochher suggested that indicators should be spelled out clearly. A benchmark could be specified and once that is reached the matter could be reported to NHRC by district officers.

35. Ms. Chhaya Sharma pointed out that in many cases officers do not know their job description. Therefore, each person should follow his/her work according to the designated post and post/position wise the work allotment should be made clear. Ms. Ismail added that indicative referral should come.

36. Ms. Chhaya Sharma said that it is important to decide the scale too as huge manpower is required. SHRCs are not active and NHRC do not have jurisdiction on them. Shri Ribhu pointed out that instead of looking at individual cases, indicators can be based on institutional framework. So the monitoring agencies like SHRC, NCPDR could be given a role of monitoring.

37. Ms. Chhaya Sharma pointed out that despite there being many units in the Ministry of Home Affairs; there is no unit on trafficking. Within a Ministry departments can be allocated for that job. Shri Kochher explained that there is a shortage of staff and creating a unit in the Ministry or in NHRC is not easy.

38. Shri Ribhu asked Shri Akhil to work on the suggestion given and develop indicators on which monitoring can be done. Ms. Choudhury suggested that there should be proper follow up of the case and something on prosecution must be added. Ms. Chhaya Sharma said that provision of counseling should be added too.

39. Ms. Raizia Ismail stated that in a footnote or somewhere the Guidelines should mention about capacity building. Shri Kochher enquired as to who should be responsible for capacity building. Ms. Ismail suggested that it should be included in the in service training.

40. Shri Ribhu pointed out that a large number of shelter homes are not registered. Also, training happens only in government shelter homes and the private homes are operating without any training and monitoring. Therefore, training must be provided to private shelter homes and non-governmental organizations. Ms. Bulbul Das emphasized that the guidelines at every stage should not be limited to only children. Women should be considered at all levels. Prof. Agnihotri highlighted that it is assumed that the set up is there but police reforms are pending, NCW has no powers, and those points which were raised in the meeting held on 18 April are not mentioned here. Shri Ribhu clarified that all those things will be taken into consideration and will find a mention in the SoP. He further added that budget is an important element and should be mentioned too.

41. Ms Chhaya Sharma added that there is no provision of budget for victims and should be made. She elaborated by stating that there is money allocation for the

accused but for the victims even the medicines are brought from the pocket of the police officer.

42. The discussion on Guidelines ended there. The next document discussed was the Standard Operating Procedure (SoP). While discussing the contents of SoP, few items were modified. Prof. Agnihotri questioned how to register a complaint online and whether there exist a tracking mechanism? Ms. Chhaya Sharma stated that more than tracking, the focus should be on registration of complaints.

43. Ms. Raizia Ismail pointed out that till now the emphasis is more on combating trafficking and it fails to answer the questions like why trafficking is happening, in which direction it is going and with whom it is happening. The SoP is starting from rescue, not mentioning prevention at all. Then who does this SoP addresses too?

44. Shri Ribhu explained that incorporating these aspects in SoP will defeat the purpose of formulating SoP. He added that the audience for SoP is different. Also, there is no standardized response which the police follow. Further, he stated that the objective of SoP is different i.e. to standardize the process of rescue and post-rescue. He also mentioned that the document under consideration is not SoP of the Guidelines made. The two documents are separate.

45. Shri Akhil Dobhal pointed out that in the process of post-rescue, how a victim is to be identified. Further, Shri Kochher enquired whether for different forms of trafficking, there would be different SoPs? Shri Ribhu responded by informing him that only the rescue portion will be different but the rest of the SoP will remain same.

46. Ms. Raizia Ismail informed everyone that a lot of small children are being exploited for organ transplant or are trafficked. Thus, it is important to see whether the guidelines address these? She further added that the children born out of surrogacy are more vulnerable and the canvas of vulnerability needs to be enlarged. Prof. Agnihotri emphasizing the point made by Ms. Ismail added that surrogacy and egg donor market is expanding as it involves big money and it makes woman vulnerable from multiple sides. Shri Ribhu mentioned that guidelines should include a small section asking the States to collect data.

47. While discussing item 6 of the contents on page 3 - 'Rehabilitation and Re-Integration', Prof. Agnihotri pointed out that there is no mention to the training aspect. Further, Shri Ribhu suggested that it needs to cover repatriation (inter & intra country) and institutionalization. Also, it needs to be added that the procedure of recording statement, protection etc. should be victim-friendly.

48. Ms. Chhaya Sharma opined that SoP should act as a guiding factor for a layman. Also, the States must maintain a detailed data base of convict and a data base of trafficked victim rescued so that patterns and trends could be traced in few years time. She further added that the dossier should be a detailed one with proper history and new key words like pimps, trafficker etc should be added so that it becomes easier to identify.

49. Shri Ribhu said that it could be added in the annexure. He also suggested the NHRC could ask MHA to make a data base on Trafficking. Prof. Agnihotri mentioned that at panchayat level this could be done. Ms. Chhaya Shrama stated that she could help in providing the role of panchayat in vulnerability mapping.

50. Shri Akhil Dobhal mentioned the concept of restorative justice and bringing the offender and victim face to face. The idea was discarded by everyone present on the spot.

51. In item 7 of the content in the SoP on 'Follow-up', victim-witness protection was added. Under item 8 on 'Law Enforcement and Legal Provisions: Related Provisions of Law', Prof. Agnihotri suggested to add Inter-State Migrant Workmen Act. Shri Ribhu explained that the Inter-state Migrant Workmen Act is one of the worst acts that exist in the Parliament of India. The data according to this act shows zero migration. He was of the opinion that if we add one loophole in the SoP, then everyone will find a way to go for that. Though Prof. Agnihotri agreed, she still thought that it could be added somewhere.

52. Ms. Ismail mentioned that the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 should also be included and children in performance could also be added. Shri Bhuwan Ribhu stated that the Indian Penal Code covers everything and if that is followed properly nothing else will be required.

53. Prof. Agnihotri towards the end mentioned that a kind of status report or annual report on the status of shelter homes/one stop centers etc should be asked for in the Guidelines. She further elaborated that the status in terms of infrastructural facility. Other services and facility as well as the budget allocated should be reported too.

54. Dr. Savita Bhakhry, Joint Director (Research), NHRC gave a vote of thanks. The meeting concluded with a decision that by 1 May 2017 Shri Bhuwan Ribhu/ Ms. Raisa Phillip from Bachpan Bachao Andolan will upload the edited copies of both the Guidelines and SoP to Google drive and share it with everyone present for them to

comment and see the changes made. The participants were requested to provide their comments by 7 May 2017. The second draft then could be uploaded by 17 May 2017. A fourth meeting to discuss both the documents word by word could take place in the fourth week of May i.e. in between 22 May 2017 to 27 May 2017.

Annexure I

List of Participants

1. Dr. Indu Agnihotri, Director & Professor, Centre for Women's Development Studies (CWDS), New Delhi
2. Ms. Bulbul Das, Member, All India Women's Conference, New Delhi
3. Ms. Razia Ismail, Convener, Indian Alliance for Child Rights, New Delhi
4. Ms. Komal Ganotra, Director (Policy, Advocacy, Research And Documentation [PRAD]), CRY, New Delhi
5. Shri Bhuwan Ribhu, National Secretary, Bachpan Bachao Andolan, New Delhi
6. Ms. Raisa Anna Philip, Bachpan Bachao Andolan, New Delhi

Special Invitees

7. Smt. Chhaya Sharma, DIG, NHRC, New Delhi
8. Ms. Bhoomika Choudhury, Advocate, Prayas Juvenile Aid Centre (JAC) Society
9. Shri Akhil Dobhal, Prayas, Juvenile Aid Centre (JAC) Society

NHRC

1. Dr. Savita Bhakhry, Joint Director (Research), NHRC
2. Ms. Samra Irfan, Junior Research Consultant, NHRC
3. Ms. Kanika Gupta, Junior Research Consultant, NHRC