

Action Plan for Abolition of Child Labour in Delhi

2010



सत्यमेव जयते



NCPCR



Action Plan for Abolition of Child Labour in Delhi

2010



National Commission for Protection
of Child Rights (NCPCR)

Contents

Part I: Background

Chapter 1: Constitution of the Committee	6
Chapter 2: Consultation Process	7
Chapter 3: Action Research/Survey	8

Part II: Delhi Action Plan for Total Abolition of Child Labour

Chapter 4: Profile of Child Labour and Out-of-school Children in Delhi	10
Chapter 5: Strategies	11
Chapter 6: Components of 'Area-based Approach'	12
Chapter 7: Components of the Strategy for Unaccompanied Child Labourers (Migrants) in Delhi	16

Part III: Judgement

List of Abbreviations

ACP	Assistant Commissioner of Police
ADM	Additional Deputy Magistrate
AIEC	Alternative Innovative Education Centre
BLSAA	Bonded Labour System Abolition Act, 1976
CAW	Crime against Women Cell (Now renamed Special Cell for Women and Children)
CLPRA	Child Labour (Prohibition & Regulation) Act, 1986
CWC	Child Welfare Committee
DCP	Deputy Commissioner of Police
DCWD	Dept. of Women and Child Development
DURCC	District Urban Resource Centre Coordinator
JCP	Joint Commissioner of Police
JJ Act	Juvenile Justice (Care and Protection of Children) Act, 2000 and Amendment Act, 2006
MCD	Municipal Corporation of Delhi
MHO	Municipal Health Officer
NCPCR	National Commission for Protection of Child Rights
NRBC	Non-Residential Bridge Course
PTA	Parent Teacher Association
RBC	Residential Bridge Course
RWA	Resident Welfare Association
SDM	Sub-Divisional Magistrate
SJPU	Special Juvenile Police Unit
SSA	Sarva Shiksha Abhiyan
SVS	School Vikas Samitis
TEC	Transitional Education Centres
UEE	Universal Elementary Education
VKS	Vidyalaya Kalyan Samiti

PART I

BACKGROUND

Constitution of the Committee

Pursuant to the Order of Hon'ble High Court of Delhi dated 24.9.2008, issued in the WP (Crl.) 2069/2005, WP(C)

4125/2007 and WP(C) 4161/2008, a Committee was constituted by the National Commission for Protection of

Child Rights (NCPCR) vide OM dated 3.10.2008, comprising the following:

- | | | |
|--|---|-------------|
| i. Chairperson, NCPCR, Delhi | - | Chairperson |
| ii. Secretary, Labour Department, GNCTD | - | Member |
| iii. Secretary, Social Welfare Department, GNCTD | - | Member |
| iv. Secretary, Education Department, GNCTD | - | Member |
| v. Secretary, Revenue Department, GNCTD | - | Member |
| vi. Secretary, Health Department, GNCTD | - | Member |
| vii. Commissioner of Police, Delhi | - | Member |
| viii. Commissioner, Municipal Corporation of Delhi | - | Member |
| ix. Member Secretary, NCPCR | - | Convener |

1.1 The Committee had the following mandate:

To formulate a detailed Action Plan for strict enforcement and implementation of the Child Labour (Prohibition & Regulation) Act (CLPRA), 1986 and other related legislations

To suggest measures for timely recovery and proper utilization of funds collected under the Direction of Supreme Court dated 10.12.1996 in the case M.C. Mehta vs. State of Tamil Nadu

To suggest measures pertaining to education, health and financial support for the rescued children

To suggest measures for effective coordination between various Departments/authorities of the Government of NCT of Delhi (GNCTD) as well as with other States from where children are brought to work in Delhi

Consultation Process

2.1 Meetings of the Committee

- i. On 10th October 2008 at NCPCR Conference Room, presided over by the Chairperson, NCPCR, and attended by the Labour Secretary, Director & Joint Director, Department of Women and Child Development (DWCD), Director (Social Welfare), Deputy Secretary (Health) from GNCTD, Joint Commissioner of Police, Additional MHO (School Health Scheme) of MCD, ADM (North Delhi District) and Member Secretary & Registrar, NCPCR.
- ii. On 10th November 2008 at NCPCR Conference Room, presided over by the Chairperson, NCPCR, and attended by the Director (Social Welfare), representative of Department of Health, Joint Secretary & Joint Labour Commissioner from GNCTD, Director (Education) & Deputy MHO from MCD, ACP (Delhi Police) and Member Secretary, NCPCR.
- iii. On 12th December 2008 at NCPCR Conference Room, presided over by the Chairperson, NCPCR, and attended by the Secretary & Director (DWCD), Secretary (Education), Joint Secretary (Health), Joint Labour Commissioner from GNCTD, SDM (Sadar Bazar), JCP/DCP/ACP (CAW) from Delhi Police, Additional Commissioner & Deputy MHO from MCD and Member, Member Secretary & Registrar (NCPCR).
- iv. On 22nd February 2009 at India Habitat Centre, presided over by the Chairperson, NCPCR, and attended by the Secretary (Education), Additional Secretary (Health), Joint Labour Commissioner & Joint Director (DWCD) from GNCTD, Additional Commissioner and Director (Education) from MCD, Joint Commissioner of Police (CAW), ADM (North) & SDM (Sadar Bazar), Members, Member Secretary, Registrar (NCPCR), among others.
- v. Meeting with Resident Commissioner and Joint Labour Commissioner, Bihar at NCPCR Conference Room on 4th March 2009 attended by Chairperson, NCPCR and Member Secretary (NCPCR), among others.

2.2 Views received from concerned Government Departments/Authorities/Petitioner

Suggestions/views/opinions and relevant information had been solicited from the concerned departments/authorities of GNCTD as well as from the petitioners and experts on the matter. Response was received from Department of Labour, WCD, Education (SSA), Health, MCD (Education & Factory Licensing Department), Delhi Police, Chairpersons of CWC (Lajpat Nagar and Kingsway Camp) and Save the Childhood Foundation (one of the petitioners).

Action Research/Survey

3.1 The NCPCR team visited three different regions of Delhi to estimate

- (i) the magnitude of out-of-school children, child labour and their work profile and
- (ii) availability of support and infrastructure through government programmes as well as non-governmental organizations (NGOs).

During the visit the team met community members, children, school authorities, NGOs, shop owners, employers, officials from WCD, police, etc. The areas visited were:

1. Jahangir Puri (North West)
2. Kotla Mubarakpur/ Shahpurjat (South)
3. Seelampur (North East)

3.2 The profile of the out-of-school children in Jahangirpuri (North West District) is provided in Chapter 4.

PART 2

**DELHI ACTION PLAN
FOR TOTAL ABOLITION
OF CHILD LABOUR**

Profile of Child Labour and Out-of-school Children in Delhi

4.1 It is difficult to arrive at an estimate of out-of-school children in Delhi.

According to one estimate, Delhi has 28319471 children in the age group 6 to 13 years, of whom 2747523 are schoolgoing and 43735 (3.34%) are out-of-school. There are other estimates of out-of-school children. The survey conducted by *Samajika Suvidha Sangam* (Mission Convergence Directorate) shows that there are 643315 children in the age group 7-17 years of whom 450402 are not in schools. According to *Sarva Shiksha Abhiyan* (SSA), the number of out-of-school children in the age group 6-14 years in North West District was 7219² (whereas the door-to-door survey conducted by NCPCR in 9 slums of Jahangirpuri was 2929. Perhaps this discrepancy in data is due to the fact that names of children who are out-of-school and school dropouts may be continuing in the attendance registers as enrolled. All such out-of-school children are to be considered as child labourers or potential child labourers who would sooner or later join the labour pool.

4.2 As per the petitions of Social Jurist and Save the Childhood Foundation as well as

the Counters (especially Dept. of Labour, GNCTD) filed in this case, the areas of concentration of child labour in Delhi are: Mitapur, Jetpur, Sangam Vihar, Khanpur Extension, Khanpur Village, Tughlakabad Village, Hamdard Nagar, Garhi Lajpat Nagar, Uttam Nagar, Kotla Mubarakpur, Kureji, Arampark, Brijpuri, Jagatpuri, Zafrabad, Wazirabad, Jahangir Puri and Seelampur. There is also evidence that such children are mainly from Bihar, Jharkhand, West Bengal and Uttar Pradesh.

¹ MHRD/Social and Rural Research Institute (SRI) Survey on SSA, July–October, 2005.

² Household Child Census, survey done by UEE Mission (State Project Office of SSA, Delhi), Dept of Education, Govt. of Delhi, 2008.

Strategies

5.1 The child labour profile in Delhi is of two types

- (i) Out-of-school children living with their parents and
- (ii) Children who have come from other States without their families (as shown in para 4).

Hence, the Delhi Action Plan for total abolition of child labour would have two strategies. The first strategy is an 'area-based approach' for elimination of child labour. Under this strategy, all children in the age group 6-14 years in an identified area will be covered, whether they are in school or out-of-school. All out-of-school children would be regarded as engaged in some form of work and being deprived of their right to education. Children in schools are to be monitored so that they do not drop out and join the labour pool.

The Commission proposes that the 'area-based approach' be initiated as a pilot in the North-West district.

5.2 The second strategy is to be adopted mainly in the context of migrant child

labour who are away from their families and have little or no linkage with the community. It involves a process of identification, rescue, repatriation and rehabilitation. It is proposed that this strategy be implemented on a pilot basis in the South Delhi District where there is a large number of migrant child labourers and in all other areas where information is available about the prevalence of such labour.

5.3 While the two strategies are different, it must be mentioned that they are not

mutually exclusive. Should contingencies so demand, a combination of both strategies may be necessary. The enforcement of Child Labour (Prohibition and Regulation) Act (CLPRA), 1986 and Delhi Shops and Establishment Act, 1954, Juvenile Justice (Care and Protection of Children) Act (JJA), 2000 and the Bonded Labour System (Abolition) Act (BLSAA), 1976 will be applicable in both cases. It will involve a coordinated effort of all concerned departments/authorities responsible for enforcement – Labour Department for CLPRA, SDM and Revenue officials for BLSAA and WCD, CWC and Police for JJ Act.

Components of 'Area-based Approach'

6.1 Objectives

- i) To build consensus on the issue of total abolition of child labour through Universalisation of Elementary Education.
- ii) To enroll all children in the age group 6-14 years in school and ensure their retention.
- iii) To withdraw children from work and enroll them in full time formal schools.
- iv) To prepare older children withdrawn from work for school and integrate them into classes according to their age through bridge courses and accelerated learning programmes.
- v) To build processes for ownership of the programme by all the stakeholders.
- vi) To build local institutions for protection of child rights.

6.2 Activities

i) Mobilisation and Consensus Building

- (a) There is need for establishing a norm within the community that no child should work. Government must be seen as unequivocally endorsing this stand. In order to create visibility to create for the agenda of protection of child rights, various methods of mobilisation need to be adopted with the support of the community. These include:

Holding public meetings, rallies and marches as well as utilizing every public function to highlight the issue of child rights

Orientation for members of local institutions and youth groups

Induction of teachers through trainings and provision of support structures in the wards

Street theatre, child-to-child campaigns and use of children as resource persons

Petitions to the government by the community and School Vikas Samiti (SVS) for enhancing school infrastructure

- (b) The mobilization process must culminate in the creation of local institutions which would eventually take up the issue of protection of child rights. Thus the atmosphere building exercise needs to be linked to the processes of committees and Forum of Liberation of Child Labour (Youth and Teachers' wing) strengthening of Vidyalaya Kalyan Samities. Care also needs to be taken to see that these committees meet regularly to discuss the issue of children out-of-school and draw up an action plan to bring them back to schools. Care must also be taken to ensure that the core groups of these committees have members who can play a decisive role in building a consensus.

(c) Action Points

Youth groups, Ward Members and Municipal Councillors, etc. at the local level to be involved in the mobilization programme

Government to prepare a campaign strategy either through WCD or the Education Department
 Clear messages on child rights, anti-begging, 'Saying no to child labour' to be publicised widely
 The Bhagidari Scheme of Delhi should make it mandatory to include the notification banning
 childlabour in domestic, shops and establishments in its guidelines. All Residents' Welfare
 Associations (RWAs) should display the notification in prominent places and it should
 permanently displayed on the notice boards of the RWAs. Hoardings against child labour
 should also be put up in markets and public parks, as well as within housing societies
 Popular mediums like FM channels and Doordarshan (DD) should repeat the message of right
 to education and total abolition of child labour, especially the notification banning children
 working in homes, shops and establishments
 SSA should launch a campaign to enroll all children in schools, including children engaged in
 begging and vending goods and newspapers on the streets and at traffic junctions
 Publicise information of contact persons and departments for reporting on specific complaints
 regarding procedures related to child labour, rescue and rehabilitation thereof, and related
 child rights issues

ii) Reaching out to the Children

(a) Transitional Education Centres (TEC)³ or Non-Residential Bridge Course (NRBC)⁴ Centres:

Children in the age group 9-14 years are to be enlisted in these centres. The nearest school headmaster should be put in charge of the centre. The confidence of out-of-school children to study is built up through the centres and in the meantime they are motivated to abandon work and join school. The centres also become forums for assertion of rights, especially those of girl children. Often these girls share information about their marriages being arranged and seek help for calling off the proposed marriages. The role of the centres will come to an end once the children are motivated to withdraw themselves from work and get enrolled in school.

Action Points

Setting up of TECs/NRBCs: Each center to cover 40 children at any given point in time under NCLP or SSA
 4-5 NRBCs are to be set up for every MCD/Government school or 5 NRBCs in one slum. These centers are to be linked to the schools

Government to decide the total number of NRBCs required and cover all out-of-school children through NRCBCs in North West district

Children currently attending Alternate Innovative Education (AIE) centres, RBC centres, mobile schools and *Khulja Sim Sim* projects must all be mainstreamed into formal schools

³ TEC: Under NCLP

⁴ NRBC: Under SSA

The pilot exercise of NCPCR shows that 40 NRBCs are required for the 9 slums in Jahangirpuri area alone

b) Short-term Camps (3 days)

About 100 children from 3 to 4 wards/slums, who have never been to school, are brought together for a short term camp (3 days) to learn and draw strength from each other. They are identified during campaigns and door-to-door social mobilization. During this process they realize that they are not alone in their struggle and they gain confidence to pressurise their parents to send them to the short term camps. There is a need to track how the parents adjust their time in order to do the work usually done by their children while the latter are attending the camps. These evidences are later used with parents while motivating them to send their children to schools.

Action Points

One short-term camp for one slum if it is large and for a cluster of slums if they are small

Government to draw up a list of slums in North-West Delhi and earmark locations for such camps

The pilot in Jahangirpuri has shown that 7 such camps need to be held for children

c) Residential Bridge Course Camps (RBC) (10 months to 16 months)

Older children withdrawn from work attend the residential bridge course camps where they are prepared to join school in an age appropriate class. These camps not only convert the children but prepare the parents, teachers and community at large to accept the norm that children ought to be in school. The camps also provide confidence to the community to send their children to school and add value to the process of social mobilization; and are thus serve as training centers for programme. They demonstrate the efficacy of the arguments about child labour and related issues.

Action Points

Setting up RBCs for the North-West District with 150 to 200 children

Identifying available public spaces for conducting RBCs

The pilot of NCPCR in Jahangirpuri shows that 4 RBCs (2 for girls and 2 for boys) are required for the 9 slums alone

d) Retention of children in schools and prevention of child labour

All children in the age group 6-8 years are to be directly enrolled and retained in schools. Care must be taken to ensure that every child enrolled in school continues to in school without any disruption until she completes Class 10.

Action Points

The NRBC volunteer must also play the role of social mobiliser to ensure that children attend school regularly. Wherever the TECs or NRBCs are closed due to children from these centers getting mainstreamed, it is necessary that the volunteers of the NRBCs continue with the programme to follow up issues of retention

Formal schools to introduce remedial courses for school dropouts and older children

Orientation to school teachers on first generation learners, school dropouts and bridge courses for accelerated learning

Preparation of schools to meet the demand in terms of physical infrastructure and teachers

Strengthening of PTAs or School Vikas Samitis (SVS) and organizing regular meetings to monitor regular attendance of children and teachers and helping to resolve problems confronted by first generation learners

e) Trainings and orientation programmes on issues relating to child labour and children's right to education along with tasks and roles of specific stakeholders

All MCD and government school teachers, with focus on their role of reaching out to out-of-school children and addressing the issue of right to education for all those who have been left out

Officials of departments of police, revenue, labour, WCD, education at the local level

Youth groups

Women's Groups

Members of PTAs

Members of School Vikas Samitis

Volunteers in NRBCs

Volunteers in RBCs

Municipal Councillors and Ward Members

Members of District Task Force for effective coordination of activities of rescue and rehabilitation of child labour

Member of Child Welfare Committee (CWC)

Member of Special Juvenile Police Unit (SJPU) of the District

Components of the Strategy for Unaccompanied Child Labourers (Migrants) in Delhi

7.1 This strategy is meant particularly for trafficked and migrant child labour and those children who are engaged to work in sweat shops, small ghettoized dwellings and so on, even if they are based in Delhi. This strategy will include enforcement of law, rescue, interim care and protection and legal proceedings, repatriation and rehabilitation of child labour, particularly trafficked and migrant children, based on the “*Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour.*”⁵ Wherever needed, some additional activities have been included, keeping in view the context in Delhi. This approach is based on pro-active and not reactive strategies.

7.2 The action for this strategy will be taken up in all the identified areas of South Delhi and other workplaces. At the same time, the government is to be prepared to respond to any contingency based on new information that becomes available. It is seen from the profiles that these children are engaged to work in prohibited occupations such as *zari* units, *dhabas* & hotels, bangle making, leather, auto-workshop, domestic child labour, bulb manufacturing, rag picking and so on. The estimates of such children range from 10,000 to over one lakh. Complaints have already been lodged about this and action is to be taken with immediate effect in accordance with the procedure laid out. The strategy for rescue and rehabilitation must anticipate rescuing each one of these children and be taken to its logical conclusion of enabling them to enjoy their right to education.

7.3 This strategy also must be preceded by a massive campaign through the media and other means to create an atmosphere for zero tolerance of child labour in apartment complexes, as well as in all other forms of work. Meetings with clusters of employers are to be held by the Labour and WCD departments. Messages on the illegality of such employment are to be publicised. Action has to be taken against the employer and wide publicity given to the same to act as deterrent. For atmosphere building as well as enforcement, the traffic police must take action against all those aiding and abetting beggary at traffic signals. The public should be discouraged from giving alms and instead be asked to contribute to any good institution working for children.

7.4 Responsible Authorities

7.4.1. State Level:

- a. There should be a **Steering Committee on Child Labour** under the Chairpersonship of the Chief Secretary along with other concerned Secretaries of the Government of NCT of Delhi. The Joint Commissioner of Police (CAW), Delhi and a Senior Officer of equivalent rank from MCD should be members of this Committee. A representative of CHILDLINE India Foundation, Delhi region should also be a member of this Committee. The Steering Committee on Child Labour should interface on a

⁵ Ministry of Labour and Employment, Government of India, 2008.

quarterly basis with senior government officers of the source States (Bihar, Uttar Pradesh, Orissa, Jharkhand, West Bengal, Rajasthan, Chhattisgarh, Madhya Pradesh, Uttarakhand, etc.) from where migration of child labour is high.

The Steering Committee on Child Labour should be responsible for bringing out a status report on child labour in Delhi and submit it to NCPDR/DCPCR and the State Child Protection Unit [provision under Section 80 of Juvenile Justice (Care and Protection of Children) Rules, 2006].

- b. The Steering Committee will meet on a quarterly basis to review the cases of child labour handled by the district level Task Forces in the previous quarter and the cases pending at their level. It will also look into operational difficulties in the implementation of the relevant laws relating to child labour as well as these action plans and remove such difficulties. Further, it will redress the grievances of NGOs/activists/RWAs, etc. pertaining to child labour within a reasonable time.

7.4.2. District Level:

The District Level Task Force on Child Labour will oversee and monitor all actions for identification, pre-rescue planning, rescue operation, interim care, prosecution of employers/violators under all relevant laws, including Bonded Labour System (Abolition) Act, 1976, repatriation, rehabilitation/social reintegration and follow-up.

The Task Force will comprise the following:

Deputy Commissioner of District – Chairperson

Deputy Labour Commissioner – Member Secretary/ Convener

Additional District Magistrate of the District - Member

Deputy Commissioner of Police – Member

District Social Welfare Officer – Member

District Urban Resource Centre (SAA) – Member

District Health/Medical Officer – Member

Seniormost Officer of MCD in the District – Member

Chairperson of the concerned Child Welfare Committee - Member

Centre Coordinator, CHILDLINE (having jurisdiction over the area) - Member

Voluntary organisations actively involved in the rescue and rehabilitation of child labourers in the area - Member

7.5 Procedures to be Established for Rescue Operations

The rescue operation is divided into two stages: pre-rescue and actual rescue.

7.5.1. Procedures to be adopted in Pre-rescue stage to facilitate an effective rescue operation

The rescue operation can be divided into two sub categories: ‘minor rescue operation’, where the number

of children to be rescued is estimated to be less than 10; or 'major rescue operation' where the number of children to be rescued is estimated to be over 10.

(a) Informant:

- i. Any person, including NGOs, aware of (a) the commission or omission of any act involving child labour; or (b) the procurement and/or abetment of procurement of children to be used for labour; or (c) the likelihood of any child being used for any form of child labour shall immediately inform the responsible authority. At no stage shall the responsible authority insist on actual detailed information with regard to the alleged location and other specific details pertaining to the rescue operation, with a view to safeguarding the interests of the child.
- ii. Information about child labour available from secondary sources, including survey findings and data available with NGOs, may be used as the basis for rescue operations.
- iii. In case of extreme urgency, where it is likely that the children may be harmed or disappear or if there is a grave threat to the well-being of the child, even if the number of children is likely to exceed 10 (i.e. a major rescue operation), it is recommended that the rescue be commenced immediately.
- iv. The informants need not actually participate in the rescue operations, unless they so desire, be made party to the information filed under Section 154 of the Code of Criminal Procedure, 1973 (FIR) or be compelled to participate as witnesses. If there is grave danger in disclosing the specific location where the child is placed, this information may be withheld on condition that the informant or his/her representative will accompany the police to the specific location at the time of the actual rescue.
- v. Source information should be entered in the General Diary (GD) of the Police Station (PS) in such a way that anonymity of the source/victim/location is not compromised.
- vi. Any rescue operation should be designed so as to include details of location, entry and exit points, ways and means of removing victims securely and preventing the disappearance of traffickers. All entry and exit points must be secured. A search of the place of rescue needs to be carried out. An official conversant with the local language should be sent to the place *incognito*. The help of local officers/NGOs should be taken, provided the information remains confidential. Erstwhile child labourers who are willing to cooperate, could be useful in the rescue operation. A sketch map of the area is to be drawn up which could be used for briefing and for assigning specific duties to the officials who will participate in the rescue. This includes duties such as cordoning, guarding entry and exit points, locating the hide-outs, identifying a safe place to keep the rescued child labourers till completion of the rescue operation, etc.
- vii. The 'responsible authority' for the rescue operations will be the Deputy Commissioner of the District or, on his behalf, the Deputy Labour Commissioner. The authority receiving the information will initiate planning for a raid and rescue at the earliest but within 24 hours in the case of a major rescue operation.

- viii. The onus for sharing the information rests with the concerned responsible authority who has received the information from the informant, and not the informant himself/herself.
- ix. Wherever possible, active assistance or voluntary assistance of social organizations, NGOs or other responsible citizens should be sought to ensure that the rescue operation is carried out safely, to reduce the trauma and ensure the safe transition of the child.

(b) Verification of the information provided

- i. In the case of a major rescue operation, where it is necessary to verify the information in the best interests of the child, the responsible authority should, at the earliest, determine prima facie whether the information provided is likely to be true. The informant(s), NGOs or any other party interested in facilitating the rescue of the child may help the responsible authority.
- ii. The responsible authority shall simultaneously inform all the relevant Government Departments, including, but not limited to, the Department of Women and Child Development and Child Welfare Committee, Municipal Corporation, Home Department, so as to ensure that adequate preparations are made to facilitate interim care and protection of the child as well as logistical and other requirements subsequent to the rescue operations.

(c) Preparing a plan of action for undertaking the rescue operation

- i. In case of a major rescue operation, a plan of action shall be prepared to facilitate the safe rescue of the children and ensure that the rescue operation itself does not inflict additional trauma on the children to be rescued.
- ii. Care has to be taken to ensure that the District Task Force has list of all Juvenile Homes, Welfare Hostels, accommodation in NGOs, Residential Bridge Courses and other public spaces that have been identified for housing the children. In anticipation of the large numbers of children who would be rescued there must be provision for at least 1,500 rescued children at any given point of time. A district-wise plan for this will have to be made and provided for.
- iii. Simultaneously, facilities for food, clothing and shelter are to be arranged. There should be a panel of caregivers and volunteers to be with the rescued children. There is also a need for educational intervention through SSA till such time as the rescued children are sent back home. All staff members are to be given training on caring for the rescued children. There is also a need to arrange for their security should there be any resistance from the employers or middlemen and brokers.
- iv. Transportation of rescued children to the home that they have been assigned to must be done immediately by the labour department. The arrangements for recording of statements by the police, DM and the labour department are to be made at the place where children are located.
- v. The rescue team to be involved in the actual planning shall be kept to the minimum in order to ensure secrecy and confidentiality of the rescue operation.

- vi. All proceedings shall be treated as being extremely confidential.
- vii. The rescue team shall ensure that a map of the rescue area is prepared on the basis of the information provided, with the assistance of NGOs and other duty bearers, as may be feasible, indicating where child labourers are likely to be found as well as identifying spots which may be potentially dangerous for children.

(d) Preparation for Residential Shelter through RBCs, JJ Homes, NGO Shelters for Rescued Child Labour

- i. Identification of safe places like RBCs/Homes/Community Centres beforehand to accommodate the rescued children, so that they are not sent to the police station. Further post-rescue procedure must be done at the safe places (as mentioned above).
- ii. The Labour Department, being the nodal department for rescue of child labour, shall coordinate with all other relevant departments to ensure that all arrangements are in place for the comfort of the rescued children including transportation to the temporary home, food and refreshments, protection and safety, and training for the personnel of the homes/shelters.

(e) Formation of the Rescue Team

- i. A rescue team shall be constituted to carry out a major rescue operation. The actual number team members will be determined by the estimated number of children to be rescued, the geographic area of operation and any other significant factors. The rescue team shall comprise of the following:
 - a. A representative of the Department of Labour in the District, not below the rank of Assistant Labour Commissioner
 - b. Sub-Divisional Magistrate concerned
 - c. The Head/Nodal Officer of Special Juvenile Police Unit (SJPU)
 - d. District Social Welfare Officer/District Child Welfare Officer
 - e. Deputy Education Officer (Zonal) of MCD (wherever applicable)
 - f. The Seniormost Officer of the Factory Licensing Department of MCD (wherever applicable)
 - g. A Member of the concerned CWC (to be nominated by its Chairperson)
 - h. Centre Coordinator of CHILDLINE having jurisdiction over the area
 - i. A member of at least one NGO/VO actively involved in the rescue and rehabilitation of child labour

The rescue team must ensure that the rescued children kept in the Home are accompanied by a few youths from their respective home states who speak the same language to comfort the children.

Being the Nodal Officer, the concerned Deputy Labour Commissioner will be responsible for prompt initiation of pre-rescue planning and necessary coordination with others concerned in this regard.

ii. Orientation of all members to be involved in the rescue operation

In the case of a major rescue operation, a basic orientation should be provided to all persons who are to be involved, including voluntary members, community members etc. The orientation should include a review of the various laws that are applicable, the members that are actually going to be

involved in the rescue operation and their respective roles, and how they should deal sensitively with children, treating them as victims and not as offenders.

7.5.2. Procedures to be adopted in the actual rescue operation

- i. The rescue team should, wherever possible, be accompanied by a Sub-Divisional Magistrate (SDM), who is the implementing authority under the Bonded Labour System (Abolition) Act, 1976 and officers of the Labour Department, so that the Child Labour (Prohibition and Regulation) Act, 1986 may also be invoked wherever applicable.
- ii. Rescue team members shall be strategically placed in pre-planned locations in order to locate the actual employer of children in that area, and prevent the children from being relocated or moved away from the site.
- iii. Police personnel, including women police officers (from the concerned SJPU) shall accompany the rescue team wherever possible, and the police officers who are in the direct contact with the children shall wear civilian clothes.
- iv. Physical separation of employers and children to prevent any communication between them during the rescue, to ensure that the employers do not threaten the children, or brief them to misguide the police and persons conducting the actual rescue operation. At all stages, care shall be taken by duty bearers to ensure that the child is not exposed to the employer.
- v. The assigned member of the rescue team shall simultaneously collect evidence in the form of documents and photographs (wherever possible), that can be used to prosecute the employer. She/he should also verify the legal documents held by the employer to determine the status of the child. The police must be empowered to take possession of legal and other documents such as the employer's registration certificates or any other forms of circumstantial evidence, to be held in lien to ensure that the employer does not escape and to ensure the employer's appearance at subsequent investigations.
- vi. The police shall give top priority to ensuring the safety of the child and to ensuring that she is treated in a humane manner. The police shall facilitate the collection of the belongings of the child along with personal items and ensure that they are kept in safe custody, to be handed over to the authorities at the Children's Home where the child is to be sent.
- vii. The provision under Section 21 of the Juvenile Justice (Care and Protection of Children) Act, 2000 as amended by Amendment Act, 2006 shall apply for rules regarding confidentiality.
- viii. Special care shall be taken to ensure that priority is given to food arrangements and transportation.
- ix. Immediately after the rescue operation is carried out, the police shall file an FIR under Section 154 of the Code of Criminal Procedure, 1973, in case of both a minor and a major rescue operation. The police shall ensure that the specific information of each child shall be recorded. The FIR should take cognizance of offence under the appropriate criminal laws as applicable.
- x. The details of every child must be included in the FIR. In case the rescue is conducted by Labour

Department officials during the normal course of inspection or on the basis of a specific complaint, the responsibility for lodging an FIR of cognizable offence under the appropriate criminal law, whenever applicable, will lie with the concerned official of the Labour Department.

- xi. In case the rescued child also happens to be a bonded labourer, then action must be initiated simultaneously under the Bonded Labour System (Abolition) Act through the appropriate authority.
- xii. Every rescued migrant or trafficked child labourer, including bonded child labourers, has to be presented before the Child Welfare Committee. However, in the case of bonded child labourers, they also need to be produced before the Sub-Divisional Magistrate for grant of certificate and other compensations. This would also include the bonded child labourer rescued along with her family.
- xiii. After the rescue operation is carried out, only the Child Welfare Committee, as the competent authority under the Juvenile Justice (Care and Protection of Children) Act, 2000 & amendment Act, 2006, is empowered to take any decision with regard to the child, including the decision to release such children as per provision of said Act.

7.5.3. Procedures for Interim Care & Protection and Legal Proceedings

(a) Medical Examination

- i. Within 24 hours of completion of a major rescue operation a medical team shall be dispatched to the place where the children are being kept to conduct a medical examination. However, admission to any Children's Home shall not be conditional to the requirement of a medical certificate.⁶
- ii. Wherever there are actual signs of injury, hurt or the likelihood of sexual abuse, the child shall be sent to the Government hospital for further medical examination. Care shall be taken that the child is not in contact with the employer.
- iii. The medical officer shall undertake a detailed physical examination and record the findings in writing, giving particular importance to any signs of physical and/or sexual abuse. Wherever considered appropriate, the medical officer can also recommend that the child shall be kept for further observation or sent for counselling.
- iv. For provisions regarding age of the child, the Child Welfare Committee shall be the competent authority.
- v. In the case of a minor rescue operation, the authorities of the Children's Home shall make provision to carry out the medical examination within 24 hours.

(b) Investigation and Collection of Evidence

In addition to the medical examination, the police shall promptly collect all forms of evidence that shall be used in the legal proceedings, which shall include but not be limited to, any documents of employment, attendance musters, photographs of the workplace, statements of children and other people and so on.

⁶ So that children are admitted immediately to the Home even at odd hours..

(c) Procedures for the child in the interim period and producing the child before the Child Welfare Committee

The Child Welfare Committee plays a significant role at this stage. Since they are not full time officers they have to be assisted to carry out the tasks at every step by the Department of Women and Child Development. The labour and police departments are also to cooperate with the CWC.

- i. Once the child has been rescued, she shall be produced before the Child Welfare Committee, as the competent authority, under Section 32 of the Juvenile Justice (Care and Protection of Children) Act, 2000.
- ii. The Child Welfare Committee as the central focal point shall coordinate and liaison with the police, Labour Department, NGOs and other relevant duty bearers to facilitate necessary procedures in the best interests of the child.
- iii. The Child Welfare Committee shall be the guardian of the rescued child and is empowered to take decisions in the best interests of the child. It shall have the power to secure all relevant information and documentation in order to plan the rehabilitation plan of the child.

(d) Preparation of Charge Sheet

- i. Once the police has completed the investigation, a chargesheet shall be prepared and the judicial proceedings under the Code of Criminal Procedure, 1973 shall apply.
- ii. Care shall be taken to ensure that all sections that apply across different statutes are incorporated into the chargesheet, in coordination with different agencies including NGOs, as maybe required.
- iii. Wherever appropriate, references shall be made to all the supplementary sources of information, like the report of the probation officers, statements recorded by the Child Welfare Officers and NGO inputs so as to strengthen the chargesheet and prosecute the employers, their representatives or agents.
- iv. Investigation into the FIR of cognizable offences will be carried out by police having jurisdiction over the case. The Investigating Officer (IO) shall ensure that all relevant evidence – material, forensic and documentary - is collected and analyzed to build a proper case for prosecution. The IO shall also ensure that all relevant and applicable provisions of the criminal laws and labour laws are invoked for the case. The IO should also collect and include as evidence relevant reports such as orders of the CWC, home enquiry report conducted under the JJ Act, reports prepared by the officials of the shelter homes/counselors/partner NGOs, etc.
- v. Complaints and challans under the labour laws shall be filed by the labour officials. In order to ensure that the case is covered completely, the officials must examine implementation of all applicable labour laws and assess the violations. The labour officials shall also take necessary action for obtaining compensation/claim/wage arrears on behalf of the rescued child.
- vi. In case it also turns out to be a case of bonded labour, the labour officials shall immediately inform the concerned executive magistrate to initiate action under the Bonded Labour Systems (Abolition) Act simultaneously.

- vii. As per the directions of the Hon'ble Supreme Court of India, labour officials shall also issue a notice to the defaulting employers to deposit Rs. 20,000 per child in the District Child Labour Rehabilitation cum Welfare Fund. In the case of migrant child labour, the amount will be transferred in the child's name to the District Child Labour Society to be utilized for the education of the child.
- viii. The labour officials would also take appropriate action for a deposit of Rs 5,000 to be made by the State Government to the Child Labour Welfare & Rehabilitation Fund for every rescued child in case employment cannot be provided to an adult member of his/her family.

(e) Special measures for protecting the child

- i. An individual plan shall be prepared for every child by the probation officer or the honorary/voluntary probation officer, who shall determine a course of action for the immediate repatriation and rehabilitation as well as the long-term educational rehabilitation of the child in association with the Child Welfare Committee.
- ii. The Probation Officer shall communicate with the child and identify his/her areas of interest which shall be considered when determining the rehabilitation plan and identifying appropriate actions that can be adopted.

7.5.4. Procedures to be established for the repatriation of the child

(a) Assessment and verification of the child's background on the basis of the information provided

- i. The Child Welfare Committee shall undertake a detailed assessment to verify the information provided by the child and have a dialogue with corresponding Child Welfare Committees in the cited place of origin.
- ii. In the case of claimants of the child, the CWC shall adopt extreme caution and shall seek specific documentation, wherever possible, to verify the claims, considering the risks of claims by the employers or their representatives or agents.
- iii. Considering the risk of employers tutoring the child, the Child Welfare Committee shall adopt extreme care and caution and satisfy itself completely when taking a decision and shall record the reasons for taking the decision in writing.
- iv. For children who cannot be repatriated, care shall be taken to ensure their effective short-term as well as long-term rehabilitation within the State of Delhi.

(b) Transport, logistics and other preparations

Repatriation shall be undertaken by the Child Welfare Committee only if it is in the best interests of the child and shall be intra-state or inter-state.

(c) Intra-State Repatriation

- i. For any child under the age of fourteen years, the Child Welfare Committee in the place where the child is rescued shall coordinate with the Child Welfare Committee in the home district to repatriate the child.
- ii. For a child between the ages of fifteen to eighteen, the Child Welfare Committee shall have the

discretion to determine the appropriate course of action, on a case by case basis⁷, keeping the best interests of the child in mind.

- iii. The Child Welfare Committee in the home district shall coordinate with the District Collector/District Magistrate to tracing the family of the child and inform the Child Welfare Committee of the district where he/she has been rescued of the course of action that would be adopted.

(d) Inter-State Repatriation

- i. In the case of inter-State Repatriation, a dual strategy shall be adopted based on the age of the child:
 - For a child below the age of fourteen, the child shall be handed over to the Child Welfare Committee in his/her home state, with a view to prevent false claimants for the child in Delhi and to prevent the possibility of re-entry into child labour.
 - For a child between the ages of fifteen to eighteen, the Child Welfare Committee shall have the discretion to determine the appropriate course of action, keeping the best interests of the child in mind, on a case to case basis.
- ii. The process proposed by the Resident Commissioner of Bihar shall be adhered to (see Box 1). In both cases, the CWC should do the needful in coordinating with the Office of the Resident Commissioner of the concerned state based in Delhi.

Protocol for Repatriation and Rehabilitation proposed by Government of Bihar

The children from Bihar constitute a big proportion of the rescued children in Delhi. Keeping this in view, the government has proposed a protocol to work on the issues of Prevention, Rescue, and Repatriation & Rehabilitation.

For total abolition of the child labour from the state, the Bihar Government's measures are as follows:

- a) Constitution of a Commission on Child Labour
- b) Creation of a position of Joint Labour Commissioner (JLC) at Bihar Resident Commissioner's office, New Delhi.
- c) Creation of Special Task Forces at District and State levels.
- d) Preparation of State Action Plan.
- e) Implementation of NCLP. (NCLP is active in 24 districts of the 38 districts of Bihar.)

With regard to the repatriation of rescued child labourers in Delhi, the JLC would arrange repatriation to Patna at Government expense and the district labour officials would make the arrangements for sending the children to their respective villages and handing them over to their parents.

Once the rescued children are handed over to their parents, Government would deposit Rs. 5,000 per child into the fund of the Child Labour Welfare Committee chaired by the District Magistrate of the concerned district. Rs. 20,000 received as compensation from the employers is also deposited in the same fund. The rescued child is given Rs. 1,500 for one month's ration and Rs. 200 for one set of clothes. These children would be sent to the NCLP school with a stipend of Rs. 100 per month. The State Government has developed an action plan to make sure the benefits of various welfare schemes under HRD, Health, Rural Development, Urban Development, Social Welfare Department, Minority Welfare Department, SC/ST & Backward Class Welfare Department and Information and Public Relation Department reach the intended beneficiaries.

Source: Joint Labour Commissioner, Bihar Bhawan, New Delhi

⁷ We leave the CWC as the appropriate authority to determine the course of action, considering and balancing several critical realities and specific circumstances, on a case to case basis for children between the ages of 15 -18.

7.5.5. Procedures for the Rehabilitation and Social Reintegration of the Child Labourer

- a) To ensure the effective rehabilitation of the child, the methods outlined under Chapter IV of the Juvenile Justice (Care and Protection of Children) Act, 2000 and as amended by Amendment Act, 2006 shall apply.
- b) Towards this end, a rehabilitation plan shall be prepared by the Child Welfare Committee in the home district in coordination with District Collector, in case of intra-state repatriation; and by the Child Welfare Committee in the home state in case of inter-state repatriation.
- c) The repatriation plan shall include two independent components: the educational rehabilitation of the child and economic rehabilitation of the family. The District Collector is responsible for implementing the rehabilitation plan in case of intra-state rehabilitation. In case of inter-state repatriation, a report shall be sought from the Child Welfare Committee in the home State, to ensure effective rehabilitation of the child.
- d) The repatriation plan must include measures that are sustainable and match both the short-term as well as the long-term rehabilitation of the child and his/her family. The importance of education through formal schools as a rehabilitation measure for all children rescued from child labour is of utmost importance. The residential bridge courses under SSA is a policy that has to be integrated into the plan. Further, if necessary, the strategies for the educational rehabilitation of the child which have been detailed in Chapter IV Section 40, 41, 42, 44, 45 of Juvenile Justice (Care and Protection of Children) Act, 2000 and amended by Amendment Act, 2006 and as per provision mentioned in "Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked & Migrant Child Labour"⁸ may be pursued.

7.6 Training and capacity building of duty bearers

The State shall ensure that all duty bearers are regularly trained and that capacity building processes are undertaken at periodic intervals so as to create a well trained, sensitised and committed work force.

7.7 The Responsibilities of the Respective Departments⁹

7.7.1. Delhi Police

- a) The concerned Deputy Commissioner of Police should:
 - i. Make the necessary arrangements for raids by the police as per the demand and requirement of the concerned District Child Labour Task Force.
 - ii. Supervise and ensure that the area Assistant Commissioner of Police (Sub-Divisional) participates in the raids conducted by the District Child Labour Task Force.

Further prosecution processes must be handled by the representative of the Special Juvenile Police Unit (SJPU) of the concerned district. The SJPU representative must be trained and oriented on the issue of child protection and child rights.

- b) The Police Training College at Jharada Kalan must incorporate child rights and child protection issues into the curriculum.
- c) The police should take steps to arrest the owners/employers of the child labourers as per provision of Indian Penal Code Sec. 331, 370, 374 and 34 as well as provisions of Sec. 23, 24, 26 of the Juvenile

⁸ Ministry of Labour & Employment, Government of India

⁹ Some of these roles have already been mentioned earlier in the Delhi Action Plan. However, for better understanding and easy reference, the roles and responsibilities of various departments/authorities involved in the process are provided in a consolidated manner.

Justice (Care and Protection of Children) Act, 2000. They should register the crime and take all necessary steps to conduct further criminal proceedings.

- d) The police should treat the liberated child labourers with respect and dignity and hand them over to Children's Home in the charge of officers of the Department of Women and Child Development.
- e) Put forward the cases of child labour before the Child Welfare Committee as per section 32 of JJ (Care and Protection of Children) Act, 2000 with the help of District Child Labour Task Force.

7.7.2. Department of Labour, GNCTD

The Department should

- a) Keep the areas in its jurisdiction where child labour is likely to be hired under continuous active surveillance.
- b) Take action within 24 hours in case a large number of child labour is found to be employed, by carrying out a raid through District Child Labour Task Force, after contacting the Deputy Commissioner and Police officers. If the number of child labour employed is small, then action should be taken to liberate them on the same day itself with the help of departmental colleagues and police.
- c) Keep track of the planning and conduct of every child labour rescue operation, it should be ensured that an adequate number of officers and shop inspectors are present during the raid. There should be active participation in the liberation of child labour. Necessary action should be taken against the person employing child labour as per the provisions of Sec. 3 of the Child Labour (Prohibition and Regulation) Act, 1986 if this is applicable. If Section 3 of the Act is not applicable then action should be taken under the provisions of Sections 7, 8, 9, 11, 12 and 13.
- d) Liberate the child worker from the clutches of unscrupulous employers even if the work being done by the child does not fall under the dangerous job category and hand him/her over to the police with a view to eradicate the undesirable practice of child labour and bring these children into the mainstream of formal education.
- e) Document all details of the rescued child worker by obtaining details from him/her in an affectionate manner and furnishing a copy to the police department. A complaint against the employer of the child labourer should be lodged (with the help of Task Force, if necessary) with the police and the child's statement should be recorded as a matter of form.
- f) While obtaining information from the child labourer, if it is found that the employer had paid any money as financial assistance, loan, advance, etc. to the parents, then an immediate report should be filed with the Sub-Divisional Magistrate for declaring the child labourer as 'forced' labourer and a copy should be endorsed to the Government through the concerned Deputy Commissioner.
- g) Take due care of the liberated child labourers till they are sent to the Children's Home and see that they are provided with proper food, water and other facilities.
- h) As per the definition specified in Section 2(K) of the Juvenile Justice (Care and Protection of Children) Act 2000, an individual who is below 18 years of age should be considered as a child. Therefore in the course of raid, if child workers above the age of 14 are found, then they should also be liberated from the clutches of the employer(s) and handed over to the police.
- i) Under Sec. 3 of Child Labour (Prohibition & Regulation) Act 1986 as also, under the directives issued by the Hon'ble Supreme Court in the M.C. Mehta case, 1996 a sum of Rs. 20,000/- (Rupees Twenty Thousand) should be recovered from the employer of the child labourer, against whom legal

proceedings have been initiated. This sum should be credited to the District Child Labour Welfare Fund of the district to which the child labourer originally belongs.

- j) The concerned Deputy Labour Commissioner shall ensure that the District Child Labour Task Force meets regularly and that the Assistant Labour Commissioner participates in the raids conducted by the District Child Labour Task Force. It should also be ensured that at least one Labour Inspector at the district level be designated for handling the issue of children, and be given proper orientation.
- k) Strengthen the intelligence network on the status of out-of-school children, places of work involving children and their employers/contractors/middlemen, etc. through the community workers of the Labour Department.
- l) Take necessary legal action against the employers of child labourers under the following legislations and corresponding Rules (wherever applicable):
 - i. Delhi Shops and Establishment Act, 1954
 - ii. Minimum Wages Act, 1948
 - iii. Motor Transport Workers Act, 1961
 - iv. Factory Act, 1948
 - v. Interstate Migrant Workmen (Regulation of Employment and Condition of Services) Act, 1979
 - vi. Contract Labour (Regulation & Abolition) Act, 1970
- m) Every shop owner should declare voluntarily, on a display board, "*This shop has no child labour*". The same should be certified by the Labour Department on the recommendation of local voluntary organizations and CHILDLINE Centre of the concerned area.
- n) Motivate/involve the RWAs to declare their colonies as "Child Labour Free Colony".

7.7.3. Women and Child Welfare Department, GNCTD

- a) Generate awareness among the masses against the practice of child labour. Steps should be taken for the rehabilitation of local child labourers with the help of the Deputy Commissioner (DC) and voluntary organizations, if the child labourer happens to be from the local area.
- b) Take charge of child labourers liberated by the District Child Labour Task Force and see that they are provided adequate food, clothing and shelter. Due care should be taken for their safety.
- c) If the child worker happens to be a local person, s/he should be inducted into the mainstream of education with the help of the Education Officer. If possible, s/he should be provided job-oriented technical education.
- d) The Superintendent of the Children's Home to which the rescued child labourers have been sent should arrange for interaction/taking of statements by the concerned Child Welfare Committee.
- e) Information about instructions of the Child Welfare Committee should be independently submitted to the concerned DC and Labour Commissioner every month.
- f) District Child Welfare Officer, DWCD, GNCTD is the designated nodal officer for the District Child Labour Task Force.
- g) Issue letters to the respective CWCs to nominate a member who can be part of the District Child Labour Task Force. Such members can serve as links between the CWC and District Child Labour Task Force for all practical purposes, including attending the pre-rescue planning meeting of the Task Force, issuing orders for the interim care and custody of the rescued child, preparing the Social Investigation Report (SIR), verification/identification of their families and their ultimate

repatriation/follow-up. The CWC Member will conduct the inquiry and prepare the SIR under JJ Act in a child friendly manner at the camp/home/hostel/RBC where the children have been lodged.

- h) Keep the Homes ready for the reception and suitable accommodation of the rescued child labourers.

7.7.4. Education Department, GNCTD

- a) In order to absorb the rescued child labourers into mainstream of education without any discrimination (sex/caste, etc.), they should be offered free and compulsory education and the department should ensure that they, i.e. the rescued child labourers, receive it.
- b) Various schemes sponsored by the Central and State Governments should be implemented for this purpose.
- c) During the period of education, the rescued child labourers should get the benefit of the free meals scheme of the State Government.
- d) The Department will set up initially 250 Alternative Innovative Education Centres (AIEC)/NRBCs in the areas where child labour is concentrated and/or in the areas having a large number of out-of-school children. The Department would also ensure that all the children at NRBCs/RBCs are given free mid-day meal (as assured by the Department, vide UEE Mission letter no. 39, dated 11.4.2009).
- e) Care should be taken to see that the child labourer develops a liking for education.
- f) The Education Officer and Principal of the school should be held responsible for the dropouts among the child labourers receiving education.
- g) Parents of child labourers should be counseled to stress the importance of education for their children.
- h) Monitoring of academically weaker children in schools will be done with the involvement of CRC and NGOs to prevent dropouts (as assured by the Department, vide UEE Mission letter no. 39, dated 11.4.2009).
- i) The concerned District Urban Resource Centre Coordinator (DURCC) will send a monthly report to the Dy. Commissioner of the District with a copy to the SPD (SSA) and Director (Education), GNCTD about the following:
- i. School-wise and class-wise attendance and dropout rate corresponding to the number of children enrolled
 - ii. Number of out-of-school children in the district (school-wise and class-wise), along with the list of names
 - iii. The efforts made for awareness/sensitization/ educational counseling of these children and their parents.

Such reports should be examined in the next meeting of the district level Task Force and the state level Steering Committee, as well as at the highest level in the Education Department of GNCTD for remedial measures.

- j) The Department will ensure that all its schools have an adequate number of teachers in proportion to children in each class (subject specific, wherever applicable) and that they are regular and punctual. It should also introduce a system of incentives/rewards for schools which have higher enrolment/retention of out-of-school children and which prevent dropouts as well as a system of disincentives for those who consistently fail to identify, enroll and retain the out-of-school children.

7.7.5. Health Department, GNCTD

- a) Complete medical examination of rescued child labourers should be carried out after the raid.

- b) Immediate medical treatment should be initiated, if required.
- c) Certificate of age (to be issued by medical officers not below the rank of Government Assistant Surgeon) of the rescued child labourer should be furnished immediately to the investigating police officer or Government labour officer as per their demand.
- d) Expenses incurred towards the issuance of medical certificate and treatment should be met by the DC from the District Child Welfare Fund and should be recovered from the employer of the child labourer and reimbursed to the District Child Welfare Fund.

7.7.6. Municipal Corporation of Delhi (MCD)

- a) Under its Slum Development Programme, the MCD should enhance the standard of living of all children living in the slums within its jurisdiction and particularly ensuring effective access to free health checkups and medical care, quality education, recreation, vocational training and community life.
- b) MCD schools should provide free and compulsory education to all rescued child labourers belonging to Delhi irrespective of their age (arranging accelerated learning for the older children through NRBCs wherever necessary for mainstreaming them into age appropriate classes) without any discrimination (sex/caste, etc.). They should mentor the non-formal education programmes run by NGOs in various slums with a view to bringing all out-of-school children in the area into the fold of mainstream education.
- c) The Headmasters and the teachers of MCD schools should hold a monthly meeting of the parents to sensitize/counsel them about importance of education. Experts/communities leaders should be invited to such meetings.
- d) MCD will also sensitize/counsel the slum-dwellers in general about the importance of education for their children and the facilities available for the same, as well as about the long-term evil impact of child labour through programmes such as meetings, prabhat pheries, documentary films, etc. in the colonies.
- e) The MCD should ensure that all its schools have an adequate number of teachers in proportion to children in each class (subject specific, wherever applicable) and that teachers are regular and punctual. It should also introduce a system of incentives/rewards for schools which maintain higher enrolment/retention of out-of-school children and prevent dropouts as well as a system of disincentives for those who consistently fail to identify, enroll and retain out-of-school children.
- f) The Education Department of MCD will obtain the list of children who are not attending school and will instruct the Principal of the concerned school(s) to bring such children back to school.
- g) The concerned Zonal Dy. Education Officer (DEO) will send a monthly report to the Dy. Commissioner of the District with a copy to the Labour Commissioner and the Education Department of MCD about the school-wise and class-wise attendance and dropouts corresponding to the number of children admitted. The report should also include details of the efforts made for sensitization/educational counseling of the children and their parents. These reports should be examined in the next meeting of the district level Task Force and the State level Steering Committee, as well as in the Education Department of MCD for remedial measures.
- h) The Zonal Deputy Education Officer (DEO) as the Nodal Officer on behalf of MCD will be responsible for various matters relating to the pre-rescue planning, rescue and post-rescue rehabilitation/education in the concerned MCD area(s).

7.7.7. Deputy Commissioner of the district concerned

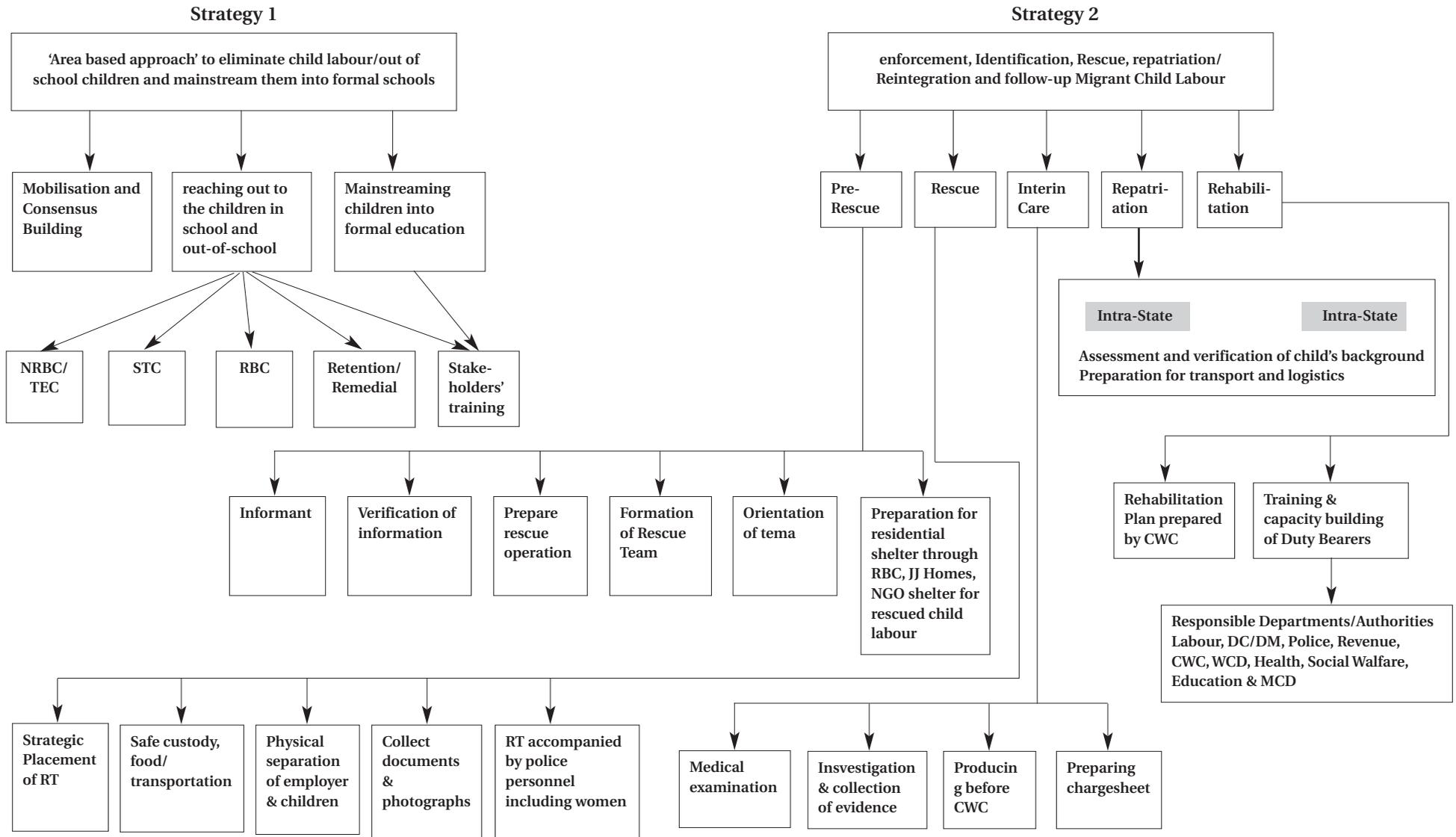
- a) Ensure that there is no incidence of child labour in any form within his/her jurisdiction.

- b) Call a meeting of the District level Task Force on Child Labour on monthly basis and to preside over the same.
- c) Forward a copy of the monthly meetings of the District level Task Force on Child Labour. A detailed report of the review meeting should be sent to the Government of NCT of Delhi through the Labour Commissioner.
- d) Prepare a list of all voluntary organizations dealing with the problem of child labour with their areas of expertise and to ensure that this list is updated on a regular basis. Public awareness drives should be arranged along with these organizations. Public opinion should be created to stress that education is the right of every child and is the first step towards progress.
- e) Get constantly updated about the raids, rescue and rehabilitation of child labourers in the district and extend all necessary support to the rescue team.
- f) Ensure that all necessary actions are taken within his competence under the Bonded Labour System (Abolition) Act and Rules, 1976 as well as under the 'Centrally Sponsored Plan Scheme For Rehabilitation of Bonded Labour', if the facts and circumstances in which child labourers are found lead to the presumption that they are forced labourers/bonded labourers.
- g) Ensure that a sum of Rs. 20,000/- per child labourer is recovered from his/her employer and credited along with a sum of Rs. 5,000/- to the District Child Labour Welfare Fund, as per the direction of the Hon'ble Supreme Court of India in the case of M.C. Mehta, 1996.
- h) Furnish a utilization certificate to the Government, through the Labour Commissioner, about the funds stated above, on a half-yearly basis, before 30 September and 31 March every year.
- i) Seek guidance (wherever necessary) from the Labour Commissioner with regard to the utilization of collected funds. As far as possible, the amount collected should be utilized for the rehabilitation of the child labourers for whom the amount is collected.
- j) As per the judgment of the Supreme Court cited above, an adult unemployed member of the child labourer's family should be provided employment there in his place and the child should be directed to receive education.
- k) In case the child has taken up the job due to economic condition of the family, adequate effort should be made to provide the family with all the benefits under all relevant developmental and social security schemes of the Government.
- l) The DC should recommend that the authorities of the concerned departments make remarks in the Annual Confidential Report (ACR) of the Task Force members so as to ensure accountability to the assigned task.

7.8 The roles and responsibilities of concerned departments/authorities of Government

of NCT of Delhi outlined above will be required for implementing both Strategy – I (Social Mobilization for Total Abolition of Child Labour) and Strategy –II (Pre-rescue, Actual rescue, Interim care, Enforcement of Laws, Repatriation and Rehabilitation of Child Labour).

Delhi Action Plan for Abolition of Child Labour



Judgement

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 9767/2009

COURT ON ITS OWN MOTION Petitioner

versus

GOVT OF NCT OF DELHI Respondent

Through: Mr.A.S. Chandhiok, ASG with
Mr. Sanjay Katyal, Ms. Sweta Kakkad &
Mr. Varun Pathak, Advs. for UOI.
Ms. Mukta Gupta, Standing Counsel
with Mr. Rajat Katyal, Adv. for State.
Mr. Anil Shrivastav, Adv. for NCPCR.
Ms. Asha Menon, Member Secretary,
DLSA with Mr. Harish Dudani, OSD for DLSA.

AND

+ W.P.(CRL) 2069/2005

SAVE THE CHILDHOOD
FOUNDATION Petitioner

Through: Mr. H.S. Phoolka, Sr. Adv. with
Ms. Sunita Tiwari & Mr. Bhuwan Ribhu, Advocates.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr.A.S. Chandhiok, ASG with
Mr. Sanjay Katyal, Ms. Sweta Kakkad &
Mr. Varun Pathak, Advs. for UOI.
Ms. Mukta Gupta, Standing Counsel
with Mr. Rajat Katyal, Adv. for State.
Mr. Anil Shrivastav, Adv. for NCPCR.
Ms. Asha Menon, Member Secretary,
DLSA with Mr. Harish Dudani,
OSD for DLSA.

AND

+ W.P.(C) 15090/2006

Q.I.C. & A.C. Petitioner

Through: None.

versus

MINISTRY OF LABOUR &
EMPLOYMENT & ANR. Respondents

Through: Ms. Zubeda Begum, Adv. for GNCTD.
and Labour Department.

Mr. Anil Shrivastav, Adv. for NCPCR.

Ms. Asha Menon, Member Secretary,

DLSA with Mr. Harish Dudani, OSD for DLSA.

AND

+ W.P.(C) 4125/2007

ALL INDIA BHRASHTACHAR
VIRODHI MORCHA (REGD.) Petitioner

Through: Mr. Tiger Singh, Adv. with Ms. Jasbir Singh
& Mr. Manmeet Singh, Adv.

versus

KAROL BAGH BANGIYA SWARAN
SHILPI SAMITI (REGD.) & ORS. Respondents

Through: Mr. Mayank Nagi, Adv. for R-1.

Ms. Deepak Tiwari, Adv. for Ms. Sujata
Kashyap, Adv. for GNCT.

Mr. Sanjeev Sabharwal, Adv. with

Mr. Hem Kumar, Adv. for MCD.

Ms. Pinky Anand, Adv. with

Ms. Aakanksha Munjhal, Adv. for R-7.

Mr. Anil Shrivastav, Adv. for NCPCR.

Ms. Asha Menon, Member Secretary,

DLSA with Mr. Harish Dudani, OSD for DLSA.

AND

+ W.P.(C) 4161/2008

COURT ON ITS OWN MOTION Petitioner

versus

STATE NCT OF DELHI Respondents

Through: Ms. Zubeda Begum, Adv. for GNCT.

Mr. Anil Shrivastav, Adv. for NCPCR.

Ms. Asha Menon, Member Secretary,

DLSA with Mr. Harish Dudani, OSD for DLSA.

Reserved on : July 09, 2009

Date of Decision: July 15, 2009

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE MANMOHAN

1. Whether Reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the Reporter or not? Yes.
3. Whether the judgment should be reported in the digest? Yes.

JUDGMENT

MANMOHAN, J:

1. Today's children constitute tomorrow's future. To ensure a bright future of our children, we have to ensure that they are educated and not exploited.
2. In fact, children are the most vulnerable members of any society. They are entitled to special care and assistance because of their physical and mental immaturity. The problem is more complicated in developing countries like ours, where child labour exists in relationship with illiteracy and poverty.
3. To eliminate the menace of child labour and to effectuate the mandate of Articles 23, 24, 39, 45 and 47 of the Constitution, Supreme Court had given a large number of mandatory directions in "*M.C. Mehta v. State of Tamil Nadu reported in AIR 1997 SC 699*". One of the important directions was to direct an employer to pay a compensation of Rs.20,000/- for having employed a child below the age of 14 years in hazardous work in contravention of Child Labour (Prohibition & Regulation) Act, 1986 (hereinafter referred to as „CLPRA, 1986?). The appropriate Government was also directed to contribute a grant/deposit of Rs.5,000/- for each such child employed in a hazardous job. The said sum of Rs.25,000/- was to be deposited in a fund to be known as Child

Labour Rehabilitation-cum-Welfare Fund and the income from such corpus was to be used for rehabilitation of the rescued child.

4. As the constitutional mandate and statutory provisions with regard to children were not being vigorously implemented and there was lack of coordination between different agencies of the Government of NCT of Delhi and other authorities, this Court, vide a detailed order dated 24th September, 2008 directed the National Commission for Protection of Child Rights (hereinafter referred to as 'National Commission'), to formulate a detailed Action Plan for strict enforcement and implementation of CLPRA, 1986 and other related legislations. The National Commission was directed to suggest measures regarding education, health and financial support to the rescued children. The National Commission was also directed to suggest measures for timely recovery and proper utilization of funds collected under the Supreme Court's direction in the aforesaid *M.C. Mehta's* case.

5. The National Commission after holding consultation with various stakeholders and after conducting research and survey submitted to this Court a *Delhi Action Plan for Total Abolition of Child Labour*.

6. According to the National Commission, the *child labour profile* in Delhi is of two types namely, *out-of-school children* living with their parents in Delhi and migrant children from other states who have left their family behind.

7. The Action Plan for Total Abolition of Child Labour is *based on two strategies*. The *first strategy* is an '*Area Based Approach*' for elimination of child labour, wherein all children in the age group of 6 to 14 years would be covered whether they are in school or out-of-school. The National Commission has proposed that this approach be initiated as a *Pilot Project in North-West District of Delhi*.

8. The second strategy is an approach to be adopted in the *context of migrant child labour*. It involves a process of identification, rescue, repatriation and rehabilitation of child labour. This strategy is proposed to be implemented as a *Pilot Project in South Delhi District*.

9. It is pertinent to mention that both the strategies in essence implement CLPRA, 1986, Delhi Shops and Establishment Act, 1954, Juvenile Justice (Care and Protection of Children) Act, 2000 and the Bonded Labour System (Abolition) Act, 1976.

10. One of the objectives of the Area Based Approach is to mobilize and build consensus on the issue of total abolition of child labour through universalisation of elementary education. The plan attains to mobilize and build consensus by holding public meetings, rallies and by involving Municipal Councilors, RWAs etc.

11. The Area Based Approach also aims to enroll all children in the age group of 6 to 14 years in schools and to withdraw them from work, while at the same time ensuring their retention in schools. This approach also seeks to integrate older children withdrawn from work in classes according to their age through programmes of various courses and accelerated learning. This objective is sought to be achieved by setting up *Transitional Education Centres or Non-Residential Bridge Course Centres or Residential Bridge Course*

Camps as well as by holding *Short Term Camps*. This approach also aims to build local institutions for protection of Child Rights by forming Committees and Forums of Liberation of Child Labour (Youth and Teachers? Wings) as well as strengthening of Vidyalaya Kalyan Samitis and by implementing training and retention programmes on issues relating to Child Labour and Children Rights to Education along with tasks and roles of specific stakeholders.

12. The Strategy for Unaccompanied Migrant Child Labourers in Delhi is based on “Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour” issued by Ministry of Labour and Employment, Government of India, 2008. According to the Action Plan, trafficked and migrant child labourers are primarily engaged in prohibited occupations such as zari, bulb manufacturing, auto workshop units and domestic household etc.

13. This strategy contemplates constitution of a *Steering Committee on Child Labour* at the State level and *District Level Task Force on Child Labour* at District Level.

14. The Delhi Action Plan provides for a detailed procedure to be adopted at the pre-rescue and actual rescue stage. The pre-rescue plan deals with as to how information is to be collected, verified and as to the composition of the rescue team as well as what training is to be imparted in advance to the members of the rescue team. The pre-rescue plan provides for prior preparation of residential centres through RBC, JJ Homes, NGO Shelter for accommodating the child labour proposed to be rescued.

15. The Delhi Action Plan provides a detailed procedure for interim care and protection of the rescued children. It provides for immediate medical examination of the children and as to how investigation is to be conducted and charge sheet is to be prepared.

16. The strategy for Unaccompanied Migrant Children also provides for assessment and verification of Child's background and intra state as well as inter state repatriation.

17. The Action Plan provides for detailed procedure for rehabilitation and social integration of the child labour as well as training and capacity building of duty bearers.

18. In a bid to ensure proper coordination amongst different agencies of the Government of NCT of Delhi, the Action Plan defines the role and responsibilities of various departments/authorities involved in the process in the following consolidated manner:

7.7. The Responsibilities of the Respective Departments

7.7.1. Delhi Police

The concerned Deputy Commissioner of Police should:

- a. Make the necessary arrangements of police force for raids as per the demand and requirement of Action Force;*

- b. Personally participate in the raids conducted by the Action Force;*
- c. Should take charge of the child labour liberated by the Action Force;*
- d. Should take steps to arrest the owners/employers of the child labour as per provision of Indian Penal Code Sec. 331, 370, 374 and 34 as well as provisions of Sec. 23, 24, 26 of Child Justice (Care and Protection) Act. They should register the crime and take all the necessary future steps to conduct further criminal proceedings;*
- e. Should treat the liberated child labour with respect and honour and hand them over to children's home in the charge of officers of Women and Child Welfare Department;*
- f. Put forward the cases of child labour as per Section 32 with the help of Action Force in front of Child Welfare Committee. As per the decision of the Child Welfare Committee, the children should be handed over to their parents through JAPU if the children are from other states.*

7.7.2. Department of Labour, GNCTD:

- a) To keep the areas in their jurisdiction where the child labour is likely to be hired under continuous active surveillance.*
- b) In case the child labour is found to be employed and if their number is high, then immediate action should be taken within 24 hours after contacting the District Collector and police officers by carrying out a raid through Action Force. If the number of child labour is less, then immediate action should be taken to liberate them on the very day with the help of departmental colleagues and police.*
- c) To keep track of the planning and conduct of every child labour rescue operation. It should be ensured that adequate number of officers and shop inspectors are present during the raid. There should be active participation in the liberation of child labour. Necessary action should be carried out against the employer of the child labourer as per the provisions of Section 3 of Child Labour (Prohibition and Regulation) Act, 1986; if this is applicable. If Section 3 of the Act is not applicable then action should be taken under provisions of Section 7, 8, 9, 11, 12 and 13.*
- d) Even if the job carried out by the child worker does not fall under the dangerous job category, the child labourer should be liberated from the clutches of unscrupulous employers and handed over to the police with a view to eradicate the undesirable practice of child labour and bringing these children under the mainstream of education.*
- e) To document all details of the liberated child worker by obtaining details from him in an affectionate manner and furnishing a copy to the police department. A complaint against the employer of the child labourer should be lodged (with the help of Task Force, if necessary) with the police and his statement should be recorded as a matter of formality and duty.*
- f) While obtaining information from the child labourer, if it is found that the employer had paid any money as financial assistance, loan advance etc. to the parents, then immediate report should be made to the District Collector for declaring the child labourer as 'forced' labourer and a copy should be endorsed to the Government through the Commissioner.*
- g) Due care of the liberated child labourers should be taken till they are sent to the Children's Home and it should be seen that they are provided with proper food, water and other facilities in time.*

- h) As per the definition specified in Section 2(K) of the Juvenile Justice (Care and Protection of Children) Act 2000, the individual who is below 18 years of age should be considered as a child. Therefore in the course of raid, if child workers above 14 years of age are found, then they should also be liberated from the clutches of the employer(s) and handed over to the police.*
- i) A sum of Rs. 20,000/- (Rupees Twenty Thousand) should be recovered from the employer of child labourer subjected to legal action vide Section 3 of Child Labour (Prohibition & Regulation) Act 1986 as per the directives issued by the Hon'ble Supreme Court in the M.C. Mehta case, 1996 and credited to the District Child Labour Welfare Fund of the District to which the child originally belongs.*
- j) To designate nodal officers at senior level to be part of the District Level Child Labour Task Force (districtwise) and also for the rescue team.*
- k) To strengthen the intelligence network through the Community Workers of the Labour Department on the status of out-of-school children, places of work involving children and their employers/contractors/middlemen, etc.*
- l) Necessary legal action should also be taken against the employers of child labourers under the following legislations and corresponding Rules (wherever applicable):*
 - i. Delhi Shops and Establishment Act, 1954*
 - ii. Minimum Wages Act, 1948*
 - iii. Motor Transport Workers Act, 1961*
 - iv. Factory Act, 1948*
 - v. Interstate Migrant Workmen (Regulation of Employment and Condition of Services) Act, 1979.*
 - vi. Contract Labour (Regulation & Abolition) Act, 1970.*

7.7.3. Women and Child Welfare Department, GNCTD

- a) Generation of awareness among masses against the practice of child labour. Steps should be taken for the rehabilitation of local child labourers with the help of Deputy Commissioner (DC) and voluntary organizations, if the child labourer happens to be from the local area.*
- b) Take charge of child labourers liberated by the Action Force and see that they are provided adequate food, clothing and shelter. Due care should be taken about their safety.*
- c) If the child worker happens to be a local person, she/he should be inducted in the mainstream of education with the help of education officer. If possible, he/she should be provided job oriented technical education.*
- d) The Superintendent of the Children Home to which the liberated Child Labourers have been placed should arrange for the interaction/taking of statements by the concerned Child Welfare Committee.*
- e) Information about instructions of the Child Welfare Committee should be independently submitted to the DC and Labour Commissioner every month.*
- f) DWCD, GNCTD should designate nodal officers at senior level who can be part of the District Child Labour Task Force for every district.*

- g) *Issue letters to the respective CWCs to nominate a member who can be part of the District Child Labour Task Force. Such member of the CWC can be a link between the CWC and District Child Labour Task Force for all practical purposes, including, attending the pre-rescue planning meeting of the Task Force, issuing Orders for the interim care and custody of the rescued child reports (SIR), verification/identification of their families and their ultimate repatriations/follow-up. The CWC Member will get the inquiry done and Social Investigation Report prepared under JJ Act in a child friendly manner at the camp/home/hostel/RBC where the children have been lodged.*
- h) *To keep the Homes ready for the reception and suitable accommodation of the rescued child labours.*

7.7.4. Education Department, GNCTD

- a) *In order to absorb the liberated child labourer into mainstream of education without any discrimination, (sex/caste etc.) they should be offered free and compulsory education and should be compelled to receive it.*
- b) *Various schemes sponsored by the Central and State Governments should be implemented for this purpose.*
- c) *During their educational period, they should get the benefit of free meals scheme of the State Government.*
- d) *The Department will set up initially 250 Alternative Innovate Education Centres (AIEC)/NRBCs in the areas of child labour concentration and/or in the areas having large number of out-of-school children. The Department would also ensure that all the children at NRBCs/RBCs are given free mid day meal (as assured by the Department, vide UEE Mission letter no. 39, dated 11.4.2009).*
- e) *Care should be taken to see that the child labourer develops liking for the education.*
- f) *The education officer and Principal of the school should be held responsible for the dropouts among the child labourers receiving education.*
- g) *Parents of child labourer should be counseled to stress the importance of education among the labourers.*
- h) *Monitoring of academically weaker children in schools will be done with the involvement of CRC and NGOs for (as assured by the Department, vide UEE Mission letter no. 39, dated 11.4.2009) preventing dropouts.*
- i) *The concerned District Urban Resource Centre Coordinator (DURCC) will send a monthly report to the Dy. Commissioner of the District with a copy of the same to the SPD (SSA) and Director (Education), GNCTD about the following:*
 - i. School wise and class wise attendance and drop-outs corresponding to the number of children enrolled;*
 - ii. Number of out-of-school children in the district (school wise and class wise) along with the list;*
 - iii. The efforts made for awareness/sensitization/educational counseling of children and their parents.*

Such reports should be examined in the following meeting of the district level Task Force and of the state level Steering Committee as well as at the highest level in the Education Department of GNCTD for remedial measures.

- j) Department will ensure that all its schools have adequate number of teachers in proportion to children in each class (subject specific, wherever applicable) and they are maintaining punctuality. It should also introduce a system of incentive/reward for its schools which maintains higher enrolment/retention of out-of-school children and prevent dropouts as well as a system of disincentives for those who consistently fail to identify, enroll and retain the out-of-school children.*

7.7.5. Health Department, GNCTD

- a) After receiving information about the raid of Action Force through Labour Officer/Police Officer, complete medical examination of liberated child labourers should be carried out.*
- b) Immediate medical treatment should be initiated, if required.*
- c) Clear certificate of age (issued by medical officers not below the rank of Government Assistant Surgeon) of the liberated child labourer should be furnished immediately to the investigating police officer or Government labour officer as per their demand.*
- d) Expenses incurred towards the treatment and issuance of medical certificate should be met by the DC from the District Child Welfare Fund and should be recovered from the employer of the child labourer and reimbursed to the District Child Welfare Fund after recovery.*

7.7.6. Municipal Corporation of Delhi (MCD)

- a) Under its Slum Development Programme, the MCD should enhance the standard of living of all children living in the slums within its jurisdiction and particularly ensuring effective access to free health check up and medical care, quality education, recreation, vocational training and community life.*
- b) MCD Schools should provide free and compulsory education to all rescued child labourers belong to Delhi irrespective of their age (by arranging accelerated learning for the older children through NRBCs wherever necessary for mainstreaming them to age appropriate classes) without any discrimination (sex/caste etc.). They should be mentoring the non-formal education programmes run by NGOs in various slums with a view to bringing all out-of-school children in the area into the fold of mainstream education.*
- c) The Headmasters and the teachers of the MCD schools will hold a monthly meeting of the parents for sensitizing/counselling them about importance of the education. Experts/communities leaders would be invited to such meetings.*
- d) MCD will also have sensitization/counselling programmes for the slum-dwellers in general about the importance of education for their children and the facilities available for the same as well as the long-term evil impacts of child labour through meetings, prabhat ferries, documentary films, etc. in the colonies.*
- e) The MCD should ensure that all its schools have adequate number of teachers in proportion to children in each class (subject specific, wherever applicable) and such teachers are maintaining*

punctuality. It should also introduce a system of incentive/reward for its schools which maintains higher enrolment/retention of out-of-school children and prevent dropouts as well as a system of disincentives for those who consistently fail to identify, enroll and retain the out-of-school children.

- f) The Education Department of MCD will obtain the list of children who are not attending schools and will instruct the Principal of the concerned school(s) to bring such children back to school.*
- g) The concerned Zonal Dy. Education officer (DEO) will send a monthly report to the Dy. Commissioner of the District with a copy of the same to the Labour Commissioner and the Education Department of MCD about the school wise and class wise attendance and drop-outs corresponding to the number of children admitted. The report should also include the efforts made for sensitization/educational counseling of children and their parents. Such reports should be examined in the following meeting of the district level Task Force and of the state level Steering Committee as well as in the Education Department of MCD for remedial measures.*
- h) The Zonal Deputy Education Officer (DEO) will be responsible as the Nodal Officer on behalf of MCD on various matters relating to the pre-rescue planning, rescue and post-rescue rehabilitation/education in the concerned MCD area(s).*

7.7.7. Deputy Commissioner of the District concerned

- a) To ensure that no incidence of child labour in any form is found within his/her jurisdiction.*
- b) To get the meeting of the District level Task Force on Child Labour on monthly basis and to preside over the same.*
- c) To forward a copy of the monthly meetings of the District level Task Force on Child Labour, detailed report of the review meeting should be sent to the Government of NCT of Delhi through Labour Commissioner.*
- d) To get a list of all voluntary organizations dealing with the problems of child labour prepared with areas of their expertise and to ensure that such list is updated on regular basis. Along with these organizations, public awareness drives should be arranged. Public opinion should be generated to stress that education is the right of every child and is a first step towards progress.*
- e) To get constantly updated about the raids, rescues and rehabilitations of child labourers in the district and to extend all necessary support to the rescue team.*
- f) To ensure that all necessary actions are taken within his competence under the Bonded Labour System (Abolition) Act and Rules, 1976 as well as under the 'Centrally Sponsored Plan Scheme for Rehabilitation of Bonded Labour', if the facts and circumstances in which child labourers are found lead to the presumption that they are forced labourers/bonded labourers.*
- g) To also ensure that Rs.20,000/- per child labourer is recovered from his/her employer and credited along with Rs.5000/- to the District Child Labour Welfare Fund, as per the direction of the Hon'ble Supreme Court of India in the case of M.C. Mehta, 1996.*
- h) To furnish a utilization certificate to the Government through the Labour Commissioner about the funds stated above on half yearly basis, before 30 September and 31 March every year.*
- i) Guidance may be sought (wherever necessary) from the Labour Commissioner with regard to the utilization of collected funds. As far as possible, the amount collected should be utilized for the*

rehabilitation of the child labourers for whom the amount is collected.

- j) As per the judgment of the Supreme Court cited above, adult unemployed member of the family of the child labourer should be provided employment there in his place and the child should be directed to receive education.*
- k) In case the child has taken up the job due to economic condition of the family, adequate efforts should be made to provide all benefits to the family under all relevant developmental and social security schemes of the Government.*

7.8. The above roles and responsibilities of concerned departments /authorities of Government of NCT of Delhi will be required for implementing both Strategy – I (Social Mobilization for Total Abolition of Child Labour) and Strategy - II (Pre-rescue, Actual-rescue, Interim care, Enforcement of Laws, Repatriation and Rehabilitation of Child Labour)."

19. Subsequent to the filing of the aforesaid Action Plan, the Labour Department of Government of NCT of Delhi has raised some issues. According to the Labour Department, CLPRA, 1986 prohibits employment of children only in certain scheduled occupations and processes. Consequently, according to the Labour Department, child workers employed in non-hazardous jobs cannot be rescued. The Labour Department has further urged that in the Action Plan it has been stipulated that all children between the age of 14 to 18 years have to be liberated and handed over to the police, even though CLPRA, 1986, defines child as a person who has not completed 14 years of age.

20. On a perusal of CLPRA, 1986, we are of the view that under the said Act, only child workers employed in scheduled occupation and processes can be liberated and children employed above the age of 14 years cannot be rescued.

21. However, in our view, the Juvenile Justice (Care and Protection of Children) Act, 2000, would apply to children between the age of 14 and 18 years as well as to those children employed below the age of 14 years in non-scheduled occupation and processes. Consequently, the said children would be governed by the Juvenile Justice (Care and Protection of Children) Act, 2000 as well as Bonded Labour System (Abolition) Act, 1976, if applicable and not by CLPRA, 1986, as stipulated in the Delhi Action Plan prepared by the National Commission.

22. Moreover, at the request of Labour Department, we direct that the responsibility of lodging a police complaint against an employer employing child labour would lie with the Delhi Police and not the Labour Department as directed in the Delhi Action Plan. We further clarify that the authority to take action under the Bonded Labour System Abolition Act, 1976, would be the Deputy Commissioner of District concerned and not the Labour Department. Accordingly, paras (e) and (f) of para 7.7.2 of the Delhi Action Plan are amended.

23. It is further clarified that the recovery of fine of Rs. 20,000/- as stipulated by the Supreme Court in M.C. Mehta's case will not have to await a conviction order of the offending employer. The said amount would be recovered as arrears of land revenue and the said amount would be utilized for the educational needs of the rescued child even if the child has subsequently crossed the age of 14 years.

24. The Deputy Director, Child Welfare, has also filed a Status Report stating that considering the capacity and existing strength of NGOs and Government run institutions in Delhi, the department would be able to accommodate only about 500 additional children every month, since the restoration efforts take about 30 to 40 days' time. The said Status Report, however, states that all efforts would be made to motivate NGOs to enhance their capacity to accommodate more children and to register more Children Homes.

25. Keeping in view the aforesaid infrastructural limitation, we direct the labour department to begin implementing the Delhi Action Plan by accommodating for the time being about 500 children every month.

26. Moreover, being cognizant of the fact that ground level reality may be different from the one projected in the Action Plan, we grant liberty to the above-mentioned authorities to seek clarification or amendment of the Action Plan from this Court.

27. To conclude, we would only quote what Dr. Dorothy I. Height, a social activist, has said, *"we have got to work to save our children and do it with full respect for the fact that if we do not, no one else is going to do it."*

28. Consequently, we accept the Delhi Action Plan which provides a detailed procedure for interim care and protection of the rescued children to be followed by Labour Department as prepared by the National Commission with the modifications mentioned hereinabove in paras 20 to 26 and we further direct all the authorities concerned to immediately implement the same. The Government of NCT of Delhi through the Labour Department is directed to file its First Taken Report to this Court after six months. For this purpose, list the present batch of matters on 13th January, 2010.

MANMOHAN (JUDGE)
CHIEF JUSTICE

JULY 15, 2009

js



National Commission for Protection of Child Rights

5th Floor, Chandrelok Building, 36, Janpath,

New Delhi 110 001

Website: www.ncpcr.gov.in