

**Minutes of the Core Group Meeting on Trafficking, Women and Children Held on
6 December 2016 at 3 pm in Room No. 508, Manav Adhikar Bhawan, C Block, GPO
Complex, INA, New Delhi**

A Core Group meeting on Trafficking, women and Children was held in the Commission on 6 December 2016 to discuss the agenda prepared on issues related to Trafficking, Women and Children enclosed as Annexure I. The meeting was held under the chairmanship of Hon'ble Member, Shri S. C. Sinha, NHRC. The list of participants who attended the meeting is at Annexure-II.

2. Shri. J.S. Kochher extended the warm welcome to all participants. He informed the participants that NHRC has prepared a list of agenda points to be discussed in the first meeting of the Core Group on each of the three i.e. Trafficking, Women and Children. He also mentioned that other recommendations by CEDAW related to violence against women, recommendation of J. S Verma Committee and other recommendations pertaining to women as well as children especially in light of JJA, 2015 can be discussed. Further, Shri Kochher asked the participants to suggest additional agenda points, if any.

3. Member Shri S. C. Sinha taking over from Shri J. S. Kochher asked all the participants to look at the agenda point no. 3 from the Trafficking section which was reviewing of draft guidelines on Trafficking formulated by NHRC. Five minutes were given to the participants to go through the guidelines and then to comment on it.

4. Member Shri S. C. Sinha then asked the participants to give a brief introduction about them since this was the first Core Group meeting. Ms. Vijayalakshmi Arora began the discussion with introducing herself and giving comments on the draft guidelines prepared by NHRC.

5. Ms. Arora while appreciating the step taken towards drafting the guidelines on trafficking stated that separate procedures should clearly be mentioned for children and women and both should not be clubbed together under one section. Further she added with reference to point 9 & point 10 of the draft guidelines concerning missing children that it should clearly spell out what are the roles and responsibility of the various stakeholders.

6. Simplifying Ms. Arora's point, Shri Sinha said that guidelines may refer to JJA 2015. The second point that Ms. Vijayalakshmi emphasized on was that the guidelines may also include implementation challenges with regard to rehabilitation and enforcement of the law. Shri Sinha recommended that challenges could be incorporated

in the form of suggestions. He further asked Ms. Arora that she can submit a write up on what are the challenges with regard to rehabilitation of women and children along with the possible remedies. The remedies then can be included in the guidelines as a way of suggestions.

7. The third point that Ms. Arora raised was the need for various stakeholders to converge and coordinate between them at all level including, district, state and national.

8. The next on the panel was special invitee Shri Chetan B. Sanghi from the Ministry of Women and Child Development. He acknowledged that the guidelines do address the important issues related with trafficking, women and children though some structural issues require deeper understanding. He was further of the opinion that the timely guidelines are necessary but is not effective until the force by law. He informed that guidelines are prescriptive with the State government and the State governments with their limited resources and understanding of the issue are at different levels in terms of awareness and action required. Therefore uniform guidelines for all, is not a right way of moving forward.

9. Shri Sanghi thus laid emphasis on the fact that the guidelines should be compartmentalized and there should be a part each referring to the local/micro issues for the ground level workers while the other part should be for the global/macro issues for the State to have instrumental and infrastructural set up. He added that legal lacuna is needed in the way to make the guidelines.

10. Shri Sinha reiterated what Shri Sanghi had said and stated that guidelines should be elaborating or supplementing the provision of the draft on trafficking. Shri Sanghi informed that the Bill draft of 12/09/16 on trafficking have undergone significant changes after incorporating the comments. Shri Sinha requested Shri Chetan Sanghi to share the final draft of the bill if possible.

11. Shri Bhuwan Ribhu, National Secretary of Bachpan Bachao Andolan, New Delhi asked the objective and context of the guidelines. For him both should be known as to what are the guidelines are for? He was of the view that there is oscillation between what the State shall do and should do and it needs clarity. Elaborating on his point he stated that that specific stakeholders needs to be specified like what the State should do, What the police should do, what the labour department's should do etc. and then there has to be a follow up. Shri Sinha agreed that the guidelines need to be specific in nature and clearly state out what each of the stakeholders have to do.

12. Another important point that Shri Ribhu mentioned was that the existing policies should clearly be spelled out and guidelines should converge all the existing policies on trafficking, violence against women as well as children. In addition, institutional

capacities should also be considered as to how many institutions are there, how many of them are functional, what are the existing capacities of these institutions etc.

13. Shri Bhuwan Ribhu also pointed out that resources and its specific allocation in terms of rehabilitation should be the focus. Also along with this, accountability of the stakeholders needs to be specified. He further added that specific issues need to be addressed to make the guidelines thicker like that relating to foreign nations as in many cases trafficked person is send to/from India. Shri Sinha asked Shri Bhuwan to give his suggestions in writing.

14. Shri Ajeet Singh from Guriya Swayam Sevi Sansthan, informed that in even in the remotest area, people know NHRC. He suggested that NHRC should compile all laws and policies on Trafficking, from micro to macro level. While stating the role of the police and mismanagement of FIRs he questioned the sufficiency of the time given to girl after cognizance and case diary. Shri S. C. Sinha narrated the case where the longer time period given to the girl was misused and worked against the girl.

15. Shri Singh added that in 70 percent cases no good counselors are present or not present at all. And in many cases the people at home, instead of providing support do not do so. Shri Chetan agreeing with Shri Singh emphasized that therefore the procedures for women and children should be separate. Shri Sinha while acknowledging that the cases and instances discussed though are very informative said the focus should be on the guidelines.

16. Shri Ajeet singh also pointed out that the FIRs are problematic as the police often want to write the FIR on their own. They also fill the charge sheet without finding the girl. Thus the guidelines could mention that recovery is necessary especially of women and children before filling the file sheet.

17. Professor Vijaya Raghavan re-emphasized that among the many existing guidelines, the guidelines that NHRC makes has an impact thus it needs to be clear and specific, referring to separate stakeholders defining their roles and responsibilities. He stated that point 6 of the guidelines referring to the paralegal volunteers, an honorarium needs to be paid to these volunteers for it to come on practice. Therefore a sentence could be added about the funds from the State which can be utilized here.

18. He further added that point 7 of the guidelines on legal aid, networks should be created between different stakeholders like the WCD and the police. He also pointed that there is lack of data and the guidelines should address that. At the state level it should be clear that how many shelter homes, their capacities and their function should be known. While highlighting the case of Maharashtra where there are groups which coordinate and converge various other stakeholders and meet on quarterly basis to

discuss issues at the ground level, he suggested something could be shared and learned from them.

19. Prof. Raghavan suggested reframing point 9 and 10 of the guidelines by using the word 'rescue' instead of 'recover'. He also raised concern over a point where newspaper advertisement was sought as a way to gain attention from the guardian/relatives of the person, Prof. Raghavan felt that it carried the risk of exposing the women in the public and making her more vulnerable. He added that wherever a child or woman is rescued, the State should create a panel of legal aid that can visit and assure that there is no issue.

20. Another important point that Prof. Raghavan mentioned was that the guidelines should also indicate that at the time of rescuing a woman or a child, all the personal belongings including documents, jewelry, clothes and money and in some cases children should also be recovered. The rescued children and women must be compensated, Prof. Raghavan suggested.

21. In Point 19 of the draft guidelines related to setting up of Fast Track Courts, exploring the records including video could be also be added. Further with reference to point 21 of the draft guidelines, he suggested that at the village level all women headed households must be mapped and made known. Also, every women released from the shelter home shall be provided with a certificate, making her eligible for all schemes and other services even if she doesn't have the documents.

22. Prof Raghavan emphasized that guidelines and its implementation must be monitored by State Human Rights Commissions. He added that recommendations from the National Workshop on Trafficking, organized in 2006 by TISS and NHRC can also be looked at for the draft guidelines.

23. Shri Sinha requested Prof Raghavan to submit all his suggestions in writing to the Commission. He moved to Ms. Razia Ismail to hear her comments on the draft guidelines. Ms. Ismail while agreeing with most of the comments added few important points. She took everyone's attention to the fact that because of lack of facilities the children and women who are rescued are in jails. Therefore the guidelines must address the need for better facilities and shelter homes in every States and Districts.

24. The next thing she pointed out was that in all cases there is a 'before', 'during' and 'after'. However the 'before' is very weak in all cases. Thus she suggested that the guidelines should be designed in a way so that the people are known who are vulnerable to get trafficked. She, emphasizing on 'prevention is better than cure' focused that vulnerable mapping is necessary. Shri Sinha added that this Prof. Raghavan too has suggested that women headed households must be made

known. Ms. Razia agreeing with him stressed that the question of prevention is important and visibility of every child and women is crucial.

25. Shri S. C. Sinha further questioned the reasons for 'trafficking' as a phenomenon, except in the case of kidnapping. Ms. Ismail explained that though there are enumerable reasons the most common is in lieu of debt by villages or relatives. She further explained that we live in society where there is a reactive community instead of a caring one. Thus the guidelines should be such which gives attention to training accountability, new roles and responsibility.

26. Shri J. S. Koccher informing the participants said that all these issues have been previously attempted to by ICPD and JJA 2015, however, the problem is with its implementation. Ms. Razia accentuated that NHRC should do loud thinking on the possible reasons for its failures.

27. Further, she added that the draft guidelines should also address the borderline ages for children when separating women and children. She also lay emphasis on that the attention is only on women and children. She felt that NHRC guidelines should proactively look at boys as they too are vulnerable and often trafficked for labour.

28. Shri Sanghi quoted few examples where children were taken from Assam to Maharashtra. Shri Sinha enquired if trafficking has organ transplantation as one of its reasons. And whether, the participants are willing to do so or are being forced into it? Prof. Raghavan elucidated that lot of women are trafficked and used in kidney racket. He added that lot of preventive action fail because uniform plans are applied to the entire country. Shri Bhuwan also added how children serve as cheap labour and are trafficked for this reason.

29. Next on the panel was Dr. Indu Agnihotri from Centre for Women' Development Studies, New Delhi. Re-emphasizing that women and children should be handled separately and different sections should be made addressing different stake holders in the draft guidelines added that prevention is most important. State does not address the question of care and so a lot of working class women have no choice but to abandon their children at home or on streets. She highlighted that 0-6 years is the most vulnerable age for children and how State view child care and its future generation thus should be raised through the guidelines.

30. Elaboration on Ms. Razia's point about borderline ages, Dr. Agnihotri said that within that category too different ages of children must be referred and dealt with differently. She also brought to attention that disability too makes children vulnerable as they are abandoned by their families and can be used for certain traits and these children are not even able to defend themselves.

31. Dr. Indu further made another important point about where the women should go after being rescued. She stressed that the choice should be given to women/girl as to where they would want to go and feel safe. And after they are resort to home, monitoring should be there in terms of safety and security, education, financial assistance and support skills etc.

32. Being more specific about the role of NHRC's guidelines she pointed that NHRC should ask for data on inmates both for women and children. Also NHRC should evaluate the training and skill camps that are often provided to them, and what they cater to in the future. She added that options for women must be made more concrete and income based as women remains vulnerable otherwise. Dr. Indu Agnihotri highlighted that since the number of shelter homes are few, in many cases women and children are in the same homes. Further, women and children who have different charges and have committed different acts are all put together. Since the homes are few and have fewer facilities, it is also necessary to review the reform homes in terms of if they actually 'reform' women and children as the name suggests.

33. Additionally, Dr. Agnihotri pointed out that a system of training and re-training must be developed. The para-legal trainer and those in the services must be in place, updated and trained from time to time. She raised concern over the convergence (of stakeholders) point as multiple agencies not always work well and there is a tendency to push things at each other. She also added that some sort of mechanism needs to be added for State to address and monitor an area where too many cases of missing children or women are being reported. The issue of accountability is utmost important.

34. Ms. Bulbul Das, Member of All India Women's Conference, New Delhi gave the following points in addition to the already mentioned: a) the budget allocated to shelter homes is very less and hence it is difficult to run these homes b) monitoring of the victims after they are rescued c) special courts are very few as there is a shortage of judicial officers. The same magistrate sees both cases for women and children and there is no separation

35. Ms. Ruchira Gupta, from Apne Aap Women Worldwide, Kolkata underlined that prevention is the key and thus vulnerability mapping is one of the most important responsibility of the State which needs to be clearly spelled out. The guidelines thus should mention the duty bearers. Also, vulnerability mapping to take into account the caste, class, gender, region and religion factor and carefully see what are the indicators. Further, she agreed with Ms. Bulbul Das that the budget for rehabilitation is very low. Ms. Gupta stressed that child care is crucial and less cost incentive in comparison with rehabilitation.

36. She felt that the guidelines must clearly state the context and year in which they are drafted as if the laws amend or new law emerge it is important to see what has to followed and implemented accordingly. She suggested that the rescued women and children must be issued some government Identity cards and all the documents then must be linked.

37. Colleague of Ms. Ruchira Gupta from Apne Aap, Ms. Tinku, present in the meeting pointed out that the migrant children, de-notified tribes particularly are most vulnerable as is seen from their field work. Hence attention must be paid to make these people visible. She also stated that the guidelines should address the 'demand' for trafficking and stricter action must be taken against the trafficker/buyer.

38. Shri Koccher added that with prevention in context, family strengthening strategies based on international norms must also be our focus. He asked the participants to suggest as to what needs to be done for vulnerable mapping and family strengthening.

39. Dr. Indu added that in disaster hit area or conflict prone regions many children and women are exposed to risk and are rendered vulnerable, there a team of people must come to manage and protect these very people. Ms. Razia, supporting Dr. Indu stated that disaster risk reduction/ management is an idea that must consciously come up.

40. Ms. Chhaya Sharma, DIG, NHRC and special invitee highlighted some practical problems that are faced at the ground level. She pointed out that no recognition in any form is given to the police officers and therefore most are reluctant in taking up a case of trafficking. Also, the police officer is not provided with a minimum budget to take care of the victim and take him/her to different places or courts as and when needed. The police is mostly disinterested in such cases. She also mentioned that identification is an issue in many cases thus a picture needs to be clicked of the vulnerable areas and preventive strategies must be planned. Another crucial point that Ms. Sharma highlighted was that the people in moving places like bus stop or railway station etc, should be made aware and trained as these areas are most prone for trafficking.

41. Shri S. C. Sinha stated that these guidelines need to be re-drafted and improved. Thus a voluntary committee must be formed that could devote two-three days time in re-drafting the guidelines under the chairmanship of Shri J. S. Kochher along with Dr. Savita Bhakhry and Ms. Chhaya Sharma from the commission.

42. Shri Sinha summed the broad suggestions/comments given by the participants as follows:

- i. Separate sections for women and children along with age specific ways to deal with them.
- ii. Duty of the stake holders to be clearly spelled out and different sections should separately be designed for them.
- iii. Prevention for care is necessary and vulnerability mapping is to be done. The guideline to begin with prevention, as that is the key.
- iv. Census of shelter homes at the national level and their capacities
- v. Imparting relevant skills in the shelter homes and to make sure they should not be trafficked again
- vi. In the slum/labour populated area where both men and women go out for work, the government has the obligation to provide these communities with school like place for children to be protected and cared at their vulnerable age.
- vii. Identity cards to the rescued persons or caste certificates
- viii. Identifying and focusing on vulnerable areas.

43. Few other points were added by the participants. They were:

- i. Ensuring accountability
- ii. Quick reports on everything which means, census of shelter homes, their position and capacities etc, must be quickly made public for the required action.
- iii. Youth must be targeted and must be engaged in gainful/productive activities
- iv. Long term monitoring system to be established
- v. Legal laws which puts women and children into risk needs to be seen and analysed
- vi. Expanding and strengthening the duty bearers and must go beyond the existing AHTUs.

44. Shri Sinha requested all participants to give their suggestion in written to Dr. Bhakhry via e-mail and also provide written comments on Draft Rules of the New Child Labour (Prohibition and Regulation) Amendment Act, 2016. He also asked Shri Kochher and Dr. Bhakhry to organize and coordinate at least two meetings with the participants to re-draft the NHRC guidelines on Trafficking.

45. Toward the end, Prof Raghavan made an important point and requested NHRC to take action on the fact that the inmates at the shelter homes (or prisons) are unable to exchange their ₹500 and ₹ 1000 notes after the demonetization as at the time of admission all money of the rescued victim for safety is taken by the Superintendent of the shelter home and is kept in custody of the shelter home, victims are not allowed to go out of the institution and many of them have no bank accounts. He further explained that the inmates' inability to exchange the money would result in victims losing their

money they have saved and/or managed to get from their brothel keepers and traffickers due to intervention of police and NGOs.

46. He, as others supported, requested NHRC to direct all State Governments and UTs (specifically, Secretaries, DWCD) to ensure that arrangements are made so that the women (and other) inmates of the shelter homes are able to exchange their money in ₹500 and ₹1000 notes before the expiry of the stipulated period i.e. 30 December 2016.

Agenda

Trafficking

1. Assessment of the draft Bill on Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2016 (MWCD Draft of 12/09/2016).
2. Review the concluding observations given by CEDAW committee on India's Fourth and Fifth Country Report which suggest the following to the State Parties:
 - a. Review the Immoral Traffic (Prevention) Act and include provisions addressing the prevention of trafficking in women and girls and the economic and emotional rehabilitation of victims
 - b. Address the root causes of trafficking by promoting alternative income-generating activities developing the economic potential of women and raise awareness among the population in rural areas of the risks of trafficking and the way in which traffickers operate
 - c. Ensure that traffickers are effectively investigated, prosecuted and punished and collect data and establish appropriate mechanisms aimed at the early identification and referral of, and assistance and support for, victims of trafficking, including foreign women, and provide them with remedies
 - d. Ensure that trafficked women and girls have access to victim and witness protection shelters, high-quality medical care, counseling and support programmes for alternative income-generation activities and for their reintegration into the education system and labour market, in addition to access to adequate housing and free legal aid, regardless of their ability or willingness to testify against traffickers
3. Looking into the draft guidelines on Trafficking formulated by the NHRC.

Women

1. Discussion on best practices that need to be adopted for the implementation of CEDAW concluding observation made in respect of the Fourth and Fifth Periodic Report of India.
2. Review of violence against women and their safety & security in the light of the Criminal Law (Amendment) Act, 2013 and steps necessary, if any.

Children

1. Review implementation of Juvenile Justice (Care and Protection of Children) Act, 2015.
2. Review of the draft rules for the new Child Labour (Prohibition and Regulation) Amendment Act, 2016.

Annexure II

List of Participants

1. Prof. Vijay Raghavan, Dean- Social Protection Office, Centre for Criminology and Justice, School of Social Work, Tata Institute of Social Sciences, Mumbai, Maharashtra
2. Shri Bhuwan Ribhu, National Secretary, Bachpan Bachao Andolan, New Delhi
3. Ms. Ruchira Gupta, President, Apne Aap Women Worldwide, Kolkata, West Bengal
4. Shri Ajeet Singh, Guria Swayam Sevi Sansthan, Varanasi, Uttar Pradesh
5. Dr. Indu Agnihotri, Director & Professor, Centre for Women's Development Studies (CWDS), New Delhi
6. Ms. Bulbul Das, Member, All India Women's Conference, New Delhi
7. Ms. Razia Ismail, Convener, Indian Alliance for Child Rights, New Delhi
8. Ms. Vijayalakshmi Arora Director (Development Support & Child Rights), CRY, New Delhi

Special Invitees

9. Shri Chetan B. Sanghi, Joint Secretary, Ministry of Women and Child Development, GoI, New Delhi
10. Smt. Chhaya Sharma, DIG, NHRC, New Delhi

NHRC

1. Shri S. C. Sinha, Member, NHRC
2. Shri J. S. Kochher, Joint Secretary (T&R), NHRC
3. Dr. Savita Bhakhry, Joint Director (Research), NHRC
4. Ms. Samra Irfan, Junior Research Consultant, NHRC