

**NATIONAL HUMAN RIGHTS COMMISSION  
PRP&P Division- SRO Unit**

**Minutes of the Meeting of Core Group on Children held on 20<sup>th</sup> November, 2018**

A meeting of the Core Group on Children was held on 20 November 2018 in the Conference Hall of the Commission under the chairmanship of **Smt. Jyotika Kalra, Hon'ble Member, NHRC**, and was attended by Shri Ambuj Sharma, Secretary General, NHRC, Shri Dilip Kumar, Joint Secretary (T&R),. The list of participants Shri Sudhir Kumar, Special Rapporteur, Smt. Chhaya Sharma, DIG (Inv.) Dr. M.D.S. Tyagi, Joint Director (Research), the Core Group Members and Special Invitees is annexed (**Annex-I**). **Shri Dilip Kumar, Joint Secretary (T&R), NHRC**, welcomed all the members of the Core Group and the Special invitees and gave a brief description of the agenda of the meeting. Smt. Jyotika Kalra, Hon'ble Member, NHRC, highlighted that the Govt. run Child Care Institutions (CCIs) are often not utilised fully whereas privately run CCIs are overcrowded. Regarding the rehabilitation of trafficked children, she emphasised that the problem is more serious in case of rescued children who belong to neighbouring states.

**Agenda Item – 1**

**1.0 Protection of Children from sexual abuse in the Child Care Institutions**

**1.1 Prof. Anita Julka, NCERT** shared her experience with Child Care Institutions (CCIs) and mentioned about the ambiguity in functioning of the mechanism under which the CCIs are registered. She stressed on need for introducing a stronger mechanism that would have a comprehensive inspection on legal grounds even before it is permitted for the registration process. The very recent example of an illegally built CCI in Muzaffarpur booked in rape case is an alarming incident and the sole responsibility has to be put upon the Nodal Officers of the State government so as to ensure a routine check the ground level reality.

**1.2 Shri Ambuj Sharma,SG,NHRC** suggested that National Commission for Protection of Child Rights (NCPCR) should be given the responsibility of monitoring the system. Further, he also suggested that some level of accreditation or ranking should be given to the CCIs on the basis of their functioning with the level of transparency and accountability.

**1.3 Ms. Preeti Mahara, Director, CRY**, emphasised that the seriousness of an incident like Muzaffarpur Home rape case has put the light on our negligence towards CCIs. There is lack of awareness not just among the employees of the CCIs but also among the children. It has been observed that children are unable to use 1098 helpline due to various reasons

including the fear of being caught by the workers of CCIs. They are unaware of the fact that they can make complaint against the system. It is necessary to deploy the investigating authority to have a strong protection system inside the shelter homes. Secondly, there should be cautious monitoring of whereabouts of the children through CCTVs as many things happen due to negligence within the CCIs itself. Lastly, the elder children must be given a responsibility to report about the functioning of the CCIs and strict intervention by the authorities on monthly basis needs to be ensured.

**1.4 Shri Ambuj Sharma** mentioned that the availability of 1.2 lakh CCTV cameras installed in Delhi/NCR claims to monitor the safety of women and children on roads and in similar way, the CCIs can have the CCTV cameras installed after getting sanction from the respective Government as these children are more vulnerable inside the premises of CCIs. Further, he raised a query about the number of the state- run CCIs in Delhi; it was figured out in the discussion that only 21 CCIs out of approximately 100 CCIs working in Delhi are run by the government.

**1.5 Ms. Bharti Ali, Co- Director, HAQ-Centre for Child Rights** mentioned that though the budget was announced for CCTVs by the Delhi Government, but the installation is yet to take place.

**1.6 Mr. Shailesh Kumar Srivastava, District Officer, GTB Nagar, New Delhi,** mentioned that the registration of CCIs, its building and statutory compliances should be enhanced. On the same note **Hon'ble Member Jyotika Kalra, NHRC** elucidated that under the Society's Registration Act, the compliances have to be fulfilled at the time of registration itself and premises are allocated on that basis only. It is strongly recommended that CCIs should submit quarterly Report on their activities to the government. Since, CCI is a very important institution and yet vulnerable, we have to ensure its efficient working for the protection of children.

**1.7 Ms. Astha Saxena Khatwani, JS, Ministry of Women and Child Development** stated that the ministry has insisted upon the State- wise Reports on the national speculation on the working of CCIs, and 1400 Reports have been received/ analysed. Unfortunately, reports of 36 CCIs only were from Delhi and there is no clarity on the present situation of CCIs in Delhi. Secondly, there is lack of awareness of child rights amongst the children and, from observations through visits in CCIs, one can realise the level of discomfort in complaining

openly in front of the investigating committees. She informed that a letter from the Ministry has been sent regarding the installation of phones and to ensure accessibility of 1098 helpline number at all the CCIs. However, the members argued that even with telephone being in place, children don't have an access to it. As narrated by Mr. Srivastava that the phones are placed at the height of more than 5 feet which itself reveals an intention of not making a phone service accessible to the children.

**1.8 Ms. Astha Saxena Khatwani**, highlighted the importance of deploying the monitoring teams that will be looking at the requirement of resources, services, infrastructure, etc. Secondly, the employees of CCIs also have grievances as their job is temporary and low paid, owing to different conditions/rules that depends largely upon the ownership of the CCIs whether run through NGO, Private or Government sectors. The ministry has attempted to increase the remuneration of the CCIs' employees so that some reasonable amount will enable them to stay longer into these institutions and also there will be a fear of accountability attached to it. But, it is a huge process and is still under the consideration of the cabinet. She emphasised that the concept of sponsorship can be used as a support from the community at the basic level to take care of the children in child care institutions. The budgeted amount is considerably low and the end sufferers are the children. The plight extends when the amount decided at the cabinet level dilutes enough at various stages that loosens its beneficial value for the children. She stated that we can see how theft cases are interlinked with non availability of resources which are very important if the preventive aspects like Justice Juvenile Act and POCSO Act have to be implemented by the system. NHRC has a key role in terms of monitoring the absoluteness of exercising the rights of children. We should attempt to make children realise that they are equal citizens. Lastly, it was mentioned that Children should be provided privileges with the concept of equity so as to grow with confidence and the narrative of children being equal citizen should be a declared narrative in the society.

**1.9 Shri Ambuj Sharma** suggested that the necessities are ought to be mentioned/specified at the budgetary level where each thing can be computed.

**1.10 Hon'ble Member Jyotika Kalra, NHRC** raised a question about the registration of CCIs in India, to which **Ms. Astha Saxena Khatwani** added that the ministry has introduced the drive and around 3000 CCIs were registered at the initial mapping and finally the count has reached to somewhere 8,800.

**1.11** It was added by **Shri Sudhir Kumar, Special Rapporteur, NHRC**, “We need to look at the numbers that are registered under the Justice Juvenile Act and how many registrations are still pending?”

**1.12** **Ms. Razia Ismail, Convenor, Indian Alliance for Child Rights** referred to the complaint system within the CCIs, as it was observed that children are afraid to complain because these complaints will be heard, read and known by the employees of CCIs, which might be leading to fearful consequences for the children. There is a self defensive, active mechanism within the institutions itself that promotes illegal activities against the children.

**1.13** **Shri Sudhir Kumar** supported the view and explicated that 1098 helpline is not the only option; it is difficult to go against the employees of CCIs. He cited the example of a CCI in UP from his own observation during his visit that CCTV clips were being used to see girls undressing. Such saddening affairs make us think critically of the installation of the CCTVs.

**1.14** **Ms. Rupa Kapoor, Former Member NCPDR**, provided an insight that we need to put the responsibility for monitoring of CCIs on the Police personnel as they can exercise the authority that cannot be done by the Social Welfare Department.

**1.15** **Ms. Chhaya Sharma, DIG (Investigation), NHRC** commented that it is impractical; she explicated that even with the well established rules for investigation and making availability of personnel and formation of a State Inspection Committee, still the necessary inspections are not done as it is often got to hear that DMs are pre occupied with other important work. Secondly, the visit of these committees/members is to be mandated at least once in 3-6 months. Further, it is extremely important for the children to know that they are protected by the authorities. Lastly, she suggested that the Ministry of Women and Child should ask for the report from the District Magistrates to learn the conditions of CCIs in each State/District.

**1.16** **Ms. Aparna Bhatt, Advocate, Supreme Court of India** stated that at least now the Govt. acknowledges the existing problem of ‘sexual abuse’ in Child Care Institutions. We are checking the background of the persons who had given the recognition/acceptance to run the CCIs in Muzaffarpur and other cases of registration of Homes. Child line (NGO) visited the CCIs as a part of its mapping process across the same lines that TISS conducted and noticed that these children didn’t have freedom to talk, still 3-4 children described whatever they wished to and the Team got to hear experiences of physical abuse and corporal punishments which should have alerted the government even before the TISS’s visit to

Muzaffarpur in late 2017. The question is what kind of approach/intervention made the children reveal about their experiences to TISS team which didn't come from other authorities is that 'Simple monitoring and intervention' is of no use, people should be qualified to talk to these children. NHRC can probably help us to set up a base to decide the parameters of 'who is qualified to talk to children'? Children are living in confinements in the CCIs and Muzaffarpur case is a reality, there are political connections of the owner that comes with major consequences against the complainer. She recommended that post initial reception of the children (first three months of temporary care) and even for long term care institutions, it should be mandated that the child has an access to the outside world, the school and their rights are to be institutionalised. In the conclusion Ms. Aparna Bhatt remarked that to help us to improve the situation, it is important to have a collective action to provide 'space for these children to communicate'.

**1.17 Ms. Astha Saxena Khatwani** reiterated that we have to look at the sanction of the capacity of shelter homes to accommodate particular number of children. Hasn't it become the business of the people while exploiting the spaces reserved for Children? The field visits to these shelter homes reveal that 70 children are being kept at the space meant for 50 children. From the anecdotal cases, we have to see how vulnerable these children are in terms of sexual violence, trafficking, etc. We should be having testimonials from children, of their own experiences; the interaction with the children will surely reveal a lot about the shelter homes.

**1.18 Mr. Shailesh Kumar Srivastava** stated that CWC has a central role in monitoring these institutions. We need to have a critical look at CWC, its dysfunctions, failures, etc. The sole responsibility in these cases of violations of rights against children is produced in front of CWC, consequently the reports are sent to them, how come CWC has failed to take a note of it? Instead of creating a safety net for children we have created a closed periphery for sexual abuse, trafficking, etc. An inspection team should always ensure that the complaint box is accessible to the children as it was observed that complaint boxes are placed at such height like 5 feet or above that makes it impossible for children to access it.

**1.19 Ms. Jyoti Duhan Rathee, Member, DCPCR** cited that CWC is a major stakeholder in all the cases and questioned upon why the children are not being asked if the admission is obtained in the school, whether support was provided to them? If the children are not presented in front of CWC, it has to be mandated that all children are presented. The

employees cannot decide upon who can be presented. There should be uniformity in the system. She said that every stakeholder including the Commission has until now failed to give an environment to strengthen the loose ends of the legal system. The victim child is isolated and is bereft of the basic rehabilitation and restoration in the society.

**1.20 Shri Subhash Gautam, Superintendent, WCD** stated that the institution should be the last resort. Why do we make it as a priority and how come we put the responsibility of children solely on it? Secondly, evolving a mechanism by which we can acknowledge the expectations of the children at the village and the district level is very important. We should be looking at the facilities, resources that are required for these children. Thirdly, professional psychologists and psychotherapists are necessary for the restoration of victims, as they are experienced in dealing with cases of sexual abuse, trafficking, and other offences. As it leads to negative impacts on the mental health of children; one is more exposed to the drugs, weapons, etc. Only when a bigger case like Muzaffarpur comes out in the media, we get to awaken. Lastly, if we talk about the accountability, “have we ever looked back at ministries and institutions and questioned their existence with such dysfunctions?”

## **Agenda Item – 2**

### **2.0 Children’s Human Rights: National and International Context – Discussion on UNCRC and Indian Laws**

**2.1 Bharti Ali** emphasised about the mechanisms for the audit. She said that all the CCIs should be asked to submit the self-report. There should be an exercise to identify some critical indicators which NCPCR is taking into consideration. There are multiple monitoring bodies but we need a strong mechanism of rationalization in analysing the policies as it has huge psychic impact on the children. There ought to be a mechanism of strict guidelines on the reporting of the CCIs as the reports can be conflicting when it comes from various inspection committees.

**Shri Sudhir Kumar** added that the report on the gaps between UNCRC and the Indian laws, with suggestions/recommendations is being prepared by the NHRC Sub-Committee on UNCRC, and it is at the final stage.

**2.2 Ms. Rupa Kapur, ex-Member, NCPCR** stated that there is a huge confusion on the definition of sexual abuse in Indian laws, whether Juvenile Justice Act or POCSO Act can be applied in real life situations when the sexual violence takes place between girls? There are

multiple cases that revealed as to how the State fails to accept this reality. She suggested NHRC to help when the ministries and government do not respond to critical issues for the longer period of time.

### **Agenda Item – 3**

#### **3.0 Rights of the Children with Disabilities**

**3.1. Prof. Anita Julka, NCERT,** suggested that early interventions by Aangan wadi workers, Ministry of Women & Child and other concerned institutions are required to meet the special needs of the children with disabilities including ‘bringing education to home’ for children with high support needs. Secondly, the training programmes and workshops should be organized for creating awareness about the rights of the disabled children amongst the local stakeholders, Panchayati Raj Institutions, Administrators, Legislators, Doctors, Nurses, Aanganwadi, Asha workers, Para medical workers, etc. Thirdly, there should be an attempt to develop a child tracking system to keep updated information of whereabouts of the child. Also, through surveys and other methods, data from villages/districts can be obtained from various Ministries that can help us alter the policies, budget at the beginning level only. It is recommended if we can create a universal design of all products, technologies, the assistive/supportive devices with which we can help children with disabilities overcome the major difficulties in their development. She also proposed amendment to the RTE Act as per new legislations.

**3.2 Ms. Rupa Kapur** upheld the importance of a support from the community and building separate homes for the disabled children with advanced technology.

**3.3 Ms. Farida Lambay, CEO, Pratham Education Foundation** emphasised on more professional and parental involvement to address the issue.

**3.4 Prof. Asha Bajpai, TISS** added that care planning is very important and referred to the Accessible Formats developed by TISS (Tata Institute of Social Sciences) and its “**I Access Right Mission Initiative**” launched with the aim to work with the ecology of Students with disabilities towards facilitating disabled friendly university campus with special focus on Inclusion and Accessibility.

**3.5 Ms. Aparna Bhatt** opined that NHRC needs to develop a white paper on minimal support system.

**3.6. Shri Ambuj Sharma** requested that a note may please be sent to the NHRC.

**3.7 Smt. Jyotika Kalra, Hon'ble Member, NHRC** mentioned that much action is needed to protect the rights of the disabled children. Provision for more funding on Action Research, creation of retrofitting environment, "inclusive education" and encouraging a "universal design" on every necessity and other reasonable comforts that match the disabled too, are essential to address the issues.

#### **Agenda Item – 4**

#### **4. Rehabilitation of Children rescued from trafficking**

The Group was divided on the Trafficking of person (Prevention, Protection and Rehabilitation) Bill, 2018. Many members felt; since there are ample provisions in the Acts like JJ Act and Indian Penal Code to deal with the trafficking, another Bill is not a necessity; but implementations of the provisions already existing in the system is enough to tackle the issue.

**4.1 Shri Dilip Kumar, Joint Secretary (T&R)** mentioned that the Bill proposes a comprehensive solution to the issue of trafficking and, having an exclusive Act is no different like we have different Investigation Agencies namely CBI, NIA,ED, etc. for different purposes and responsibilities.

**4.2 Ms. Aparna Bhatt** commented that the Bill proposes a pan-India Jurisdictional body and it is complimentary to the existing laws to cover the trafficking.

**4.3 Ms.Priti Mahara,(Director, CRY)** raised a concern on the rising number of sexual violence cases against children in last 5 years. She stated that there is an urgent need to bring all stakeholders into the discourse of child protection and to build capacities at all levels to prevent child right violations, to respond to them with sensitivity and efficiency and have effective measures for rehabilitation. Secondly, designation of special courts across India with requisite infrastructure will help the cases to undergo speedy trials. Thirdly, adequate investment in training of all stakeholders who come across with children, for example Child Welfare Committee members, Juvenile Justice board members, police, medical professionals, paralegals, doctors, mental health professionals, lawyers and judges, play a key role in investigation and prosecution. Lastly, there should be a separate cadre of support persons for child survivor and her family that can help them get through the process of prosecution. The most effective way is by empowering the children, educating parents and creating a vigilant community can only ensure the rehabilitation of rescued children from the trafficking in the society.



**4.4** When the members expressed diverse opinion about the Bill, **Smt. Jyotika Kalra, Hon'ble Member, NHRC** decided that there shall be a separate discussion on it later.

**5. After due deliberations, the following recommendations emanated from the Core Group Meeting:**

**5.1 Mandatory Registration of CCIs**

As mandated under the provisions of the JJ (Care and Protection) Act 2015, all Child Care Institutions (Government and Non Governmental, irrespective of receiving grants or not) should be registered under the Act in such a manner as prescribed and it should also be linked to the Specialized Adoption Agencies. It should be ensured that timely inspections and follow up actions are carried out meticulously as per the guidelines of the Ministry of Woman and Child Development. *(Action by MWCD and the States /UTs)*

**5.2. Compliance of Registration formalities**

Compliance of legal and other formalities of the proposed Societies should be ensured from the time of registration itself under the relevant Acts/Rules. It must be made mandatory to submit quarterly Report on continuation of those compliances and its routine evaluation by the authorities concerned. *(Action by MWCD and the States /UTs)*

**5.3 Profiling and redundant Monitoring of CCIs**

The guidelines contained in the WCD manuals for Institutional Care and protection of Children should be followed by every CCIs working in the field. The monitoring and inspection of CCIs and effective functioning of the Internal Management Committee must be ensured by the State Inspection Committee. Child Welfare Committees should also give preference to Govt run CCIs over the private run CCIs. Profiling of CCIs, random checking and routine inspections should be strictly followed as per the guidelines of MWCD. Additional mechanism to monitoring the system and some level of accreditation or ranking may be given to the CCIs on the basis of its functioning with the required level of transparency and accountability *(Action by MWCD and the States /UTs)*

**5.4 Installation of CCTV Cameras**

Premises of the CCIs should be under CCTV coverage. It is an effective deterrent measure although not a substitute for human care and accountability; therefore senior officers must be held responsible for its effective deployment, functioning, utilization and accountability. *(Action by MWCD and the States /UTs)*

### **5.5 Accessibility of help line Number 1098**

It should be ensured that the helpline is effectively working and is accessible freely to the children. The advantageous utility of it the same to be made known to every inhabitant of the CCI. Also, it should be ensured that the access to the phone should not be under the coverage of CCTV. *(Action by MWCD and the States /UTs)*

### **5.6 Background and character antecedents check**

Periodical background and character antecedent check in respect of the people working in the CCIs must be compulsorily carried out. *(Action by MWCD and the States /UTs)*

### **5.7 Enhancement of Remuneration of the Staff of CCIs**

The State must ensure payment of the reasonable amount to the employees of the CCIs to enable the staff to stay longer into these institutions and also, there will be a fear of accountability attached to it. *(Action by the States /UTs)*

## **Rights of the Children with Disabilities**

### **5.8 Sensitization, early Intervention and Community based management**

Sensitization and awareness campaigns to be organized for early detection of disability among the children and interventions by the local stakeholders, Panchayati Raj Institutions, Administrators, Legislators, Doctors, Nurses, Aanganwadi, Asha workers, Para medical workers, etc. Training programmes and workshops should be organized for creating awareness about the rights of the disabled children and to provide them with compulsory elementary education in an appropriate environment. *(Action by the States /UTs/MHRD/Department of Empowerment of Persons with Disabilities, Ministry of Social Justice, Ministry of Information and Broadcasting)*

### **5.9 Mapping and survey**

The States/UTs need to undertake specific survey of the disabled children, ascertaining their special needs and the extent to which these are being met. The survey also needs to be carried out to promote and facilitate inclusive education and their empowerment from the primary level itself. Also, there should be an attempt to develop a child tracking system to keep updated information of whereabouts of the child. *(Action by the States /UTs /MHRD/Department of Empowerment of Persons with Disabilities, Ministry of Social Justice)*

**5.10 Promotion of retrofitting of environment**

There should be initiative in creating a universal design of all products, technologies, the assistive/supportive devices with which we can help children overcome the major difficulties in their development. *(Action by the States /UTs)/MHRD/Department of Empowerment of Persons with Disabilities, Ministry of Social Justice)*

**5.11 Funding for Action Research**

Preferential research funding for action research on the subject of disability, especially for the poor children with disability who are not only disadvantaged but also vulnerable, to be considered. *(Action by the States /UTs/ICSSR/ NHRC/ NCERT/ MHRD/ MSJ)*

**List of Participants****Annexure-I****NHRC**

1. Smt. Jyotika Kalra, Member
2. Shri Ambuj Sharma, Secretary General
3. Shri Dilip Kumar, Joint Secretary (T & R)
4. Smt. Chhaya Sharma, DIG (Inv.)
5. Shri Sudhir Kumar, Special Rapporteur
6. Dr. M. D. S Tyagi, Joint Director (Research)

**Union Ministry of Women and Child Development**

Ms. Astha Saxena Khatwani, Joint Secretary, Ministry of Women and Child Development,  
Government of India

**Core Group Members and Special Invitees**

1. Ms. Razia Ismail, Convenor, Indian Alliance for Child Rights (IACR)
2. Mrs. Farida Lambay, CEO, Pratham Education Foundation
3. Ms. Priti Mahara, Director (Policy, Advocacy, Research and Documentation)  
CRY- Child Rights and You
4. Ms. Bharti Ali, Co- Director, HAQ- Centre for Child Rights
5. Prof. Asha Bajpai, School of Law, Rights and Constitutional Governance, TISS,  
Mumbai
6. Ms. Aparna Bhat, Advocate, Supreme Court of India
7. Prof. Anita Julka, Department of Education of Group with Special Needs, NCERT
8. Ms. Jyoti Duhan Rathee, Member, Delhi Commission for Protection of Child Rights.
9. Ms. Rupa Kapoor, Former Member, NCPCR,
10. Shri Shashank Shekhar, Advocate, Supreme Court, and Former Member, Delhi  
SCPCR.
11. Shri Shailesh Kumar Srivastava, District Officer, North-West Delhi.
12. Shri Subhash Gautam, Superintendent, WCD, Phulwari.