



NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS (NCPCR) THE FIRST SIX YEARS (2007-2013)

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1. Introduction

1.1 The National Commission for Protection of Child Rights (NCPCR or Commission) was setup in March 2007, under the Commissions for Protection of Child Rights Act, 2005. The mandate of the Commission is to monitor all laws, policies, programmes, and administrative mechanisms in the country to ensure that children's rights as enshrined in the Constitution of India and also the UN Convention on the Rights of the Child (UNCRC) are protected. The Commissions for Protection of Child Rights Act, 2005 provides for one chairperson and six members in the Commission. While a Chairperson and two members were appointed to the Commission its first term from 2007-2010, in the next term for the period 2010-2013 the Chairperson and four members have been in place.

1.2 The Commission's Mandate is to ensure that all laws, policies, programmes, and administrative mechanisms are in consonance with the child rights perspective as enshrined in the Constitution of India and also the UN Convention on the Rights of the Child. The Child is defined as a person in the 0 to 18 years age group. The Commission visualises a rights-based perspective flowing into national policies and programmes, along with nuanced responses at the State, District and Block levels, taking care of specificities and strengths of each region. In order to touch every child, it seeks a deeper penetration to communities and households and expects that the ground experiences inform the support the field receives from all the authorities at the higher level. Thus the Commission sees an indispensable role for the State, sound institution-building processes, respect for decentralization at the level of the local bodies at the community level and larger societal concern for children and their well-being.

1.3 Considering the fact that issues relating to children are as much in the list of the Centre as the State governments, the Commission's thrust has been in understanding and reviewing the basis, application and actual implementation of legal frameworks, policies and programs at both levels. The Commission is fully conscious of its role in the context of India's federalism and the dynamics of Centre-State relations.

2. Status of Children and Institutions for Children

2.1 India has a child population of 420 million in the age group Of 0-18 years and therefore manages the largest network of State run public institutions in the world today. It has the largest immunization and nutrition program with 1.4 million anganwadi centers covering over 80 million children. It reaches out to the maximum number of 143 million children in the 6-14 years age group in over 9 lakh schools with 36 lakh school teachers. It covers the largest mid day meal program in schools covering 131.69 million children and addresses children from the most vulnerable communities such as the

scheduled caste and scheduled tribes through affirmative action as mandated by the Constitution of India and provides a range of targeted initiatives and infrastructure such as scholarships, residential schools, hostel facilities and so on.

2.2 However, as a large country with diversity in economic attainment, political and institutional histories of the states, and cultural specificities, the quality of services is not consistent and continues to represent a key challenge in ensuring equal access to their fundamental rights by all children. While there have been gainful achievements in some areas in the country with some States, districts and blocks doing better than the rest on the child development indicators of health, nutrition, education and other entitlements- these continue to be abysmally poor in some pockets for certain classes of children and more disadvantaged communities.

2.3 Thus whilst bringing advances in many areas, it has also intensified the dangers to childhood and has been extraordinarily harsh to many children in our country. More and more children are vulnerable and marginalized today. Having no food to eat, and little or no health support, they live precariously, experiencing hunger daily and suffer malnourishment, their lives claimed tragically by infant and child mortality. Older children are being trafficked and are working as migrant child labor, usually away from their homes. Children travel long distances across states. Networks of sourcing children from one end of the country to another, exists across India, from Manipur to Chennai, Bihar to Punjab, Kerala, Rajasthan, Orissa to Mumbai and Gujarat. On their way to work and even in the work places, it is an undisputed fact that children are subject to abuse, torture and gross exploitation.

2.4 Those who remain in their own communities and are at work are also victims of cruel market forces and lack access to State services and protective schemes. Child marriages, child trafficking and discrimination of girls remain crucial challenges. There is a growing number of children being affected and infected with HIV and AIDS, displacement due to natural disasters and civil unrest, representing a new generation of hazards facing the child in this country.

3. Functions of the NCPCR

The functions of the Commission as laid out in the Act are as follows:

- (i) Examine and review the safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measures for their effective implementation
- (ii) Present to the Central Government, annually and at such other intervals, as the Commission may deem fit, Reports upon the working of those safeguards
- (iii) Inquire into violation of child rights and recommend initiation of proceedings in such cases

- (iv) Examine all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence, riots, natural disasters, domestic violence, HIV/ AIDS, trafficking, maltreatment, torture and exploitation, pornography, and prostitution and recommend appropriate remedial measures
- (v) Look into matters relating to children in need of special care and protection, including children in distress, marginalised and disadvantaged children, children in conflict with law, juveniles, children without family and children of prisoners and recommend appropriate remedial measures
- (vi) Study treaties and other international instruments and undertake periodic review of existing policies, programmes, and other activities on child rights and make recommendations for their effective implementation in the best interest of children.
- (vii) Undertake and promote research in the field of child rights.
- (viii) Spread child rights literacy among various sections of society and promote awareness of the safeguards available for protection of these rights through publications, media, seminars and other available means.
- (ix) Inspect or cause to be inspected any juvenile custodial home or any other place of residence or institution meant for children, under the control of the Central Government or any State Government or any other authority including any institution run by a social organization, where children are detained or lodged for the purpose of treatment, reformation or protection and take up with these authorities for remedial action, if found necessary.
- (x) Inquire into complaints and take *suo moto* notice of matters related to: Deprivation and violation of child rights; Non implementation of laws providing for protection and development of children; Non compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring welfare of the children and to provide relief to such children or take up the issues arising out of such matters with appropriate authorities;
- (xi) Such other functions as it may consider necessary for the promotion of child rights and any other matter incidental to the above function.

4. Composition of the NCPCR

- (i) a Chairperson who is a person of eminence and has done outstanding work for promoting the welfare of children and,
- (ii) six Members (out of which at least two shall be women) from the following fields to be appointed by the Central Government from amongst persons of eminence, ability, integrity, standing and experience in
 - a. education
 - b. child health, care, welfare or child development;

- c. juvenile justice or care of neglected or marginalized children or children with disabilities;
- d. elimination of child labour or children in distress;
- e. child psychology or sociology ;and
- f. Laws relating to children.

5. Essential Principles Guiding the Commission

The following perspectives as enshrined in the Constitution of India guide the Commission in all its work:

- (i) All the rights of children are of equal importance. Every right the child enjoys is mutually reinforcing and interdependent. Therefore the issue of gradation of rights does not arise.
- (ii) Every age within the 0 to 18 years age bracket, is of equal importance. A child enjoying all her rights at her 18th year is dependent on the access the child has had to all her entitlements from the time she is born. Thus policies and interventions at all stages in a child's growth and development assume equal significance.
- (iii) It is the State's obligation to protect children's rights. The civil society is to be seen as an equal partner to create an environment where child is in the centre of all decisions.
- (iv) The principle of non-discrimination and equality has to be adhered to in operationalising services to children who are differently placed and in unjust circumstances.
- (v) Each and every child would gain access to her entitlements in a universal approach that is inherently inclusive.
- (vi) Children are to be embedded in their culture and environment to feel empowered. The diversity and plurality of their cosmos have to be respected where they blossom in a natural fashion. When there is a conflict between culture and child rights, children's rights must take precedence and old cultures and traditions must adjust to give primacy to children's needs and rights.
- (vii) The best has to be given in a time-bound manner without any waiting. A distinction between short term needs that require immediate action and the vision for long term goals does not make sense as far as the child is concerned.
- (viii) Use of authority and power over the child by the adult is unacceptable.
- (ix) Taking uncompromising stands in favour of children and their rights is the first step towards the process of listening to children and recommending policy and legal reforms.

6. Methodologies for Interventions

The Commission has utilized the following methods to collect information and recommend actions to be taken up by the State.

6.1 State Visits

Periodic visits to the States are made based on the fact that issues pertaining to children's rights are subjects under the State List or the Concurrent List of the Union government. The methodology constitutes field visits to the selected area for investigation, to enquire into children's access to public institutions and an interaction with the local bodies, community, district level officials, NGOs, women's groups, parents and children. The district authorities would be present during such visits and issues that had remained unresolved for a long period of time in spite of repeated complaints, are highlighted by the Commission. Some of the issues are rectified almost instantaneously while others need a more systemic correction from State Government authorities.

The visits are followed up with letters and reports to the government on proposed action plans, issuing of reminders, deputing persons on behalf of the Commission for a status report and further one-to-one meetings with specific departments in the States to ensure adequate action is taken to redress issues.

6.2 Public Hearings

Public Hearings have become an important tool for conducting an open and transparent enquiry where voices of children and their protagonists are heard in the presence of the NCPCR and senior officials of the government. The hearings are held based on specific complaints received from the civil society on gross violation of children's rights on a massive scale, or/and media reports corroborating the same. The Commission registers a complaint with the authorities, asking for a time-bound response. When a clear response to the complaint is not forthcoming, the Commission constitutes a jury with experts for the hearing. On return from the hearing, the Commission takes up the issues that require both short term corrective solutions and long term policy decisions with the district authorities as well as the State level officials in the Secretariat-and where required, with the Central government. This is followed up with recommendations of the Commission and field visits of experts to monitor the action taken. The Commission has prepared protocols for conducting of Public Hearings.

6.3 Issuance of Communications in the Form of Letters, Directives, Guidelines and Recommendations to the Government

Based on implementation gaps and/ or violations observed, on several occasions, specific directives have been issued as guidelines for immediate government action. These directives are often in response to the Commission's independent assessment of growing complaints and media reports related to a particular issue affecting the liberty and rights of children in a particular State context. Most of the

directives and guidelines demonstrate a strong sense of urgency and call for a rights based perspective on the problem issue at hand. The response to the guidelines from the States as well as media has been heartening. They have often been taken up for discussion and debate and have generated wide public awareness and dialogue on important issues. While it is difficult to gauge the response to all guidelines issued, in some exceptional cases, there have been positive reports of action taken by the district administration.

6.4 Complaints Management and Issuing summons

The Commission receives complaints and it has evolved a system of registration of complaints, issuing of letters seeking reports, following up with reminders when there is no response from the concerned authorities. Depending upon the gravity of the issue it constitutes teams to enquire into the violation of rights and recommends action. When there is no action taken report from the government in spite of reminders the officials are summoned. The complaints have been mainly on issues relating to corporal punishment, violation of rights of children with disabilities, child malnutrition and health, children infected / affected with HIV/AIDS, sexual abuse, children's participation in TV reality shows, child labour, denial of right to education, missing children, children affected by civil unrest and deprivation of rights of children in institutional and non institutional care. Maximum number of complaints received has been from Uttar Pradesh followed by the States of Delhi and Tamil Nadu on the issue of corporal punishment. The total number of complaints received by the Commission since its inception in 2007 till date is close to 5000. The Commission also takes *suo moto* action and conducts direct investigations, which entail deliberations with experts and government officials.

6.5 Policy Dialogue with Concerned Ministries

The Commission has also sought special meetings with the Ministries to discuss thematic considerations on status of children, for example, with the Home Ministry on children's rights in areas of civil unrest. In connection, thereto, the Commission has prepared a policy document which specifically addresses the issues and needs of children in areas of civil unrest (which is the first of its kind); tribal ministry on provisioning of residential schools to tribal children; women and child ministry on child protection, juvenile justice and malnutrition; labour ministry on child labour and trafficking; education ministry on the implementation of right to education; panchayati raj ministry on the role of local bodies and so on. These meetings serve for the purpose of both information sharing between Ministry and Commission and also enable a rights-based policy for children.

6.6 Review of Laws and Policies

NCPCR reviewed the national legal framework, policies and implementation strategies to assess effectiveness and impact, and to ensure that a child rights perspective is

adhered to. As part of this, NCPCR undertakes analysis of legal frameworks and new policies that might have a direct/ indirect impact on children.

6.7 Regional and National Consultations, Working Groups

NCPCR conducts meetings with officials and members of civil society, academicians to understand the nuances of implementation of child rights, the challenges and critical bottlenecks and also learn from successful interventions. It constitutes Working Groups for detailed knowledge of the issues under consideration that would inform the Commissions policy note on the subject. Thus Working Groups were constituted, for example, on child labour, protection of children against violence and corporal punishment in schools, children's participation in TV and Reality Shows, children living on railway platforms:

Consultations are held with civil society partners, State officials, experts and scholars through regional and National workshops on the issue.

There are also Experts Groups for offering technical support and advice on specific rights of children. State representatives in each State are also a method of being updated on the policies and programs at the State level and establishment of links with the community based initiatives.

6.8 Special Cells/Divisions

Special Cells/Divisions have been set up in the Commission to focus on the mandate given to the NCPCR for monitoring the implementation of specific Acts. Thus the Right to Education Division (RTE Division) was set up in 2010 to monitor the implementation of the 'Right of Children to Free and Compulsory Education Act' 2009 and the POCSO Cell has been set up to monitor the implementation of the 'Protection of Children from Sexual Offences Act' 2012. In addition a 'North-East Cell' has been set up to focus attention on the specific challenges confronted by children in the States of Assam, Arunachal Pradesh, Nagaland, Manipur, Meghalaya, Tripura and Mizoram.

7. An Overview of Interventions

On several thematic issues the Commission has been intervening using the above methodologies for interventions. Some of the issues that have been dealt with in a systematic fashion are: (i) improvements in the juvenile justice system; (ii) child health and nutrition; (iii) child labour; (iv) child trafficking; (v) child abuse and sexual offences against children; (vi) corporal punishment ; (vii) children affected by conflict/civil unrest ; (viii) monitoring of child's right to education and other issues. A brief review of the same is as follows.

7.1 Juvenile Justice System

Context:

Under the Juvenile Justice Act (JJ) 2000, children in need of care and protection are meant to be rehabilitated through non-institutional care such as foster care, mentoring,

sponsorship and adoption with institutional care as a last resort. Further, children in conflict with law are to be integrated into society and lead a normal life through rehabilitative programs and correctional services. However, there are gaps in the manner in which the homes are run, and in the response of government, police and judiciary to such children. In the process, it is noticed that the juvenile justice system has often ceased to provide dignity and freedom to children, and instead caused them harm. The system itself has become part of the problem instead of the solution, thus violating the spirit and preamble of the JJ Act.

There are nearly 480 CWCs and close to 400 JJBs in the country and it is estimated that there are 117 million children who are in need of care and protection.

Activities

- (i) NCPCR visited and interacted with Child Welfare Committees (CWCs), Juvenile Justice Boards (JJBs) in the country, conducted enquiry on physical and sexual abuse of children in children's homes; held state and national consultations with officials and non officials, drafting of on reforms in the Juvenile Justice System and monitoring Juvenile Justice System in pursuance of a case in the Supreme Court.
- (ii) With regard to the Homes for mentally challenged children, the Commission recommended immediate separation of children with borderline and mild conditions of intellectual impairment from those with moderate, severe and profound categories. Transfer of these children recommended to homes for regular children.
- (iii) NCPCR has submitted its views to Justice Verma Committee concerning the *lowering of age of juveniles and capital punishment for juveniles* involved in heinous crimes. The Commission has also offered its views on Criminal Law Amendment Bill, 2013.

7.2 Child Health and Nutrition and Early Child Development

Context:

The rights of children under six years can be largely grouped into three categories: the right to health, nutrition, and education. The Government of India's flagship programme, the Integrated Child Development Services (ICDS) has been conceptualised to support the unborn child till he or she attains the age of six. However, there remain gaps in policy, legal framework and implementation of the ICDS programme that need to be addressed. It is estimated that 46% of all children below 5 years are malnourished in the country even as under ICDS there are 1.4 million Anganwadi Centres (AWC) reaching out to approx 35 million children.

Activities

- (i) Areas of high levels of malnutrition and infant deaths were visited and public hearings were held and directives issued.
- (ii) Policy recommendations focusing on greater decentralization and community management of malnourishment was emphasized.
- (iii) Based on the field visit to Adilabad in June 2008, recommendations were made to the Govt. of Andhra Pradesh regarding prevention of child deaths and for effective implementation of national health programmes. The District Collector, Adilabad, informed that necessary action is being taken in the line with the recommendations of the Commission.
- (iv) Based upon the field visits and Public hearing in Satna, Madhya Pradesh in February 2009, recommendations were made to the Govt. of Madhya Pradesh (with copy to District Administrations) regarding the implementation of food, education and health care related schemes for prevention of death of children due to malnutrition. The Commission has made a follow up visit to Satna in 2012 and Rewa in 2013 and is following up the matter with the State Government.
- (v) Filed visits to Jharkhand (Chaibasa) and Maharashtra (Melghat) have also been made on issues related to Malnutrition followed up by detailed State and District recommendations.
- (vi) State level review meetings have been held with Odisha, Puducherry and Andhra Pradesh to review progress in Child Health and Nutrition and the Commission has supported a Public Hearing in Tamil Nadu on the performance of ICDS.
- (vii) Policy issues leading to gaps in programmes for malnutrition are being raised through meetings with the Central Ministries of WCD and Health and Family Welfare.
- (viii) The Commission has made detailed inputs into the Food Security Bill with respect to Children's Rights to Food.
- (ix) The Commission has made inputs to the proposed ECCE policy as well as has been engaged in monitoring the situation of lack of child care services through a series of Public Hearings in New Delhi. It is also monitoring the provision of crèches on construction sites in Haryana and Brick Kilns in Rajasthan.

7.3 Child Labour

Context:

India has highest number of child labourers in the world, many of them as young as four. Census of India reports show that the number of child labourers in the country increased from 11.28 million in 1991 to 12.6 million in 2001. Two third of the child workers are engaged in the agricultural sector, where 73 per cent are casual wage child labourers. An estimated 8.6 million children are engaged as child labour (NSSO-2004-5). More than 2,50,000 children trafficked from their villages, are engaged in the production of hybrid cotton seeds in Andhra Pradesh, Rajasthan and Gujarat. They live

and work in sub-human conditions and are vulnerable to health hazards and abuse. The middle men who facilitate the employment of child labourers are local farmers and agents, but the invisible employers are major national companies and international companies.

There is a growth in the numbers of child labour in the country mainly in the informal sector and in agricultural activities. This is partly because the legal framework, that is, Child Labour (Prohibition and Regulation) Act 1986, does not prohibit all forms of child labour making it possible for many children to be drawn into the labour force. The National Child Labour Project (NCLP) of the Ministry of Labour too does not address the question of abolishing all forms of child labour and restricts itself to focusing on children in hazardous industries alone. This calls for a revision in the law and the policies that flow out of the existing legal framework.

Activities

- (i) The Commission has systematically monitored inter State trafficking of child labour especially from Rajasthan to Gujarat to work on cotton farms, child labour in brick kilns trafficked from Orissa to Andhra Pradesh, Tamil Nadu and Rajasthan, child labour in quarries and mines in Madhya Pradesh and Jaintiya Hills of Meghalaya.
- (ii) NCPCL has continuously advocated for policy and legislative changes on the issue of child labour at various levels in the government since 2008-09. In fact, specific amendments have been proposed to the existing Child Labour (Prohibition and Regulation) Act, 1986, to make it more effective and to bring it in sync with the RTE Act. Some of its recommendations, including banning child labour up to 14 years of age in all sectors have been accepted by the Government and found place in *the Child Labour (Prohibition and Regulation) Amendment Bill, 2012*, which is pending passage in the Parliament.

7.4 Child Trafficking

Context

Hundreds and thousands of girls and boys are caught in powerful nexuses of traffickers and agents, are 'missing', and end up being victims of sexual assault; trafficking for sex work or for employment/labour and in particular, domestic help; begging; for transfer of organs; for pornography including pornographic performances; abetting and involving children in armed conflict. All of them fight lonely battles every day of their lives to get out of exploitation. Some are lucky and win, most lose resulting in their ill health, depression, loneliness, loss of selfhood, fractured psyche and even death. It is estimated that 92% victims of have not been rescued, 6% have been rescued once and 2.0% rescued twice.

Activities

- (i) Monitoring trafficking of children especially from states in the North east to Southern states and follow up on rescue and rehabilitation.
- (ii) Monitoring rescue and rehabilitation of children trafficked against specific complaints that have been received or even taking *suo moto* action on the same.
- (iii) Recommendations for protocols to be adopted by the concerned departments such as police, welfare and justice, women and child, health, labour and education, health including the gram panchayats and the Child Welfare Committees.

7.5 Children affected by conflict/civil unrest

Context:

There are 82 districts in the country affected by civil unrest often leading to large scale displacement of families from the villages, causing fear, anxiety and disruption in their lives. There is a near collapse of all public institutions in the area. Given their vulnerability, children are the worst affected. They are also the most invisible and voiceless.

Activities

- (i) NCPDR followed up on protection of rights of children in areas which are affected by naxal-related violence in Chhattisgarh, Bihar, Andhra Pradesh, Maharashtra, Orissa, and ethnic violence in Assam, Tripura and all other States in the North East as well as in Jammu and Kashmir.
- (ii) With support from the Prime Minister's Relief Fund, NCPDR started a 3 year pilot viz: '*Bal Bandhu*' in five States of Andhra Pradesh, Assam, Chattisgarh, Bihar and Maharashtra. 200 GPs have been trained, 594 schools have been made functional. Over 15000 school dropouts have re-joined schools, 500 school dropouts have been enabled to take the 10th class board examination, arranging tuitions for them and pressing for waiver of tuition fees; bringing dropout to *Ashram Shalas* and convincing the wardens to reintegrate all such children; Identifying girls passing out of KGBV to continue their education.

7.6 Monitoring of Child's Right To Education

Context

The Commission welcomes the enactment of 'Right of Children to Free and Compulsory Education Act' in July 2009, as a step in the right direction towards guaranteeing right to education as a fundamental right. With each and every child enjoying her right to education the current Act paves the way for making India a proud nation. Through this Act, the State is obliged to ensure that no child is denied access to education in full-time formal schools with standards and norms of schools clearly laid out. It is compulsory for the State to provide quality education and ensure trained teachers at the earliest. This

Act guarantees millions of children across the country that are presently outside the school system, including child labour, street children, children with disabilities, orphans, and the girl child access to schools and their retention in schools. It mandates that school drop outs and out-of-school children are all mainstreamed and integrated to an age appropriate class.

NCPCR has been assigned the task of monitoring the implementation of 'Right of Children to Free and Compulsory Education Act, 2009' under Section 31 of the Act. Accordingly, the Commission set up an RTE Division.

Activities

- (i) NCPCR has provided inputs to MHRD on the enactment of the *RTE Act, 2009* and subsequent amendments thereto for inclusion of specific provision regarding the *right to education of disabled children*.
- (ii) An Expert Group to advise the RTE Division has been constituted with policy makers from all concerned ministries; educationists, representatives of civil society. Each year two to three meetings are held to advice NCPCR on various components of the program.
- (iii) Currently 26 State Representatives are involved in assisting the Commission across 15 states. They have helped in conducting of social audit, trainings for gram panchayats and members of SMCs, assisted in public hearings, conducted follow-ups on the same, enquired into violation of RTE and the complaints referred to them by NCPCR, engaged with the State Government for formulation of State rules, preparation of training materials and acted as a bridge between the NGOS and the government in their respective States. etc.
- (iv) NCPCR has covered 439 wards, 700 schools in its social audit process across 12 states in Tamil Nadu, Delhi, UP, Maharashtra, Bihar, Haryana, MP, AP, Assam, Rajasthan Orissa and Karnataka. All the districts/blocks selected for the purpose are interior and away from the capital city. Conducted trainings under social audits for all the grass root level animators to conduct social audits (500).
- (v) Public Hearings were held in 11 states of MP, Rajasthan, TN, Delhi, UP, Maharashtra, AP, Orissa, Manipur, and West Bengal. About 2500 cases were heard and over 100 NGOs participated in registering complaints and bringing up the cases to the notice of the Commission. There have been positive responses from the States on several occasions. Although there was an initial resistance from the block and district level education officers this was resolved sooner than later wherein the NGO's help was sought by the government to resolve issues. More importantly it raised a public discussion and provided a platform for interaction between the government and civil society.
- (vi) About 1800 complaints have been received from 28 states (most of them being from AP, Delhi, Maharashtra and Uttar Pradesh) on issues relating to admission,

corporal punishment, detention of children, discrimination, teachers' attendance, 25 percent reservation for EWS in private schools etc.

- (vii) Issues such as grievance redressal, discrimination, child labour and out of school children, role of local authority, private schools have been discussed through conferences and consultations. Consultations on amendment to Child Labour (Prohibition and Regulation Act), 1986 to harmonize it with the RTE act were held with Ministry of Labor, Ministry of Law, National Advisory Council and so on. A matrix for grievance redressal mechanism detailing the entitlements as per the RTE Act and the respective officials who are to be held accountable has been prepared and distributed to all the States.

7.7 Corporal Punishment

Context:

Two of three school going children in India are physically abused according to 'Child Abuse in India, 2007', a report by the Ministry of Women and Child Development. Boys are marginally more likely to face physical abuse (73 per cent) than girls (65 per cent). Corporal punishment in both government as well as private schools is deeply ingrained as a tool to discipline children. The act of inflicting corporal punishment is treated as a normal action. But most children do not report or confide about the matter to anyone and suffer silently. This violence on children continues at the cost of the child's continuance in school, her self-esteem and dignity. There are instances of grievous injuries and deaths caused by corporal punishment and even suicides by very young children. However, the 'Right to Free and Compulsory Education Act' 2010, categorically bans corporal punishment and states that, "No child shall be subjected to physical punishment or mental harassment."

Activities

- (i) Nearly 500 individual complaints on corporal punishment in schools have been dealt with, guidelines on corporal punishment issued to governments in all States and Union Territories up to the district level.
- (ii) Wrote to the Law Ministry to amend section 88/89 of the Indian Penal Code that permitted violence on children.

7.8 Child Abuse and Sexual Offences against Children

Context

There is a silence and lack of acknowledgement that children are being subject to sexual assault and violence in the country. More often the perpetrators are those known to the child, from within the family and the neighborhood.

Activities

- (i) Commission responded to more than 300 cases of child sexual assault and abuse. Cases of abuse in police custody, juvenile homes, schools and

institutional settings and families inquired into and taken to logical conclusion.

- (ii) NCPCR has also set up the POCSO Division to monitor the implementation of the Act in April 2013.

7.9 Children affected and infected with HIV and AIDS: In an effort to address the issues of children affected/infected by HIV and AIDS, six public hearings have been held by NCPCR from 2008 to 2010 for orphan and vulnerable children in Tamil Nadu (Chennai), Karnataka (Bengaluru), Maharashtra (Mumbai), Andhra Pradesh (Hyderabad), Manipur (Imphal), and Delhi (where West Bengal, Orissa, Gujarat, Nagaland and Uttar Pradesh also participated). The hearings also discussed responses of various state governments in providing services – in terms of health care, psycho-social support, nutritional support through ICDS, mid day meal schemes, PDS and other programmes, education facilities, free transportation, legal aid, access to institutional as well as non-institutional care.

A National Consultation on “HIV and AIDS – Child Rights and Entitlements” was organized by the NCPCR with concerned government ministries and departments, State AIDS Control Societies, SCPCRs and relevant NGO representatives to review the existing policies of the States for children living with HIV/AIDS, share best practices of various State governments, increase interdepartmental and inter-sectoral convergence and firm up policies for children living with HIV/AIDS.

7.10 Child Marriage: NCPCR participated in the global partnership programme to end the menace organised by 'The Elders', an INGO working for peace and human rights. Archbishop Desmond Tutu, Gro Brundtland and Mary Robinson participated in the meeting.

A National Consultation to discuss the pressing concern of child marriage was organized by NCPCR on 5 December, 2011 at Vigyan Bhavan, where delegates were invited from diverse fields - Government, non-government sector and independent consultants. The need for a multi-pronged strategy, legal literacy with regard to the PCMA, 2006, sensitization of all stakeholders, registration of marriage, defining roles and responsibilities of duty bearers, and preparation of a data bank by the State were some key issues which were discussed.

Two regional consultations were held in Bangalore and Hyderabad on 23 December, 2011 and 7 January, 2012 respectively and a number key issues pertaining to the social evil of child marriage were identified and aimed to resolve.

7.11 Children living on Railway Platforms: Of the estimated 11 million street children in India, over 100,000 children live around each of the railway stations of Delhi, Mumbai and Kolkata. They are children who have run away from their homes, abandoned, missing or trafficked children. All of them find petty jobs to support

themselves. They are all children who have been deprived of a childhood and often fall into criminal nexuses.

7.12 Rights of children with disabilities – NCPCR held consultations on rights of children with disabilities with focus on detection of early childhood disabilities.

7.13 Children’s Participation in Reality Shows: In view of the gross violation of children’s rights and a compromise of their dignity in the reality shows, NCPCR set up a working group that involved major TV production units.

7.14 Constitution of a Research Advisory Committee (RAC): One of the functions of NCPCR is to advise the government on policy and legal framework for protection of child rights. Furthering the Commission's mandate, an RAC was constituted in 2010 and three meetings have been held so far from 2011 to 2013. The RAC has approved a number of research topics for the Commission to engage with. One such study was on *Implementation of RTE in the states of Uttar Pradesh and Bihar*, commissioned to CORD; and another on *Adolescent Girl Children of First Generation Learners and Their Access to Higher Education with a Focus on the State of Maharashtra / Champions Project* commissioned to Krantijyoti Savitribai Phule Women's Studies Centre, University of Pune.

7.15 Pilot Programme for Protection of Child Rights (PPPCR): A pilot programme for protection of child rights was launched in the State of Jammu and Kashmir in December 2011 in Sumbal and Rajwar Educational Zones of Bandipore and Kupwara districts respectively. As part of the programme the NCPCR held winter schools in both Rajwar and Sumbal and was successful in attracting children to school during these months. The students were taught with the help of play way methods and no “stick or cane” was ever used.

8. Legislative Interventions

Context

The Commission has sent its views to the Parliamentary Standing Committee on pending Bills and has also made oral depositions to the same.

8.1 The NCPCR made recommendations to the Ministry of Rural Development to introduce child protection clauses in the Rehabilitation and Resettlement Bill, 2007. It was seen that children were the most affected in all such situations and there was no policy framework that addressed how children could be protected under conditions of conflict and/or displacement – either due to natural or man-made causes. It recommended that special efforts have to be made in all situations of conflict, unrest and displacement to ensure that the rights of children are protected.

- 8.2** The Commission has also provided its inputs to the Parliamentary Standing Committee on Food, Consumer Affairs and Public Distribution as well to the Government on the *National Food Security Bill*.
- 8.3** NCPCR has also offered suggestions to the Ministry of Health and Family Welfare on Blood Transfusion Bill.
- 8.4** Commission presented its views on the POCSO Bill focusing on the need to integrate protective mechanisms by law under the proposed Act and make an exception to the age at 16 years for children's consent to sexual relationships.
- 8.5** Commission presented the status of implementation of the RTE Act to the Parliamentary sub-committee.
- 8.6** NCPCR presented its views on the Amendments to the Child Labour (Prohibition & Regulation) Act, 1986 to bring it in sync with the RTE Act.

9. Interventions in Court Matters

Context

The National Commission for Protection of Child has been asked by various High Courts around the country and the Supreme Court to provide its opinion and recommendations on a series of issues relating to exploitation of children and the need to focus on realization of their rights. Some of the issues that the Commission has been called upon to comment on are child labour, child trafficking, corporal punishment, children in areas of civil unrest, the juvenile justice system and the poor implementation of legislation and government schemes introduced for the benefit of children specifically. **(Annexure 2)**

10. Some Observations- Child Rights and Governance

Based on its past experience of monitoring children's rights in the country the Commission has observed that certain core principles have to be adhered to in formulating policies and delivering services, adjudication of justice for children, as well as making legislations for children.

10.1 Implementation and execution of policies

It is felt that the following five management principles viz: decentralization, flexibility, institution building processes, convergence and listening to children and their voices are essential for services to reach children.

- (i) In the first principle of decentralization and devolution of authority to the local bodies all the three functions of planning, implementation and assessment/monitoring of the program should devolve at the local level enabling an active role for the gram panchayats (local bodies) or municipalities. Local community associations such as women's groups, youth groups, and child rights protection groups and also local level functionaries of various line departments should consult the gram panchayats in a systematic manner. The plans should

flow from the gram panchayats to the cluster level and consolidate at the Block level. The role of district and the State is to respond to the demands from the field level. It is necessary to have a shorter cycle of planning as far as children are concerned. Ongoing long cycle of planning based on a centralized annual plan fails to deliver the entitled and much needed benefits to the infants and young ones.

- (ii) Second, the method through which the goals are to be attained should be flexible. This would entail decision making in response to the local context. In a way, flexibility would enable an organic process of decision making at the level of the gram panchayat, which in the long run would foster new tradition and culture for caring for children and their protection in a sustainable way.
- (iii) Thirdly, all endeavor should be towards strong institution building processes where there is predictability and continuity in services, flow of funds and technical support and not 'person-driven' or dependent only on a well-meaning bureaucrat or a politician.
- (iv) Fourthly, there is a need for convergence between all the relevant functionaries of the departments of Women and Child Development, Health, Education, Rural Development, Water and Sanitation, Civil Supplies etc. from the local to the national level. Protecting the rights of children can happen only with the coming together of all relevant functionaries across all departments at every level.
- (v) Finally there have to be processes where voices of children are heard, their views are taken seriously and they are enabled to exercise agency against violence, abuse, exploitation, harassment and punishment and given support and institutional care when they take stands to come out of trafficking, marriage, labour and other forms of violence.

10.2 Child Jurisprudence

- (i) Children would need special measures at every stage of the process of justice. These measures would extend to child victims and witnesses i.e. children in contact with law and children in conflict with law. This would require the introduction of child jurisprudence, a child focused procedure code, a well-trained cadre of the judiciary on child rights, and adequate space and opportunity for children to seek justice under humane and 'child friendly' circumstances. This would involve adherence to the following principles:
 - (ii) Children are to remain protected and not victimized. From the first contact with law enforcement agencies, which is often the police to the presentation before the Magistrate and the period of trial, cross examination. Ensuring dignity, privacy and safety of the child should be of central concern at every stage of adjudication.
 - (iii) All questions in cross-examination shall be put to the child witness only through the Judge.

- (iv) It must be noted that extending special measures to the child is not because the child is considered to be incompetent to give evidence but rather to give the child support such that the best quality of evidence is forthcoming, without further victimizing the child. The tendency of adults (Judges not excluded) to patronize the child is strongly discouraged while providing special measures. On the contrary, it is intended to enable the child to depose under the best conditions which the Court in its discretion, may facilitate.
- (v) To minimize child stress and to ensure that justice to children deserves the highest priority, the court must designate all trials involving children as being of special public importance and ensure that it not only takes precedence over other regular cases but that these cases are always taken up on a day to day basis and completed with speed and special care in the best interest of the child.
- (vi) It should also provide for reformatory and restitutive justice.

10.3 Legislations for Children

All legislations criminal and civil for protection of child rights have to ensure the following:

- (i) Taking categorical and unambiguous position on children's rights, ensuring State commitment and obligation to provide all structures, institutions and processes for delivering services to children.
- (ii) Adherence to principles of universality as against targeting, equity and social justice to cover all children up to 18 years of age.
- (iii) Special provisions for affirmative action for the disadvantaged children in all legislations, in the framework of rights and universal coverage.
- (iv) Inclusion of accountability and grievance redress mechanism in all legislations.
- (v) Provisions for compensation, and rehabilitation.
- (vi) Allocation of resources to be part of the legislation with clarity on the role of Union and State governments.

11. Commission and its Challenges

11.1 Context

- (i) There has been a shift in the perspective of the government from a welfare approach to that of a rights based approach in addressing the issues of children in our country. Yet, translating the vision of the child embodied in the Constitution, various legislations, policies and programmes, UNCRC, and provisioning of services in an equitable manner, with universal coverage becomes an ambitious task. This is especially so when we are witness to loss of livelihood and economic instability, large scale migration and displacement, growing urbanization and increasing vulnerability and risks. Children are worst effected that reinforces their suffering, exploitation and lack of access to

entitlements. During such times, Commissions have a huge role to play. Their effectiveness depends on the ability to reach out to the most marginalized women and children and provide an adequate remedy for rights' violations. Process is slow requiring patience.

- (ii) Commission has to in such times take uncompromising positions on child rights For eg: universal coverage of all children in need of care and protection and not a piecemeal approach; insist on abolishing all forms of child labour and a legal framework that covers children in 14-18 years age group; right to free and compulsory education for pre-school children and 14-18 year olds; community management and decentralization of services to mitigate hunger and malnutrition and so on.
- (iii) The Commission has to constantly contend with the main set of arguments viz:
 - i. that it is impractical;
 - ii. poverty is the cause for ineffective outreach;
 - iii. poor don't care and they have large families;
 - iv. tradition and culture are difficult barriers to overcome;
 - v. system is corrupt and why waste precious resources as well as general cynicism.Taking a rights based perspective it has to insist on the State obligation to mitigate all barriers and ensuring all services are available enabling children enjoy their rights.
- (iv) At times it becomes impossible to attend to each and every case of violation of child rights-there are so many of them. Ideally, Commission has to be selective and take up those cases which serve to reveal broader, systemic problems and inform larger policy debates exercise discretion and not respond to each and every case. But this cannot happen as complaints management becomes the bench mark for evaluating Commissions. Most parliamentary questions are addressed on complaints! Absence of accountability and grievance redress mechanism within the government and the departments increases the load on Commissions.
- (v) More so Commission is caught in responding to every high-profile case that has drawn media attention and consequently of public concern. This often diverts its attention from examining analyzing policies and programs and also keeping abreast of macro-issues. Press and at times even the governments say, 'Oh, you are only a monitoring authority-you cannot give directions?' 'Of what use are your recommendations and what can one do if the government does not take its recommendations seriously?' This undermines the position of the Commission and, if by implication the Commission is to take on the role of Executive, Legislature and Judiciary, even such institutions are undermined.
- (vi) The Commission has some strengths which could be leveraged to the advantage of fostering a policy or law. It has greater flexibility in convening meetings with a cross section of stakeholders in both in the government and civil society, corporate' unions, artists, .enabling creating a space for dialogue between the two; It is important to mention the significance of its collaboration with NGO's as equal partners which enabled interface between the community and the

government through holding public hearings, informal meetings with CBOs, NGOs, children and also field visits crying for help. Their role as whistle blowers at times invited adverse consequences from the establishment. Many Members of the NCPDR have been selected for their contribution through civil society and networks with grass root level organizations. They have an advantage of leveraging the social capital that they have accumulated over years of active involvement with the community. Thus when they build upon their strengths keeping in view principles of credibility, non-partisan framework and issues relating to conflict of interest needs to be understood and not resisted. This role of the Commission as bridge-builders with the NGO's and the government— a role that is neither easy nor highly visible bringing together different parts of the political and institutional system and society needs to be appreciated and consolidated.

(vii) Finally Commission has to be pro-active rather than reacting to issues-through state visits, consultations etc; Commissions have an important role in advocating policies through legislations with political parties; legislatures; parliamentary standing committees. (Food Security, Sexual Assault, Child Labour) as well as actively involve with judiciary and process of adjudication in Supreme Courts and some High Courts.(trafficking , media, juvenile homes, child labour).

11.2 Commission and the Government

- (i) In a large country such as ours- diversities in delivery of services, history and background of governance and culture of bureaucracy, its accountability etc. there is unevenness in institution building processes, and responses thereof; nothing is predictable. Yet, it has been found that more often than not the State governments could be persuaded and made to act. When, after repeated reminders there has been no adequate response the Commission has used its powers to summon the officials and followed up on action thereafter. At times, inter-State collaboration meetings to discuss issues of migrant children have been held and yielded good outcomes.
- (ii) However there is always a tension between the Ministries and the Commissions-structural in nature because of the very nature of the respective roles the Commissions and the governments are to perform. This has consequences for the autonomy and independence of the Commission. For eg: there are occasions when the dealing Ministry seeks information and responses to questions that looks like very routine in nature, or insist on the Commission submitting its bi-monthly or quarterly reports. This seems a very reasonable thing to do. However, what begins as a benign information seeking exercise has often resulted in scrutiny of the Commission, interference in its work and explanations being sought thereafter and even attempts to direct the agenda of the Commission by the Ministry. There have

been delays in making routine disbursements seeking information on trivial issues. This operates in a subtle and indirect fashion.

- (iii) There is also the known tactic of 'divide and rule' of any authority and in this case the Ministry where some Members in the Commission are encouraged to weaken the independence and autonomy of the Commission. This happens unwittingly. Further the senior officers including the Member-Secretary are appointed by the Ministry and thus could feel obliged to the Ministry. This too can put the loyalty of the officer constantly in a bind.
- (iv) We often have to rely on government to inform us of a policy initiative early enough so that we may have the opportunity to influence its outcome. In practice we are seldom consulted or even told about what the government is planning to do; there is no institutional mechanism for keeping the Commissions informed. There is so much of secrecy; most information is hearsay. In fact when the mutual roles of the Government and the Commission are respected and understood, there is a way of building partnership with intuitional maturity and a long term perspective. Unfortunately, such an arrangement could not be evolved. Thus for example recommendations made by the Commission could be taken seriously by the Central Government and after mutual consultations notified to all State governments. Such collaboration could have demonstrated to public the confidence and trust required for credibility of Commission and the government as well.
- (v) A synergy therefore between the Ministry and the Commission has to evolve through an organic process which at the same time does not compromise the independence and autonomy of the Commission. Further Commission has to complement and strengthen the performance of existing institutions to realize the rights of all children. In this connection using a non-adversarial and at times moral authority is far more effective than using the powers vested in it as a quasi-judicial authority.
- (vi) It has to be recognized that the Commissions have a huge role to play in ensuring that the systems that advance and are responsive to the rights of children and to do so it has to constantly preserve its independence and autonomy. This is our main strength and source of legitimacy and authority. In fact it is by standing the ground of independence and autonomy that the Commissions effectiveness is tested and same time its legitimacy is maintained. It is this quality that allows us to do justice to the task entrusted to us by the Parliament of India.

Policy Documents, Notes and Studies

- (i) A document '*Key Reforms in Juvenile Justice System-2008*' was prepared after examining the functioning of the JJ System in the country and holding consultations with stakeholders such as the police, officials of women and child welfare departments and civil society. The document emphasized the need for examining non-institutional care and protection for children in conflict with the law. The report further emphasised that in the provision of all services, a distinction should not be made between children in conflict with law and other children in need of care and protection.
- (ii) Drafted '*Action Plan for Abolition of Child Labour In Delhi*' on the direction of the Delhi High Court. The protocols established for rescue and rehabilitation of children have been adopted resulting in several children being rescued from labour force. The emphasis of the protocols has been on inter-ministerial convergence bringing together departments of labour, police, social justice, health education and so on. It also established protocols for linkages with other States.
- (iii) Strategy Paper on '*Abolition of Child Labour in India*' for the 11th Five Year Plan' to the Planning Commission and Ministry of Labour in August, 2007 which focused on greater investments in identifying child labour, their rescue and enforcement of all laws.
- (iv) A document on '*Abolition of Child Labour and Making Education a Reality for Every Child as a Right*' along with a proposal for Amendments to the Child Labour (Prohibition & Regulation) Act, 1949 in October, 2008 to the Ministry of Human Resource and Development, Ministry of Labour and Employment, Ministry of Woman and Child Development, Ministry of Tribal Affairs, Ministry of Social Justice and Empowerment and Ministry of Law were made. The recommendations include abolishing all forms of child labour without making a distinction between children being engaged in hazardous and non-hazardous occupations and processes. It also recommended extension of the law to cover children up to 18 years of age with an exception that they could work during school vacations.
- (v) A note on the '*Critique of the National Child Labour Project (NCLP) Scheme*' of the Ministry of Labour and Employment submitted to the Planning Commission for the Twelfth Five-Year Plan (2012).
- (vi) An approach paper on '*Monitoring Rights of Migrant Children*' (2012-2013).

- (vii) During 2010-11, NCPCR has provided inputs for the *Protection of Children from Sexual Offences (POCSO) Act, 2012*. It drafted the 'Protection of Children from Sexual Offences Bill (2010)' which included several provisions that make for child related jurisprudence. Several measures recommended by the NCPCR are now part of the POCSO Act.
- (viii) Prepared policy document on '*Rights of Children in Areas of Civil Unrest*' highlighting the specific predicament of children in areas of children with reference to specific laws and policies—both national and international- and the need for a child centric approach to protect children in these areas.
- (ix) Document on '*Education as Emergency Relief*' is an action plan for ensuring that children are not drawn into paths of labour, early marriage, trafficking or recruitment into armed conflict with emphasis on a education as both a preventive measure as well as that of rehabilitation and relief.
- (x) NCPCR has also prepared a set of '*Protocols for Police and Armed Forces in Contact with Children in Areas of Civil Unrest*'.
- (xi) Report '*Bal Bandhu - In Defense of Child Rights*' is a document that gives details of the social mobilization process adopted under the Bal Bandhu Scheme.
- (xii) A study on '*Implementation of RTE in the states of Uttar Pradesh and Bihar*' has been commissioned to CORD and on practice of corporal punishment in schools has also been finalized.
- (xiii) Documentation on '*Social Audit Groups*' prepared by Administrative Staff College of India. A social audit manual for community monitoring of schools under the RTE Act has been prepared by NCPCR.
- (xiv) Document on "*Elimination of Corporal Punishment in Schools*" and forwarded the same to MHRD (Department of School Education and Literacy) on 23.02.2012 with a request to issue the same to the State Governments/UT Administrations under Section 35(1) of the Right of Children to Free and Compulsory Education (RTE) Act, 2009. These guidelines included affirmative action in schools towards positive development of children, positive engagement with children, creating an environment conducive to learning, mechanisms and processes to give children a voice and engage in the process of creating a positive environment as well as guidelines for accountability and multi-sectoral responsibility
- (xv) Conducted a '*Study on the Practice of Corporal Punishment In Schools*' in the country.

- (xvi) Guidelines were issued to the State Governments / UTs in August 2007 to address the issue of Corporal Punishment in schools. The Ministry of Human Resource Development (MHRD) also circulated the NCPCR guidelines to the States/UTs in December 2007 for implementation/compliance. Additional guidelines on corporal punishment in schools were issued in May 2009 to all States/UTs with copy to all the District Collectors to work towards abolition of corporal punishment in schools.
- (xvii) A policy document entitled '*Rights and Entitlements of Children Infected and Affected with HIV and AIDS*' was drafted in 2010 and released in March 2011 as an outcome of the public hearings and the national consultation.
- (xviii) A policy document on '*Safeguarding the Rights of Children in Contact with Railways*' (2009-10). The recommendations made include a linkage between the Juvenile Justice Act and the Railway Acts so that these children are treated as children first and not as illegal passengers, setting up of Child Protection Committees at every major railway station and Child Welfare Committees close to the stations, child assistance booths at the stations and incorporating the Child Rights and Juvenile Justice Act in the syllabus for railway police training
- (xix) '*Guidelines to Regulate Child Participation in TV Serials, Reality Shows and Advertisements (2010-11)*' was prepared spelling out the protocols that are to be followed in production of the reality shows as well as the content of the TV serials. These guidelines were adopted by the Ministry of Information and Broadcasting.
- (xx) NCPCR prepared a roadmap on '*Child Participation*' in the affairs concerning them and submitted to the Ministry of Women and Child Development in FY 2012-13.
- (xxi) Drafted the '*National Policy on Children (2012)*' which informed the Ministry's policy document on National Policy on Children (2013).
- (xxii) NCPCR has prepared an Approach Paper on *Legislative Reform for Children* to guide the direction in which a rights-based perspective should govern all law making for children in the country. In the first phase of the legislative reform exercise, the paper recommended that central laws that directly impact child well-being are to be examined and amended, from a child rights perspective with focus on child jurisprudence.
- (xxiii) *Policy document on Status of Children in 14-18 years: Review of Policy, Programme and Legislative Framework (2012-2013)*.

- (xxiv) A research study on *Adolescent Girl Children of First Generation Learners and Their Access to Higher Education with a Focus on the State of Maharashtra / Champions Project* commissioned to Krantijyoti Savitribai Phule Women's Studies Centre, University of Pune and finalized.
- (xxv) Preparation of Child Friendly Documents - Two child friendly manuals on *Child Rights* and *Right to Equality* have been developed by the Commission.
- (xxvi) Study on *Implementation of the Integrated Child Protection Scheme (ICPS)* {Draft}
- (xxvii) Document on *Review of Legal Rights, Law and Policy on Orphans and Orphanages* {Draft}
- (xxviii) Study on *Child Welfare Committees* {Draft}
- (xxix) Action Plan on *Identification of Core Areas of Violation of Child Rights specific to each State in North East* prepared.

Court Matters

- a. The Hon'ble High Court of Delhi in its order dated 19.2.2009, (in the case Harsh Virmani & Ors. Vs. Govt. of NCT of Delhi (GNCTD) & Ors), constituted a Committee with the Chairperson, NCPCR as its chair. The mandate of the Committee was to make specific recommendations for improvement in the conditions of the children's home for girls at Nirmal Chhaya Complex. Subsequent orders of the High Court of Delhi included all children's homes under this case. The report submitted by this committee was accepted by the High Court and further orders were issued directing the Government of Delhi to take appropriate action on the same. The Commission is continuing to monitor the conditions of children's homes in Delhi.
- b. The Hon'ble High Court of Delhi accepted the NCPCR's Action Plan on 'Abolition of Child Labour in Delhi' through its order dated 15.7.2009 (in the case of Save the Childhood and Foundation vs. GNCTD & Ors.) Further, the concerned departments/ authorities of the Government of Delhi, Municipal Corporation of Delhi (MCD), Delhi Police and Resident Commissioners of concerned States have been directed to implement this Action Plan. Based on the Action Plan, a pilot project was initiated in Jahangirpuri in the North West district of Delhi by NCPCR. Based on community mobilization efforts and community participation, 1075 out of the 2929 out-of-school children in the area have been mainstreamed into formal education.
- c. On the direction of the Hon'ble High Court of Delhi in the Civil W.P. No. 8889 of 2011, NCPCR steered a Committee which ultimately drafted a set of guidelines to be followed by different stakeholders in Delhi *to eliminate incarceration of children in jails in Delhi*. These guidelines were accepted by the Hon'ble High Court in its decision dated 11.05.2012. Different stakeholders such as Delhi Police, Jail Authorities, Trial Magistrates, Govt. of NCT of Delhi (Deptt. Of Women & Child Development and Health), DSLSA and NCPCR were directed for implementing these guidelines.
- d. Recommendations were made in June, 2008 and February, 2009 to all DGPs/ IGP's for issuing instructions to the Police at all levels for enforcement/ implementation of the guidelines issued by the Hon'ble Supreme Court on the subject in the case of (Writ Petition (Cri.) No 610 of 1996) Horilal Vs. Commissioner of Police, Delhi & others. Andhra Pradesh, Andaman & Nicobar, Bihar, Chandigarh, Delhi, Karnataka, Madhya Pradesh, Maharashtra, Orissa, Puducherry, Rajasthan, Uttar Pradesh, Uttarakhand and West Bengal governments have informed that detailed instructions have been issued to the police at all levels for enforcement/implementation of the guidelines.

- e. The Supreme Court of India, in its order (dated 31.03.2010), asked the NCPCR to conduct an inquiry into the large scale transportation of children from one state to another, including from Manipur and Assam to Tamil Nadu and to submit a report within three weeks. The report was submitted to the Court on July 15, 2010.
- f. In the matter of 'Exploitation of Children in Orphanage in the State of Tamil Nadu', the Court ordered (1.9.2010) NCPCR to continue to be engaged with the "source as well as destination" states for addressing the protection issues concerning children taken from one state to another. The Commission was directed to hold meetings and apprise the Court of the situation/progress in the matter.
- g. The Commission has been appointed as the nodal agency to monitor the implementation of the directions of the Supreme Court asking all states to implement the provisions of the Juvenile Justice (Care & Protection of Children) Act, 2000 and constitute Juvenile Justice Board (JJB), Child Welfare Committee (CWC) and Special Juvenile Police Unit (SJPU) in every district. It has issued letters to all the secretaries and directors of the department of WCD/Social Welfare/Social Justice of the states/UTs and to the DGPs and IGPs of all states and UTs to constitute SJPU in every district and to designate juvenile/child welfare officer for every police station in the state.
- h. The Delhi High Court, in the case of Birndavan Sharma vs. Delhi Administration, Case No. Cri. A. 927/2002), had directed that 'the NCPCR shall also quantify in concrete terms the expenditure per child and the manner of the expenditure'. Accordingly, the concerned central government Ministries of Women and Child Development, Social Justice and Empowerment, Human Resource Development, Health and Family Welfare, Labour and Employment, as well as the state government Departments of Social Welfare and Women and Child Development had been requested to furnish relevant information regarding the schemes implemented by them for the benefits of children and expenditure incurred per child under these schemes. Several states have responded including Chhattishgarh, Gujarat, Haryana, Maharashtra, Rajasthan, Tripura, Uttarakhand and the union territory of Andaman and Nicobar. The Ministry of Tribal Affairs has also sent its response.
- i. The Delhi High Court, in its order (dated 19.2.2009) issued in the case of Harsh Virmani & Ors. Vs. government of NCT, Delhi (GNCTD) & Ors., had constituted a committee, comprising NCPCR Chairperson, District Judge, Tis Hazari Court and the Secretary, Social Welfare, GNCTD, to monitor CHG-I and CHG-II (Children Home for Girls) and submit a status report within three months from the date of order (19 February, 2009).
- j. Pursuant to the order, the Chairperson (NCPCR) and Secretary (SW&WCD), GNCTD, visited CHG-I and CHG-II (Nirmal Chhaya Complex, Jail Road, New Delhi) on March 24, 2009. Subsequent to the visit, a report on the condition of

the Homes and the situation of the children living there was submitted to the Court.

- k. The High Court of Delhi in its order (dated 24 September, 2008), in the case of Save the Childhood Foundation Versus Union of India & Ors, had directed NCPDR to evolve an Action Plan for the strict enforcement/implementation of the relevant Child Labour Legislations in Delhi and to suggest specific measures for timely recovery and proper utilization of the funds collected according to the judgment of the Supreme Court in MC Mehta Case for the rehabilitation of rescued children. The Action Plan had also to cover education, health and financial support to the rescued children as well as the mechanism required for coordination with the state from where the children are brought to Delhi for work.
- l. The NCPDR held several meetings with the concerned Departments/Authorities of the Government of NCT of Delhi (GNCTD) and CWCs /NGOs working on the issue of Child Labour as well as the Resident Commissioners of the 'source' states and prepared the "Action Plan for Abolition of Child Labour in Delhi. It submitted it to the Court in April, 2009. The Court (vide its judgment of 15 July, 2009), accepted the Action Plan with some modifications and directed all the concerned authorities to begin immediate implementation.
- m. In the matter of Exploitation of Children in Orphanage in the State of Tamil Nadu Vs. UOI and Ors.(Criminal W.P. No. 102 of 2007), NCPDR has sought directions from Hon'ble Supreme Court of India on 14.09.2011 for necessary actions by the concerned Central Government Ministries as well as the North-Eastern States and Southern States for the rehabilitation of rescued children and prosecution of persons involved in trafficking of children. The concerned Ministries and North Eastern States have also been impressed upon the need for improving the educational infrastructure in the inaccessible areas so as to combat the large scale transportation of children from Assam, Manipur, Meghalaya and Nagaland to Southern and Northern States in the pretext of education.
- n. The Commission has also sought directions from the Supreme Court of India in the matter of Sampurna Behrua Vs. UOI and Ors. (Civil W.P. No. 473 of 2005) for the State Governments / UT Administrations to take various steps for implementing the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000. Such recommendations include: (a) constitutions of Child Welfare Committee (CWC), Juvenile Justice Board(JJB) and Special Juvenile Police Unit(SJPU) in every District; (b) dedicated CWC and JJB at major railway stations; (c) fulltime Chairperson and Members in CWCs; (d) circulation / posting of details of the CWCs / JJBs/ SJPU in the concerned website and providing adequate facilities to them, expeditious disposal of cases by CWCs/JJBs;(e) registration of all child care institutions under section 34(3) of J.J. Act; (f) setting up of model juvenile homes;(g) educational improvement and legal aid to children in institution;(h) capacity building; (i) monitoring and evaluation of social audit of

children homes, early constitution of child protection unit at the State and District level.

- o. NCPCR has made recommendations to the State Governments/ UT Administrations for registration of FIR in the cases of missing children and inter-linking of websites on *missing children* and child tracking system.
- p. On the direction of the Hon'ble High Court of Delhi in the Civil W.P. No. 8889 of 2011, NCPCR steered a Committee which ultimately drafted a set of guidelines to be followed by different stakeholders in Delhi *to eliminate incarceration of children in jails in Delhi*. These guidelines were accepted by the Hon'ble High Court in its decision dated 11.05.2012. Different stakeholders such as Delhi Police, Jail Authorities, Trial Magistrates, Govt. of NCT of Delhi (Deptt. Of Women & Child Development and Health), DSLSA and NCPCR were directed for implementing these guidelines.
- q. A Committee, constituted by the Hon'ble High Court of Delhi in the Civil W.P. No. 787 of 2012 under the chairpersonship of Ms. Dipa Dixit (Member, NCPCR), drafted a set of *guidelines for media reporting on children*. These guidelines have been more or less accepted by the High Court and issued to all concerned for implementation.