

**REPORT
OF THE
NHRC COMMITTEE
ON
MISSING CHILDREN**

Presented by:

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Member, NHRC &
Chairman of the Committee**

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FOREWORD

Children are the nation's assets. A happy child will make his/her home and the country happy. The future of any country depends upon the right upbringing of its children, for which a congenial environment and adequate opportunities for wholesome development are essential.

According to UNICEF's "The State of the World's Children," report for 2006, one-third of the world's children lack adequate shelter, 31% lack basic sanitation and 21% have no access to clean, potable water. Illness, malnutrition, and premature death are common when children lack the most basic protection.

The brutal killing of several innocent children in Nithari sparked off nation wide indignation on the abuse to which the victims were subjected and gross violations of their human rights. It was shame that shook the nation's conscience.

In order to put an end to this callous indifference and insecurity with regard to the protection of children and to prevent more lives from being lost in similar crimes, the National Human Rights Commission constituted a Committee to look into the issue of 'missing' children. The Committee was to examine the problem of missing children. and bring this issue to the forefront as a national priority. At present Missing Children remains a neglected, low-priority intervention area for everyone other than those who have lost their children.

It will be NHRC's endeavor to ensure that such grave human rights violation is prevented. It is hoped that the State Government, the departments concerned and society will join the NHRC's efforts.

I take this opportunity to thank all Committee Members and those who have contributed to strengthening the dialogue on this vital concern and enabled us to identify imperatives and formulate action plans at various levels. I would especially like to place on record my thanks and gratitude to Dr. Savita Bhakhry, Senior Research Officer, NHRC who prepared the initial draft and marshalled the entire data that has gone into the making of this report. My thanks are also due to Shri Ajai Bakshi, who recorded the minutes of the meetings held by the Committee in this regard.

I do hope that the recommendations find their meaningful worth in preventing perpetration of heinous crimes against children.

(P. C. Sharma)
Member, NHRC

CHAPTER – I

Constitution of the Committee at NHRC to Examine the Problem of Missing Children

The National Human Rights Commission (NHRC) has been concerned about the problem of missing children ever since it was constituted in October 1993. It has sent notices and called for reports on action taken from many State Governments/Union Territories.

In addition, the manner in which young children went missing from one of the neighbouring villages of the National Capital Territory of Delhi, namely, **Nithari in NOIDA**, which falls under the overall jurisdiction of the State of Uttar Pradesh, had a deep impact on the Commission. Taking *suo motu* cognizance of the matter, the Commission noted, “the phenomenon of missing children is not confined to Nithari or Uttar Pradesh alone. The Commission has come across media reports of similar incidents from other parts of the country as well. The problem of missing children has thus become an issue of grave concern to the nation and more so, to the National Human Rights Commission of India as it has the mandate for better protection and promotion of human rights and also to deal with cases of human rights violations that come to its notice and make appropriate recommendations in that regard, including giving relief to the victims. The Commission is, therefore, of the opinion that this issue should be examined in depth and guidelines should be evolved to deal with such cases effectively and meaningfully to protect and promote human rights of children and also take appropriate steps where violations of human rights are found in this regard”.

Accordingly, on 12th of February 2007, the National Human Rights Commission constituted a Committee to examine the issue of missing children in depth and evolve simple, practical guidelines so that appropriate recommendations may be evolved by the Commission and forwarded to the relevant authorities across the States/Union Territories as well as to the Government of India that would facilitate in tracing and restoring missing children back to their families or to agencies/support systems where they could be taken care of and protected. The constitution of the Committee was as follows:

- 1) Shri P.C. Sharma Chairman
Member NHRC
- 2) Shri Damodar Sarangi Member
Director General (Investigation)
NHRC
- 3) Shri A.K. Garg Member
Acting Registrar(Law)
NHRC
- 4) Dr. Savita Bhakhry Member
Senior Research Officer
NHRC
- 5) Shri P.M.V. Siromony Convener
Chief Coordinator (Training)
NHRC

The Committee co-opted the following experts as co-opted members for their advice and to participate during deliberations:

- 1) Dr. P. M. Nair IPS, Project coordinator, Anti Human trafficking, UNODC, New Delhi (pm.nair@unodc.org).
- 2) Prof B. B. Pande, Retd Professor of Law, Delhi University & Consultant, NHRC.
- 3) Ms. Shanta Sinha, Chairperson, National Commission for Protection of Child's Rights.
- 4) Prof. C. Raj Kumar, School of Law, City University of Hong Kong, Kwoloon, Hongkong.

The Committee also held wide consultations with various stakeholders in Government, including the Ministry of Home Affairs, the Ministry of Women & Child Development, the Ministry of Labour, Ministry of Social Welfare, the Government of Delhi, the Delhi Police, the National Crime Records Bureau (under the Ministry of Home Affairs), UNICEF and several leading NGOs in India working in this field as well as expert having intimate knowledge of the subject. We also received valuable inputs from Ms. Ritu Sarin, Indian Express, Shri Gerry Pinto, Advisor, Butterflies, Delhi (NGO), Shri Sanat Sinha , Balasakha Trust, a Patna based NGO.

The Commission did not set-up any specific Terms of Reference for the Committee. However, the Committee on its own decided to use the following Terms of Reference:

- To make an overall assessment of the role played by the police and local administration in different States/Union Territories across the country in locating/tracing missing children;

- To make an in-depth study and analysis of Rules, Guidelines, Circulars and Orders being followed by the police in locating/tracing missing children;
- To examine the good practices being followed by States/Union Territories, if any, in finding/tracing missing children as well as study important rulings / guidelines issued by the Apex and other Courts in the country for protection or searching for missing children;
- To study the role played by other governmental and non-governmental organizations, including media and the civil society in finding/tracing missing children as well as cooperation extended by them to the families of missing children;
- To study the role of the Panchayati Raj institutions;
- To evolve practical guidelines for police and other stakeholders for initiating standardized measures that would not only facilitate in tracing and restoring missing children back to their families but also make the stakeholders accountable.

The Committee was given the option of obtaining assistance and help from other experts and organizations as it deemed proper.

CHAPTER – II

Situational Analysis of Missing Children in India

Children and childhood across the world, have broadly been construed in terms of a ‘golden age’ synonymous with innocence, freedom, joy, play and the like. It is a time when one is spared the rigours of adult life, responsibility and obligations. At the same time, it is also the time when children are most vulnerable, especially when they are very young, because they need to be cared for and protected from ‘the harshness of the world outside’. This being so, the adult-child relation, with respect to parents in particular, should be to provide ‘care love and protection’ – serving thereby the ‘best interests of the child’ and meeting their day-to-day ‘needs of survival and wholesome personal development’. Society as a whole and the adults, in particular, are to act as the guardians of children and in that respect are expected to take the responsibility of their welfare and development. In reality, this is an ideal very difficult to fulfill as not a single day passes without a case in which a child has either been exploited, abused or found to be missing or killed. This being so, children as a category are susceptible to a range of crimes.

The Problem of Missing Children

India is home to more than 400 million children below the age of 18 years, and is considered one of the countries in which youth and children comprise more than 55% of the population. These children represent diverse cultures, religions, castes, communities & social

and economic groups. The Government is undoubtedly committed to doing its best for children. However, despite its best efforts, there are innumerable children who are subjected to exploitation and atrocities of various kinds. Moreover, countless children go **‘missing’** every year. These cases of missing children represent a conglomeration of a number of problems, including abductions/kidnappings by family members, abductions/kidnappings carried out by non-family members or strangers, children who run away on their own or are forced to run away due to compelling circumstances in their families and extended surroundings, children who face unfriendly and hostile environment and are asked to leave home or who are abandoned, children who are trafficked or smuggled or exploited for various purposes, and children who are lost or injured. Undoubtedly, each of these groups of children exemplifies different social problems. Since, as a group, missing children -- are so heterogeneous, there is no adequate data or consistently applied set of definitions to describe them. In addition, many cases of missing children are not reported to the police at all for various reasons, and police involvement in the resolution of different kinds of cases varies widely across the country. All this poses a serious problem. The NHRC Action Research on Trafficking, published by Orient Longman in 2005, has shown that in any given year, an average of 44000 children are reported missing; of them, as many as 11000 remain untraced.

The revelations at Nithari exemplify that missing children may end up in a variety of places and situations -- killed and buried in a neighbour’s backyard, working as cheap forced labour in illegal factories/establishments/homes, exploited as sex slaves or forced into

the child porn industry, as camel jockeys in the Gulf countries, as child beggars in begging rackets, as victims of illegal adoptions or forced marriages, or perhaps worse than any of these as victims of organ trade and even grotesque cannibalism as reported at Nithari.

The Committee observed that there are some studies conducted by both governmental and non-governmental organizations which bear testimony to the fact that a large number of girls and boys who run away from their homes or are said to have run away from their homes are mainly school dropouts or children get fed up with domestic conditions. The glamour and lure of big cities often make them blind to the stark realities of urban life. Being vulnerable, they often fall prey to promises of jobs or careers in films or modeling and eventually end up as sex workers or as domestic help/labourers in homes, small hotels/restaurants, tea shops/stalls and unorganized establishments, many of them hazardous. Many of the run away boys and girls become victims of the organized begging rackets or pick-pocketing/drug peddling racket etc. Most of these children are also trafficked and further abused, physically or sexually, and their cases are not even brought to the knowledge of the police. Many of these children come from indigent families who either do not have access to authorities or whose complaints are not treated with due diligence. The Action Research Study on Trafficking by NHRC has brought out several case studies to establish this linkage between “trafficking” and “persons reported missing”.

The Committee observed that the juvenile justice system too has failed to provide due care and protection to children. Despite the

specific provisions made in the Juvenile Justice (Care and Protection of Children) Act, 2000, many State Governments/Union Territories are yet to frame Rules under the principal Act. In a majority of places, Special Juvenile Police Units had not been set up. All this has eroded the confidence of the people in the system.

When a child goes missing, nobody, except the perpetrator, knows the real intent behind it. It could be quite possible that the child for various reasons has run away on his or her own from home, a relative's home, or an institution which the child's parents/caretakers construe as 'missing'. On the other hand, it is also possible that the child may have gone missing from the scene for a different reason altogether, which could be sexual gratification, sexual exploitation, labour exploitation, profit-making, or personal vengeance etc. In these cases the person(s) directly or indirectly involved in the incident may resort to crimes of various kinds ranging from kidnapping, abduction, grievous hurt, assault, rape, unnatural offences, and even murder of the child. In fact, even a child who has run away on purpose is also susceptible to being kidnapped, abducted, abused or assaulted. This raises the question as to why reports of missing children are not treated as cognizable offence.

General Pattern of Investigation Followed for 'Missing Children'

Normally, the investigation of a crime commences with the registration of a First Information Report (FIR) in a police station. The registration of an FIR pre-supposes a cognizable offence. However, in the case of a missing child, there is no system of registering an FIR across the country. Complaints of missing children, by and large, are

treated as any other non-cognizable offence and only an entry is made in the General Station Diary (GD) that is followed by an enquiry. In other words, just as in the case of a missing person, no FIR is registered but only an entry is made in the GD of the police station concerned, the same procedure is followed in the case of missing children. The follow-up procedure thereafter entails the Station House Officer in the police station forwarding the information to all concerned, as well as to the Superintendent of Police or to the Deputy Commissioner of Police who in turn forwards it to the Chief of Police. At the field level, local police officials publicize the particulars of the missing child in the media by circulating the available identification details and photographs.

The message concerning missing child/children that reaches the Police Headquarters normally is taken care of by the Missing Persons Bureau. At the State level, this Bureau is often a wing of the CID of the State police. While taking action, they also forward the message to the State Crime Records Bureau who, in turn, transfers the information to the Missing Persons Wing at the National Crime Records Bureau (NCRB) in New Delhi, which operates under the Ministry of Home Affairs. The NCRB, at best, transmits this message to the Chiefs of Police in other States. The 'Search Wing' of the NCRB coordinates this information and further transmits it to other places.

The NCRB, under the TALASH Information System, maintains a national level database of missing persons under the following broad categories – 'missing', 'kidnapped', 'arrested', 'deserted', 'escaped',

‘proclaimed offender’, ‘wanted’, ‘unidentified dead body’, ‘unidentified person’ and ‘traced/found’. Earlier, data on missing children under the broad category of ‘missing’ was not available. However, this is now available for both the sexes under the age group 0 –12 and 13 –18. The NCRB, by and large, functions as a ‘Documentation Centre’ or at best a ‘Transfer Desk’ because as of today the NCRB neither investigates, nor does it monitor or facilitates the recovery of missing children as a pro-active organization. The Police Stations, too, generally do not give any feed back to the NCRB when the missing child is rescued, traced or returned. Hence the data lacks accuracy. Thus, despite being the national repository of ‘crime data’, the NCRB is unaware both of children who are traced or of those who remain untraced.

Interestingly enough, though the category of missing children has come to be reflected in the TALASH Information System, there is no mention or analysis of it to date in the Crime in India Report being published by the NCRB. This is in spite of the fact that Chapter Six therein titled ‘Crime Against Children’ categorically affirms that “Generally, the offences committed against children or the crimes in which children are the victims are considered as Crime Against Children”. It then goes on to highlight crimes committed against children that are punishable under the Indian Penal Code 1860 and crimes committed against children that are punishable under the Special and Local Laws.

As per the latest Crime in India Report – 2005, a total of 14, 975 cases of crimes against children were reported in the country

during 2005 as compared to 14,423 cases during 2004, signifying an increase of 3.8 per cent. The highest crime rate was reported from Delhi (6.5) followed by Chandigarh (5.7) and Madhya Pradesh (5.6) as compared to the national average of 1.4. A total of 4026 cases of child rape were reported in the country during 2005 as compared to 3542 in 2004 accounting for a significant increase of 13.7 % during the year. The State of Madhya Pradesh reported the highest number of cases (870) followed by Maharashtra (634). These two States together accounted for 37.3% of the total child rape cases reported in the country. Highlighting cases related to kidnapping and abduction, the Report mentions that a total of 3518 cases were reported during the year as compared to 3196 cases reported in the previous year accounting for an increase of 10.1%. Delhi reported the highest percentage of such cases among children up to 15 years. The analysis of data clearly reveals the increase of number of crimes against children in the country.

The aforesaid data reveals the predicament of missing children in many ways. Apart from the NCRB, there are some regional police websites like the Zonal Integrated Police Network (ZIPNET) and a few State police websites, which provide data on missing persons, including data on missing children. But the information provided therein remains largely incomplete. Since awareness about these databases -- particularly, among police personnel -- is low, it has not drawn adequate attention in the investigation and tracing of missing children.

It is pertinent to mention that sending “look out” notices and publishing photographs and other details in local visual and print media is somehow not mandatory in every State/ Union Territory. In addition to this, there are a host of other factors -- absence of effective supervision and follow-up, lack of interest on account of low priority accorded to the problem of missing children, lack of resources, lack of coordination and lack of national strategy to deal with the challenge – due to which cases of missing children do not receive the desired attention that they really deserve. With the passage of time, routine efforts to locate missing children have also been abandoned. As a result, a large number of missing children remain untraced. Sustained efforts to locate the missing children are rare.

Status of interventions by other Governmental and Non-Governmental agencies on the issue of Missing Children

The overall status of governmental and non-governmental interventions concerning missing children across the country shows that except in a handful of States, most of them do not pay any heed to the problem of missing children. The Police Department in the State of Tamil Nadu has a Modus Operandi Bureau that maintains a list of missing persons. This list of missing persons is compiled alphabetically from the First Information Report of missing persons received from police stations. All cases of missing children, kidnapped women, children and activities of professional traffickers of women and children are reported directly by Station House Officers to the Modus Operandi Bureau. In order to streamline the process of monitoring and supervision of such cases, Special Cells have been

formed at the Range and District level for missing persons. Correspondingly, there is a Missing Child Bureau under the Department of Social Defence, set up by Government of Tamil Nadu. It renders services related to missing children in collaboration with organizations like the Police, non-governmental organizations working for rights of children and CHILDLINE, a 24x7 helpline for children whose toll free telephone number is 1098 and which can be accessed by any one, even children themselves. It has a website that displays simple but important tips to prevent the occurrence of missing children under the caption 'Do's and Don'ts' and whom to contact in respect of missing children.

Taking a cue from the guidelines issued by the Supreme Court of India on 14th of November, 2002 for missing and kidnapped minor girls and women, in Writ Petition (Cri.) No. 610 of 1996 (Horilal vs Commissioner of Police, Delhi & Ors.), the Maharashtra Rajya Police Mukhyalaya, time and again, through its Circulars, has reiterated the need to implement the same. Except for Guideline No. 5 (e) therein, the State of Maharashtra has issued instructions that the same be followed in cases of missing persons, too, by all the Unit Commanders. A copy of the Guidelines issued by the Supreme Court is at Annexure I. In addition, it has stressed the need to implement the provisions of the Juvenile Justice (Care and Protection of Children Act), 2000 and Sections 97 and 98 of the Criminal Procedure Code.

The Crime Branch of Orissa Police has, from time to time, issued strict instructions for recording all missing reports and subsequent follow-up action on them to trace missing children.

Wherever necessary, criminal cases are being registered against the culprits to bring them to book. The State has further set up Mahila and Sishu Desks that are headed by Sub Inspector/Assistant Sub Inspector in 210 police stations. The State proposes to set up these Desks in all police stations. To monitor cases of trafficking in women and children, Organized Crime Units have been set up in the CID CB which is headed by I. G. of Police, CID and at the District level by Deputy Superintendent of Police, Crime. In fact, the IGP, CID CB, has been nominated as the Nodal Officer of the State for looking into cases of trafficking in women and children. A State Level Co-ordination Committee has also been formed under the chairmanship of the Chief Secretary consisting of 15 members including officials from different Departments of the State and representatives of prominent non-governmental organizations so as to coordinate all anti-trafficking matters. Other than this, emphasis is being laid on training of all police personnel in the State on issues concerning children.

In the State of Andhra Pradesh, all cases of missing children are registered as FIRs. Regular review meetings are simultaneously held from time to time along with ‘special drives’ to locate missing children. The State has a website of missing children too.

As per the report on missing children received from Delhi Police a missing person register is being maintained in each Police Station of Delhi. All relevant information about the missing person is entered in the register and forwarded to the Missing Person Squad. District Senior Officers are also deployed as Child Welfare Officers in

each police station. A District Missing Persons Unit is functioning in each district under the supervision of ACP/DIU.

Delhi Police has introduced computerization of missing persons data in 2006. The matching of missing persons with unidentified dead bodies is being done with the help of computers. Before computerization of missing persons data, the tracing out percentage of missing persons was about 25% which has increased to 73.77% in 2006. As per the report 80% missing children were traced. Photographs of missing persons as well as unidentified dead bodies are fed in the computer. The web site developed by the Delhi Police can be accessed by general public from any part of the world. The report claimed that out of 15201 persons reported missing in the year 2006, 11215 persons had been traced and had been restored to their parents/guardians.

A District Missing Persons Unit(DMPU) have also been set up in each district of Delhi Police. This unit has been provided with a web based computer programme and broadband connection for uploading the information on Missing Person and Unidentified dead bodies. This information can be accessed by public on ZIPNET through normal internet.

The Delhi Police also reported to the Committee that in the year 2006, out of 4118 male missing children 3446 had been traced back as also out of 2910 missing female children 2196 had been traced.

A recent study conducted in 2007 itself by the Delhi Police had indicated that most affected age group for minor, male and female children was 11-18 years. Majority of the children reported missing were illiterate and had left their homes on their own will for a variety of reasons ranging from elopement to fear of parents. It was further reported that almost all girls under 10 years of age had been traced and there was no criminal activity linked to their disappearance.

A disturbing trend observed by the NHRC Committee while reviewing the functioning of several States in addressing the issue of missing children was that parents and relatives of missing children, who returned home, did not inform the police stations where they had registered the case. This in a way complicates the problem. In many cases involving missing girls, police noticed that the concerned family had shifted home and it was the neighbours' who later informed them that the missing girl had returned.

The Committee is of the opinion that several non-governmental organizations have been doing commendable work in this field. Among them is CHILDLINE, the country's first 24x7 toll-free tele-helpline which operates in over 73 cities and towns in India. Bal Sakha, Patna has done commendable work in locating several hundred missing children, counseling them, identifying the cause, and returning the children to their parents as well as documenting the good work done. The National Centre for Missing Children, a non-governmental organization in Madhya Pradesh has launched a website, *missingindiankids.com*, that seeks details of missing children from parents and police stations and then posts them on the site with

photographs. However, funding has been a serious issue with non-governmental organizations like these.

The Committee thus observed that missing children is a veritable black hole in law enforcement. The police and State / UT govt. including local administration until now have failed to even acknowledge the problem. The urgent need is to have a system where all of us have to be vigilant towards the missing children so that they are restored back to their families/caretakers as quickly as possible.

CHAPTER – III

PROCEDURE ADOPTED BY THE NHRC COMMITTEE FOR EVOLVING GUIDELINES TO DEAL WITH CASES OF MISSING CHILDREN

Keeping in view the overall Terms of Reference set-up by the Committee, Chairman and other Members of the Committee, first and foremost, convened an in-house preliminary meeting with various experts on the subject. The deliberations of this meeting facilitated the Committee to decide its future course of action. Accordingly, it called for relevant information from all the States and Union Territories across the country by writing to the Director Generals of Police and Commissioners of Police. It called for the Report of the Committee that was specifically constituted by the Ministry of Women and Child Development, Government of India, to investigate allegations of large scale sexual abuse, rape and murder of children at Nithari village of NOIDA. Simultaneously, it also held a series of meetings with other stakeholders in the National Human Rights Commission and outside.

The Committee also deputed its staff to interact with parents, family members and relatives of the missing children from Nithari and other parts of the country who had gathered at Janpath, New Delhi to protest against the authorities for their lackadaisical attitude and behavior in tracing their children. The sole aim of this was to gather qualitative information from them about the police as well as local administration's response to reports of missing children.

CHAPTER – IV

Issues Concerning Missing Children Dealt by the NHRC Committee

The situational analysis of missing children in India in Chapter I of this report clearly exemplifies that the phenomenon of missing children is not an isolated problem. There are many other issues interwoven with it. Moreover, in the absence of any homogeneous and comprehensive definition of missing children in India or for that matter in the world, the task of bringing together authentic data concerning them is a challenging task. This is primarily because when a child is found missing, nobody knows the real intent or purpose behind it. It could be quite possible that the child for various reasons may have run away on his or her own from home or a relative's home or an institution and the like which the parents/caretakers may construe it as 'missing'. On the other hand, it could be relatively possible that the child may have gone missing from the scene for a different motive altogether, which could be sexual gratification or sexual exploitation or labour exploitation or profit-making or personal vengeance and the like. And, for this purpose, the concerned person(s) directly or indirectly involved in the incident(s) of missing children may resort to crimes of various kinds ranging from kidnapping, abduction, grievous hurt, assault, rape, unnatural offences, and even murder of the child.

The Committee noted that missing children, on the whole, did not come under the purview of criminal act unless there were complaints filed relating to their kidnapping or abduction. But, the

fact is that missing children as a category encompass run away children who left home and gave no notice about their whereabouts; lost and separated children; kidnapped children or children abducted or lured away by an acquaintance, stranger, or organized gang of criminals; trafficked children who were sold for various exploitative purposes; children who were sold, abandoned or who had their life ended by a parent or lawful custodian unknown to the other parent who considers them missing

The Committee, therefore, deliberated, in its sittings, upon each category of these children and evolved suitable and practical guidelines to deal with the problem.

C H A P T E R - V

Recommendations/Suggestions of the NHRC Committee

The NHRC Committee after interacting with the stakeholders has proposed the following recommendations/suggestions to contain the problem of missing children:

1. **PRIORITY ISSUE:** Irrefutably, the problem of ‘Missing Children’ is a grave matter which is also a human rights issue. It is acknowledged that it has not been received the attention it deserves from the government and society at large. Therefore, this issue needs to be made a “priority issue” by all stakeholders, especially the law enforcement agencies. The Directors General of Police of States should take appropriate steps to issue police orders/circulars/standing instructions etc., sensitize all officers in this regard and also make them accountable.

2. **MISSING PERSONS SQUAD/DESK IN POLICE STATIONS:** The Committee recommends that every Police Station across the country should have Special Squad/Missing Persons Desk to trace missing children. This Squad/Desk should have a Registering Officer who should be made responsible of registering complaints of missing children. He/she should maintain complete records of efforts made by

them to trace missing children as well as by the Special Squad. The Registering Officer should also write incident reports and keep them on record in Station Diary/case diary, as the case may be. In addition to this, the Registering Officer should also work as an Enquiry Officer whereby he/she should be made responsible for following up the entire procedure of tracing/tracking the missing child. The JAPU (Juvenile Aid police Unit) can, if required, be utilized for addressing the issue of missing children, even though the children who are missing can never be labeled as juveniles, but are, in fact, children in need of care and attention. The functioning of this unit/squad should be regularly monitored/ reviewed by Senior Officers and wherever necessary timely instructions and assistance should be provided to the Registering-cum-Enquiry Officer.

3. **COURT DIRECTIVES:** There is a need to reiterate the implementation of the Supreme Court Guidelines given on 14/11/2002 in Writ Petition (Cri.) No 610 of 1996 filed by Horilal Vs. Commissioner of Police, Delhi & Ors. in all police stations across the country. This would entail prompt and effective steps for tracing missing children.

As per the directions given by the Delhi High Court, a Cell relating to missing persons/children was set up in the Central Bureau of Investigation (CBI). This Cell has been functioning ever since but due to lack of adequate resources, desired results could not be achieved. Since the CBI is a Central investigating agency having powers and jurisdiction to take up cases of inter-

state and international ramifications, it would be desirable to strengthen this Cell to enhance its capacity to coordinate and investigate criminal cases relating to missing children and persons.

4. **ROLE OF DISTRICT ADMINISTRATION:** The legislation enjoins upon the district administration in the country to get places where children are employed, periodically inspected. The Committee notices with deep anguish that in this task the district administration all over the country has failed. This is evident from the fact that even today, the number of children found engaged as domestic help and bonded /child labour is enormous. Again, it is a matter of concern that in the identified cases of child labour and bonded labour in which prosecutions are launched against the employer the conviction rate is not even 1 per cent which obviously has resulted due to lack of supervision. Such an apathy towards this vital issue has to be curbed in favour of a proactive approach. The Committee urges the authorities concerned to hold district administration accountable for dereliction in discharging this responsibility.

The Committee is of the opinion that this exercise of regular inspections, if undertaken with all earnest, will ensure linking back a large number of children missing from their homes.

5. MANDATORY REPORTING: The State Police Headquarters should evolve a system of mandatory reporting whereby all incidents of missing children across the country should be reported to the newly constituted National Commission for Protection of Child Rights (NCPCR) within 24 hours of occurrence. Failure to report promptly would give rise to the presumption that there was an attempt to suppress the incident. The reporting should be done promptly and the procedure could be the same as is being followed by the concerned authorities for reporting custodial death cases to the NHRC.

6. INVOLVING PANCHAYAT RAJ INSTITUTIONS (PRIs) ETC: In order to make the investigative procedures concerning missing children more transparent and user-friendly, it would be preferable for the police investigating team to involve the community at large, such as representatives of Panchayati Raj Institutions / Municipal Committees/ Neighbourhood Committees/Resident Welfare Associations, etc, in addition to existing help lines. This will enable the community to get fully involved along with the police in tracing missing children. The Directors-General of Police should seriously consider taking full advantage of these agencies in the task of not only investigating crimes relating to children but also in tracking down missing children. The role of Panchayats and such bodies should be extended to:

- Prompt reporting of missing children;
- Prompt dissemination of intelligence, if any, to the law enforcement agencies;

- Rendering assistance to law enforcement agencies for tracing children;
- Provide timely feed-back to the law enforcement agencies about the return of the child..

7. **INVOLVING NGO's:** In places where vulnerable groups of children are found in large numbers, there is need for enforcement agencies to evolve some kind of a mechanism in partnership with non-governmental organizations and social workers, whereby apart from rendering counseling to them, awareness raising activities are also carried out. This would not only instill confidence in them but also strengthen them and give them special protection so that they are in no way lured by external agencies/factors. This initiative could be taken by the Missing Children Squad/Cell in the Districts. The DGPs need to ensure action on this initiative.

8. **NATIONAL DATABASE AND MONITORING:** NCRB should establish a National Tracking System that would encompass the grass-root level in locating and tracing missing children. There should be prompt reporting of not only missing children cases, but also of return/rescue/recovery. All instances where children are rescued from places of exploitation including places of sexual exploitation and also exploitative labour, should be dovetailed into the NCRB data base. The database should be updated on a regular and systematic basis. This also involves revising the reporting format with respect to the rescue and recovery of persons who have been trafficked.

The Director NCRB should liaise with the Project Coordinator, Anti Human Trafficking UNODC, New Delhi and workout the format as the UNODC is working in the field of empowering law enforcement agencies and developing appropriate projects etc. with respect to Anti Human Trafficking and related issues. This could be made effective through web-based and other intra and inter State networking linkages. The information that is gathered ought to be appropriately disseminated. It is suggested that the NCRB evolve one-page useful position papers that has information with regard to various crimes, including the relevant statistics. This could be useful and accessible tool for different agencies that are dealing with a particular problem. For example, relevant information relating to missing children, if it is put in a page or two will be far more accessible and readable for all stakeholders than information compiled as part of a voluminous report prepared by the NCRB.

9. **SCRB/DCRB:** There is an urgent need to revive State/District Crime Records Bureax. The database on missing persons, their return and the processes involved should be properly documented. The State Missing Person's Bureax (MPB), needs to be revamped, made functional and strengthened. The officers should be well trained and knowledgeable to address the issues in an analytical manner and from the perspective of Human Rights. The SCRБ and the MPB should have proper liaison between them, so that the database of SCRБ and NCRB are dovetailed to the functioning of MPB and the Special cell/ squad to be set up in the Police

Stations. The MPB data should be specifically updated with the data of rescued children from trafficking crimes.

10. HELPLINE: There is a need to establish a Child Helpline through NGOs/PRI/other agencies with adequate support from Government in all the districts. The Department of Women & Child Development, Govt. of India, may take the initiative to set up such a national network.

11. OUTSOURCING PRELIMINARY INQUIRY TO NGOs:

The NHRC Committee came to know about several instances where NGOs are actively functional, delivering the best results, in tracing missing children and also documenting them. Such efforts and initiatives have supplemented the work of the law enforcement agencies. The synergy of police and NGOs can be of immense help in addressing this issue and in providing tremendous support to the police agencies who are preoccupied with several other tasks, especially in those places where the police station strength is very poor. Therefore, Preliminary Inquiry into missing persons could be outsourced to NGOs, who are willing to undertake this task. MHA may issue appropriate guidelines to the States in this regard. Each State can identify a few such NGOs and notify them if required. As of today nothing stops NGOs from causing such inquiries and many are already doing this work. Therefore, the best option, in the given situation, is to develop synergy between the law enforcement agencies and the NGOs and institutionalize this partnership.

12. COGNIZABILITY OF THE EVIDENCE: As of now the issue of missing children is not a cognizable offence and the very fact of missing of a child does not convey occurrence of a crime. However, some States like Andhra Pradesh, Tamil Nadu allow police to register FIRs and take up investigation. In order to facilitate proper enquiry/investigation, it is advisable that an FIR is registered by the police with respect to the issue of missing children. However, experience shows that in many cases a child may not have gone missing and the panic reaction of the parents or wards lead to such reporting. Therefore, all such issues may not warrant registration of an FIR immediately. Nevertheless, it is advisable to register FIR if a missing child does not come back or is not traced within a reasonable time. The State Governments are advised to consider issue of appropriate directions to the law enforcement agencies to set a time limit of 15 days from the date of reporting that if a missing child is not traced back within 15 days, a presumption may be made of some malafide and an FIR registered with respect to all such issues of missing children.

13. SENSITIZATION OF STAKE HOLDERS: There is a need to sensitize all ranks of police personnel and other stakeholders to the issue of missing children. For this a two-day module be designed by BPRD, so that uniform training is imparted to all concerned. Along with this, there is a need to prepare suitable reading material that includes good practices about missing

children from other States/Union Territories as well as other countries.

14. RESCUE OF CHILDREN IN NEED OF CARE AND

ATTENTION: There is a need to identify “run away children”, “abandoned children” “neglected children” and such “vulnerable children” who are often found roaming around places where they are particularly exposed to abuse and exploitation such as railway stations, traffic junction etc. Their vulnerability increases due to a lack of support structures – family or otherwise. Proper identification, provision of care and support, and a ‘safe place’ is vital for them. These children are, under the JJ Act, are the children in need of care and attention which they should be given. This can be achieved by producing them before CWC and ensuring proper care in the concerned Homes. If Government Homes are not available, Government agencies should support appropriate NGOs to set up such Homes. The State Governments are called upon to notify such NGOs immediately so that they can become functional without delay. States should ensure that such notifications are done on a time frame of one month from the date of application by the NGOs.

- 15. I-CARD FOR CHILDREN:** The local administration should facilitate the schools to keep a watch on their children, especially when they become untraced or become dropouts. Schools and old teaching institutions should introduce photo identity cards of children, so that tracing is possible. All such

photos with identity particulars be documented and data base be developed urgently. The State Governments and the Central Government should take initiatives in this regard. Schools should embark on a programme of empowering the children on their rights, legal strengths and defence mechanisms in case of need.

16. POVERTY ALLEVIATION MEASURES: It is acknowledged that poverty is one of the main factors in pushing children into inhospitable conditions and making them vulnerable for exploitation. The Central and State Governments have introduced several schemes to be implemented at Gram Panchayat level with the object of providing job opportunities to the poor and the disadvantaged and elevating them from the poverty line. All these programmes, especially concerning children welfare should be properly planned at the Gram Sabha level following the Antyodaya approach. Schemes such as Mid-day Meal Scheme, Sarva Siksha Abhiyaan, Health Immunization etc. deserve to be properly monitored for achieving optimum results. Proper implementation of these poverty alleviation programs are indeed a human rights approach. If such schemes and programmes of the Government are implemented it can be reasonably expected that the vulnerable sections will become empowered to resist exploitation that often takes place now.

17. ROLE OF STATE COMMISSIONS: There is a need to involve State Human Rights Commissions, Women

Commission of State/ Centre etc., with regard to the issue of missing children. Such bodies have tremendous overarching influence on all stakeholders in addressing the issues appropriately in their respective jurisdictions.

18. ROLE OF MEDIA: In view of the current dreadful situation, the media can play an important role in increasing public awareness of missing children and the plight of the thousands of hapless families whose children are listed as untraced. This could be achieved as follows:

- At the newsroom level, crime reporters and metro editors need to include the category of missing children as a regular beat and as part of their daily news grind.
- These stories need to be followed up and tracked regularly just like other stories of murder, human trafficking, etc. A LOST and FOUND series could be commenced. The cases of missing children being traced/returned home should be treated as the “good news” stories which will also encourage the police/local authorities to step up their actions.
- The large picture story on the enormity of the continuing malaise of missing children, could coincide with Human Rights Day, Children’s Day and so on.
- Newspapers can make a separate section in their classified sections on missing children. The notices and advertisements on missing children need to have a better display and be given more prominence and space in newspapers and TV bulletins.

- Just as some newspapers carry a daily/weekly count of say, victims of terrorism, a new slot of missing children in the city/country can be commenced.
- Newspapers or TV channels with an emphasis on local news can have an arrangement with either the police or a local NGO, which has worked in the area to print without charge announcements and advertisements on missing children.
- The missing child story should also be picked up for the daily crime shows many TV channels have commenced. Just as investigative stories are done on the flesh trade, on organ smuggling etc. case studies of how missing children end up in brothels or factories can be carried. Cases can be picked from solved cases or; where children were smuggled across borders. Identities can be masked if need be.
- Media organizations like media unions, the women's press corps and so on can collaborate with agencies like the NHRC and other NGOs working on children's rights issues to hold seminars and symposiums on the subject.

19.ATTENTION TO TRANSIT POINTS OF TRAFFICKING:

There is a need to keep special vigils at railway stations, bus-stands, airports, sea- ports and such other places, which act as transit points for missing children, including children who run away or are made to run away. In this context, the Government Railway Police, the Railway Protection Force, Airport and Seaport authorities needs to be oriented about the issue of missing children.

20. MISSING CHILDREN FROM ACROSS BORDER: This is a grey area, which largely remains unaddressed. It has been reported that several foreign children who have been trafficked into India have been punished as illegal immigrants and are made to suffer. NHRC recommends the state governments to undertake review of all such cases and provide relief to such children, as all trafficked children, irrespective of their nationality, are children in need of care and attention. Moreover, there is a need of developing a Protocol on this issue. It is learnt that UNODC in its anti human trafficking project can provide the required technical assistance. In this regard the Ministry of Women and Child Development can utilize the technical assistance of UNODC and in close coordination with the MEA, develop a protocol on this topic. The Project Coordinator, UNODC may provide the required technical assistance.

21.SURVEY AND RESEARCH: The world of missing children is unknown and there is no proper study or research on this issue. Even today the exact figures of missing or traced children are not available. The existing legislation requires the State and district authorities to periodically carry out inspections/surveys of places where children are employed with a view to identifying missing children and those engaged in bonded labour/child labour. This task has remained a low priority area. There is an urgent need for the State administration to undertake micro studies especially at the places where children are reportedly vulnerable.

A village-wise survey of all children who have gone missing or even recovered is an urgent need to understand the realistic dimensions of the problem. Studies by academic institutions into various factors behind the vulnerability of children are recommended in order to generate right response.

CHAPTER VI

Conclusion

The current Report of the Committee on ‘Missing Children’ bears testimony to the fact that not much has been achieved to protect the rights of children in the last 60 years. Undoubtedly, there has been a plethora of documents in the form of plans, policies, programmes, schemes and the like brought forth by the Government since independence pledging to protect and promote the rights of children but the records of national governance, public investment and development action yield little matching evidence of substantive work for children. Given the situation of children, especially from underprivileged and vulnerable sections of society, the Committee is of the view that the Constitution of India has sufficient mandate to secure human rights of children. This being so, the need of the hour is to identify and uphold certain commitments as ‘non-negotiables’ both by the State and the civil society. Investment in children’s well-being and security is one such *sine qua non*. In this context, both the Central and State Governments have to ensure realistic plans of action so as to make protection of children a reality within a specific time frame. This, of course, would require massive mobilization of resources, strong political commitment and decentralized planning and management structure. Most importantly, radical reforms in social services administration for efficient delivery of services are urgently needed. Coordination with other institutions of civil society will also be necessary. All this would ultimately ensure that the nation can have a strong human resource base.

ANNEXURE

The Guidelines given by the Hon'ble Supreme Court of India on 14-11-2002, while hearing the Writ Petition (Cri.) No. 610 of 1996 filed by Horilal V/s Commissioner of Police, Delhi & Ors. with regard to effective steps to be taken in case of tracing out the missing and kidnapped minor girls and women etc. : -

(1) Publish photographs of the missing person in the newspaper, telecast them on the television promptly and in any case not later than one week of the receipt of the complaint. Photographs of the missing person shall be given wide publicity at all the prominent outlets of the city/town/village concerned – that is, at the railway stations, inter-State bus stands, airport, regional passport office and through law enforcement personnel at border check-posts. This should be done promptly and in any case not later than one week of the receipt of the complaint. But in case of a minor / major girl such photograph shall not be published without the written consent of the parents/guardians,

(2) Make inquiries in the neighborhood, the place of work/study of the missing girl from friends, colleagues, acquaintances, relatives etc. immediately. Equally all the clues from the papers and belongings of the missing person should be promptly investigated,

(3) To contact the Principal, class teacher and student at the missing person's most recent school/educational institutions. If the missing girl or woman is employed somewhere, then to contact the most recent employer and her colleagues at the place of employment.

(4) Conduct an inquiry into the whereabouts from the extended family of relatives, neighbours, school teachers including school friends of the missing girl or woman,

(5) Make necessary inquiries whether there have been past incidents or reports of violence within the family.

Thereafter, the investigating officer/agency shall:

(a) Diligently follow up to ensure that the records requested from the parents are obtained, and examine them for clues,

(b) Hospitals and mortuaries be searched immediately after receiving the complaint.

(c) The reward for furnishing clue about the missing person should be announced within a month of her disappearance.

(d) Equally hue and cry notices shall be given within a month.,

(e) The investigation should be made through women police officers as far as possible.

(f) The concerned Police Commissioner or the D.I.G./I.G. of the State police would find out the feasibility of establishing a **Multi-Task Force for locating missing girl children and women.**

(g) Further, in the metropolitan cities, such as Delhi, Mumbai, Kolkata and Chennai, the Investigating Officer should immediately verify the red-light areas and try to find out the minor girls. If any minor girl (may or may not be recently brought there) is found, her possession be taken and she may be sent to the local children's home (Sec. 34 of the Juvenile Justice (Care and Protection of Children), Act, 2000), and the I.O. to take appropriate steps that all medical/other facilities are provided to her.