

Minutes of the Second Meeting of the Core Group on Trafficking, Women and Children Held on 18 April 2017 at 3:00 pm in Room No. 114, Manav Adhikar Bhawan, C-Block, GPO Complex, INA, New Delhi

The second meeting of the Core Group on Trafficking, Women and Children was held in the Commission on 18 April 2017 at 3:00 pm to discuss and finalize the draft SoP for Combating Trafficking of Persons in India. The meeting was held under the chairmanship of Member, Shri S. C. Sinha, NHRC. The list of participants who attended the meeting is at Annexure I.

2. To begin with Member Shri S. C. Sinha asked all the participants to look at folders containing the draft SoP as well as the comments on it received from few of the members of the core group. Ten minutes were given to the participants to go through the comments and SoP before the discussion started.

3. Member Shri S. C. Sinha referring to the minutes of the first meeting of the Core Group held on 6 December 2016 inquired from the members whether the tasks assigned to them were completed. He learnt that Ms. Vijayalakshmi Arora from CRY was leaving the organization and had nominated Ms. Komal Ganotra, Director, Policy, Advocacy, Research and Documentation (PRAD) as a key representative from CRY. Ms. Komal Ganotra assured Shri S. C. Sinha that the previous task assigned to her colleague will be completed soon. She is to submit a write up on 'what are the challenges with regard to rehabilitation of women and children along with the possible remedies'. Shri S. C. Sinha was further informed that Shri Chetan B. Sanghi from the Ministry of Women and Child Development (MoWCD), GoI has not yet circulated the Draft Bill on Trafficking.

4. Former DGP & Chairperson of Delhi Commission for Protection of Child Rights, Govt. of NCT Delhi and presently General Secretary of Prayas Juvenile Aid Centre (JAC) Society, Shri Amod K. Kanth, who was invited especially for the second meeting of the Core Group, pointed out that in the comments submitted by Ms. Razia Ismail, the first observation is a valid concern i.e. in the absence of a fully formulated official Bill on Trafficking, what is the applicability of the draft SoP. He added that the Ministry of Women and Child Development has made up to 4 drafts of the said Bill, the last among which was part open to the public. But, according to other sources, another draft has been prepared which has not been made open to the public for comments. Shri Amod Kanth emphasized that NHRC should take a note that all the drafts have not been debated upon and MoWCD, GoI is preparing it on its own without proper consultation with all stakeholders. Even the Ministry of Home Affairs (MHA) seems unaware about it.

5. The second point made by Shri Amod Kanth was that while we should wait for the Bill, the existing SoPs have to be taken care of while preparing the NHRC SoP. He referred to a collection of SoPs formulated by Delhi Commission for Protection of Child Rights entitled 'Compendium on Missing Children' and had asked Ms. Bhoomika Choudhury, advocate from Prayas to give two copies to the NHRC.

6. Dr. Savita Bhakhry, Joint Director (Research), NHRC informed the Chair that the prepared draft SoP has taken into consideration that document containing the various SoPs. Only the latest draft Bill on Trafficking from the Ministry has not been considered.

7. Shri J. S. Kochher, Joint Secretary (Training and Research), NHRC stated that since the Draft Bill is in a fluid state, we cannot depend on it to formulate the SoP.

8. Shri Sinha stated that since this is a follow-up of the first meeting, we have to see what was discussed in the first meeting and how have we progressed. The participants were informed that the SoP has been prepared by Shri Bhuwan Ribhu and his team in consultation with Dr. Bhkahry and Shri Kochher and they have incorporated the comments of Prof. Vijay Raghavan and Shri Ajeet Singh.

9. Shri Sinha mentioned that in the draft SoP, issues have been identified which serve as the basis for the formulation of SoP, but the draft that was prepared cannot be called a SoP. He added that the SoP has to be prepared according to the issues discussed in the first meeting held on 6 December 2016 as many points discussed then are not included.

10. Shri Sinha said that a fresh guidelines needs to be prepared which keeps its focus on two main issues i.e. on 'prevention' and 'vulnerability'. The draft SoP does not touch upon these and there is no mention about vulnerability mapping. Also, as discussed and emphasized in the previous meeting the guidelines should include two separate sections on women and children and within that further sub-sections according to the age. He also said that a list of institutions concerned with the issue of Trafficking should also be provided.

11. Shri Amod Kanth highlighted that though he is new to the group, he has a lot of experience in the field. He pointed out that SoP is the third in series of documents, first being the 'Law' the second document is 'Rules'. This is followed by the testing of law and rule on the ground and in accordance with the implementation process we have procedures which is the SoP. The SoP should be inclusive of the duties of the stakeholders, who will do what, how they act, the system, the mechanism whereby the roles of stakeholders are defined clearly. He mentioned about the booklet on

compilation of the various SoPs. Shri Sinha asked Ms. Bhoomika Choudhury, advocate from Prayas to submit two copies of the same to the NHRC.

12. Shri Kanth also highlighted the problem with the SoPs as he stated to believe that the SoPs are contradictory as there are too many SoPs and it's difficult to keep a track on who is following which one. Therefore there should be one SoP for everyone to follow. Agreeing with Shri Kanth, Shri Sinha said the duties of the stakeholders must be clearly defined in the SoP.

13. Shri Bhuwan Ribhu, Secretary, Bachpan Bachao Andolan, stressed that the things that were discussed in the previous meeting, for instance vulnerability mapping, do not find a place in law or policy and therefore cannot find a place in the SoP too. Shri Sinha explained that to carry out a vulnerability mapping and which households were vulnerable, no enabling legislation is required. The only thing required is awareness on the part of the State. He added that no legislation is required to start a skill training programme or to conduct a census of shelter homes.

14. Shri Kochher asked the Chair to make it clear that whether the document that is to be prepared is 'SoP' or 'Guidelines'. He added that if it is a SoP then it should comprise all steps including mapping. But if it is guidelines, they will be in the form of directions/stipulation. Therefore the difference between the two should be made clear.

15. Shri Sinha clarified that since we have started with the task of SoP, there is a need to tell the State Governments about what needs to be done.

16. Ms. Komal Ganotra, Director PRAD from CRY highlighted that there are certain things that are covered by Law, some by prevention and others by guidelines. Prevention aspect can be looked at through best practices models. Shri Sinha agreeing with Ms. Ganotra added that we can identify the best practices from what is already being done and include them in the guidelines. He requested Ms. Ganotra to look at the best practices and inform the Core Group about them.

17. Prof. Indu Agnihotri from the Centre for Women's Development Studies stated that as a result of the discussion held with colleagues from her Centre and along with Dr. Bulbul Das from All India Women's Conference has prepared a 3 page note commenting on the draft SoP circulated by NHRC. The first part of the comments by Prof. Agnihotri referred to vulnerability mapping; the second part concentrates on poverty and suggests ways to challenge it. Shri Sinha discussed point 9 and 10 from this section.

18. Both point 9 and 10 are about the institutional processes and mechanism and the gaps that exists within them. Point 9 stated that the National Commission for Women, created for the purpose does not have full autonomy to fulfill its mandate. During the discussion Prof. Agnihotri mentioned that their power was further scaled down and has today become a subsidiary for the Ministry of Women and Child Development. Shri Sinha asked Prof. Agnihotri where she envisages the role of NCW with reference to the issue of Trafficking? Prof. Indu Agnihotri emphasized that NCW does not even get a response from the State Government because they have no powers. The role of NCW can be seen in all three aspects of trafficking, i.e. prevention, rescue and rehabilitation.

19. Prof. Agnihotri continuing the discussion on the comments informed all that the third part of her document talks about shelter homes and steps that should be taken. Part four concerns children and young women. Shri Sinha underlined that the document is useful and must be referred to while drafting the SoP.

20. Shri Ribhu suggested that it should be seen from two lens, (a) NHRC Guidelines which will be visionary in nature and direct States what to do, and (b) other that deals with rescue, rehabilitation, repatriation which will be a step by step compilation of the standardize model.

21. Ms. Silky Grewal, Consultant from MoWCD, said that the new draft Bill on Trafficking covers almost everything which the SoP contains. Duties of the stakeholders need to be clearly defined. Shri Amod Kanth reiterated the fact that atleast one copy of the draft Bill must be submitted to the NHRC for comments. Shri Sinha enquired on the status of the Bill and was informed that it has been sent to the Cabinet. Shri Amod Kanth requested the NHRC to write to the Ministry to know the status of the draft Bill on Trafficking.

22. Dr. Savita Bhakhry confirmed that the document that is to be prepared is SoP cum Guidelines. To which Shri Sinha explained that that the documents must be a running document which would mention that each State has to carry out a vulnerability mapping to identify the households and communities. The second part would be, after identifying the vulnerable areas some special programmes can be launched to generate income and employment like MNREGA and other poverty alleviation programmes. This will help in curtailing the problem of migration of people to a possible extent and will act as a preventive measure. Therefore, identification of the vulnerable areas has to be followed by focused measures.

23. Ms. Razia Ismail pointed out that though various reasons of trafficking have been discussed, one aspect of trafficking which is not yet been touched upon is the new minimum age which should be added to the list of victims (vulnerable category) of

trafficking like small babies who are being trafficked and sexually abused. Small children are used for organ sale and transplantation. To combat this problem a greater level of enquiry, vigilance and vulnerable mapping is required. She added that the children born out of surrogacy are also vulnerable. Shri Sinha stressed that surrogacy in itself is a big issue and can be taken up separately.

24. On the discussions held, Shri S.C. Sinha concluded that the SoP and Guidelines should be two different documents. The **SoP** will largely deal with two aspects (a) the actions that various agencies will take when a child or woman is trafficked, and (b) what needs to be done in cases of rescue and recovery and the duration till the child/women is sent to shelter home or nari niketan or is sent to his/her parents. Further, he suggested that it must also include rehabilitation process and social integration.

25. Shri Amod stated that the entire legal process of identifying, rescuing, sheltering, repatriation and rehabilitation is of utmost importance and therefore should be included in the SoP only. In addition to this, Shri Bhuvan said that after the rescue step is taken the follow up for court process should also be done.

26. Shri S.C. Sinha agreed to incorporate the rehabilitation process in the SoP and added that **guidelines** will focus on prevention aspect, vulnerability mapping, and income & employment generation programmes as well as awareness generation programmes. He explained that the guidelines will basically talk about the improvement that should be made in observation homes and shelter homes and will dwell on making suggestions in structure of State Government and clarified that the instructions which will be acted upon will be contained in SoP. Both SoP and Guidelines will include same sub-sections namely, (i) Prevention (ii) Pre-rescue which includes reporting, registration etc (iii) Rescue (iv) Post Rescue or Rehabilitation and (v) Legal Enforcement. These sections will contain sub-section following different approaches for children, women and men.

27. Shri Ribhu opined that the roles and responsibilities of different stakeholders should be a part of the guidelines. To which Shri Kanth suggested that as there are different types of human trafficking and their laws are different, the legal requisites, role of various stakeholders will also change and at times are cross cutting. Therefore, role of each stakeholder should be given clearly and separately.

28. Shri Sinha informed the participants that the document should be clearly divided into sections and sub-sections. And a takeoff meeting should be planned where the overall structure could be decided before proceeding with the Guidelines and SoP.

29. Prof. Indu Agnihotri mentioned about the interstate migrant workers as that too becomes an important category. Ms. Bhoomika Choudhury suggested that best

practices followed in the world should too be incorporated in the SoP. The task of finding about the best practices to be included was assigned to Ms. Choudhury and she was requested to bring the same in the next meeting.

30. In the end Shri Sinha thanked all the participants of the Core Group for their active participation. It was decided to have a follow-up meeting on 28 April 2017 at 2 p.m. to discuss the structure and sub-headings of Guidelines and SoP on Trafficking.

List of Participants

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

Special Invitees

7. Smt. Chhaya Sharma, DIG, NHRC, New Delhi
8. Shri Samir Sinha, Under Secretary, Ministry of Women and Child Development, Gol, New Delhi
9. Ms. Silky Grewal, Consultant, Ministry of Women and Child Development, Gol, New Delhi
10. Shri Amod K. Kanth, Former DGP & Chairperson, Delhi Commission for Protection of Child Rights, Govt. of NCT Delhi
Presently, General Secretary, Prayas Juvenile Aid Centre (JAC) Society
11. Ms. Bhoomika Choudhury, Advocate, Prayas Juvenile Aid Centre (JAC) Society

NHRC

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