



भारत सरकार  
GOVERNMENT OF INDIA

राष्ट्रीय बाल अधिकार संरक्षण आयोग  
NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS

नई दिल्ली - 110 001  
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**Subject- Draft SOP for rescue and post-rescue of child labour by NCPCR for Comments.**

National Commission for Protection of Child Rights (NCPCR) has developed a SOP on the rescue and post-rescue of child labour incorporating all provisions of various child related Acts which are applicable in these cases. Endeavour has been made to simplify the understanding of the process laid down for inquiry and rehabilitation of children who are victim of child labour cases.

Any suggestions/comments on the draft SOP may be sent to the Commission at [ms.ncpcr@nic.in](mailto:ms.ncpcr@nic.in) latest 1 July, 2022.

Sd/-  
(Rupali Banerjee Singh)  
Member Secretary





# DRAFT STANDARD OPERATING PROCEDURE

*For*

## RESCUE AND POST RESCUE OF CHILD LABOUR



**2022**

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## 1. List of Abbreviations

<b>CLPRA</b>	Child and Adolescent Labour (Prohibition and Regulation) Act, 1986
<b>CLPR Rules</b>	Child and Adolescent Labour (Prohibition and Regulation) Rules, 2017
<b>CCI</b>	Child Care Institution
<b>CrPC</b>	Code of Criminal Procedure, 1973
<b>CWC</b>	Child Welfare Committee
<b>DCPO</b>	District Child Protection Officer
<b>DCPU</b>	District Child Protection Unit
<b>DLSA</b>	District Legal Services Authority
<b>DM</b>	District Magistrate
<b>DWCD</b>	Department of Women and Child Development
<b>FIR</b>	First Information Report
<b>ICPS</b>	Integrated Child Protection Scheme
<b>JJ Act</b>	Juvenile Justice (Care and Protection of Children) Act 2015
<b>JJB</b>	Juvenile Justice Board
<b>MWCD</b>	Ministry of Women and Child Development
<b>NCPCR</b>	National Commission for Protection of Child Rights
<b>NGO</b>	Non-Governmental Organization
<b>POCSO</b>	Protection of Children from Sexual Offences
<b>SCPCR</b>	State Commission for Protection of Child Rights

***SJPU***

Special Juvenile Police Unit

***SOP***

Standard Operating Procedure

## 2. “Child in Need of Care and Protection”

Section 2 (14) of the Juvenile Justice (Care and Protection of Children) Act, 2015 defines child in need of care and protection as a child:

- (i) who is found without any home or settled place of abode and without any ostensible means of subsistence;or
- (ii) who is found working in contravention of labour laws for the time being in force or is found begging, or living on the street;or**
- (iii) who resides with a person (whether a guardian of the child or not) and such person—
  - (a) has injured, exploited, abused or neglected the child or has violated any other law for the time being in force meant for the protection of child; or
  - (b) has threatened to kill, injure, exploit or abuse the child and there is a reasonable likelihood of the threat being carried out;or
  - (c) has killed, abused, neglected or exploited some other child or children and there is a reasonable likelihood of the child in question being killed, abused, exploited or neglected by that person;or
- (iv) who is mentally ill or mentally or physically challenged or suffering from terminal or incurable disease, having no one to support or look after or having parents or guardians unfit to take care, if found so by the Board or the Committee;or
- (v) who has a parent or guardian and such parent or guardian is found to be unfit or incapacitated, by the Committee or the Board, to care for and protect the safety and well-being of the child;or
- (vi) who does not have parents and no one is willing to take care of, or whose parents have abandoned or surrendered him;or
- (vii) who is missing or run away child, or whose parents cannot be found after making reasonable inquiry in such manner as may be prescribed;or
- (viii) who has been or is being or is likely to be abused, tortured or exploited for the purpose of sexual abuse or illegal acts;or

- (ix) who is found vulnerable and is likely to be inducted into drug abuse or trafficking;or
- (x) who is being or is likely to be abused for unconscionable gains;or
- (xi) who is child of or affected by any armed conflict, civil unrest or natural calamity;or
- (xii) who is at imminent risk of marriage before attaining the age of marriage and whose parents, family members, guardian and any other persons are likely to be responsible for solemnization of such marriage.

**RECOMMENDATION OF NCPCR u/s 13(1)(a) OF CPCR ACT, 2005 FOR CASES  
WHERE CHILD IS FOUND TO BE RAG PICKING, COLLECTING WASTE/SCRAP  
MATERIAL ETC. TO ADULTS**

In cases where a child is found to be picking waste, working in a roadside tea stall/fruit cart, selling newspapers, balloons, pens, pencils, etc., then such acts of the child would constitute as acts of child labour. It may be noted that as per the **W.P.(CRL) No. 2069/2005** filed by **Save the Childhood Foundation, the Hon'ble High Court of Delhi**, in its Judgment dated 5 November 2014, has mentioned that *“all enforcement agencies should understand Child Labour as meaning the system of employing or engaging a child to provide labour or service to any person, for any payment or benefit, paid to the child or to any other person exercising control over the said child”*. **According to this definition, person who is buying the scraps/whatever collection from the child or engaging children in such activities mentioned is to be booked under the contravention of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 and provisions under Child Labour (Prohibition and Regulation) Amendment Rules, 2017 as well as Section 79 of the JJ Act, 2015.**

In this regard, it is to be understood that any person who is engaging a child as ragpickers, for collection of waste materials, scrap materials etc. and any person buying such items from any child for its business or a way to earn income would have said to commit an offence under the Child & Adolescent Labour (Prohibition & Regulation) Act, 1986 and the Juvenile Justice Act, 2015 and the child would be deemed to be a victim of child labour. The persons who are buying such items from children at these public places would also constitute as to be promoting child labour.

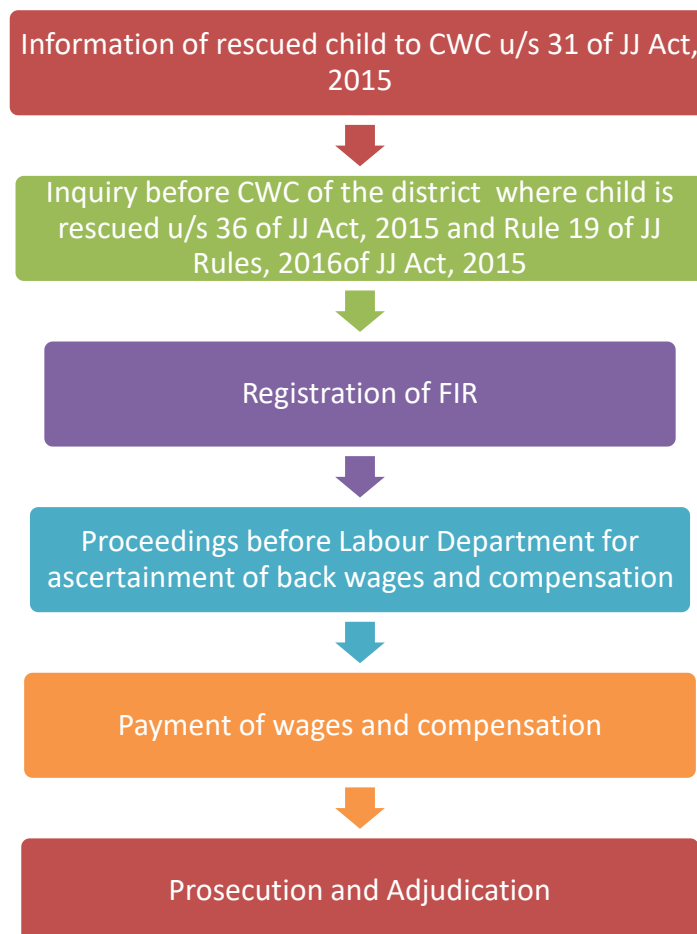
This recommendation of NCPCR is being issued under the functions vested to NCPCR under Section 13(1)(j) of CPCR Act, 2005 for taking necessary action and implementation by authorities.



## SCOPE

### 3. Standard Operating Procedure for Rescue and Post Rescue of Child Labour

Rescue of the child by any person, organization- governmental or non-governmental, any committee, task force or any other person or institute; whether under the Child Labour Act, 1986; Bonded Labour Act, 1976; Juvenile Justice Act, 2015; The Immoral Traffic Prevention Act, 1986 or any other law for the time being in force shall be done in accordance with this SOP and the following steps must be followed in order.



*Figure 1: Standard Operating Procedure*

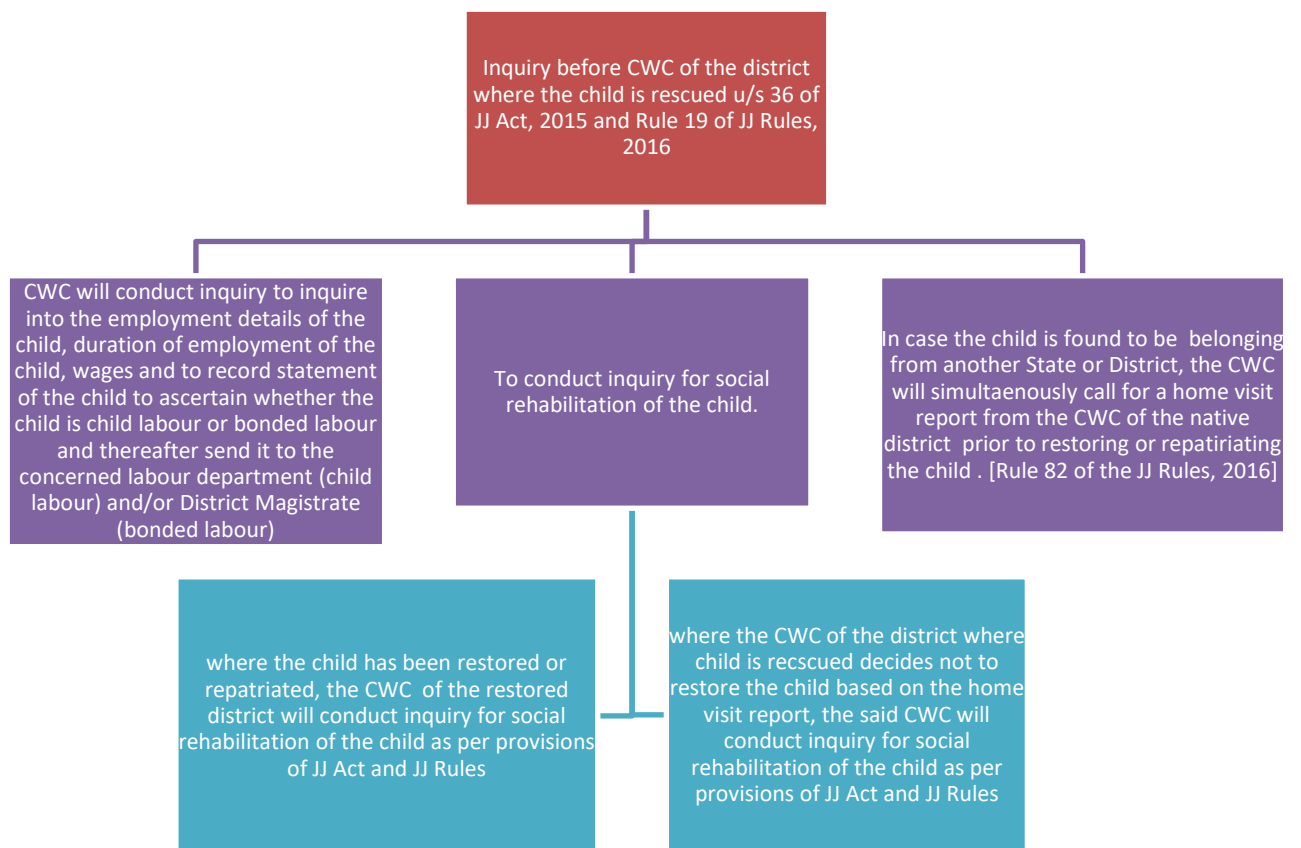


Figure 2- Procedure for inquiry before CWC

## **Step 1: Information and Rescue**

The first step for effective rescue of a child in need of care and protection is of information and rescue. It is important to first get the information which may be from-

- a) Any primary source such as a child who is engaged in child labour or relative of a child labour or any person on behalf of the child or,
- b) Any secondary sources like surveys conducted under Sarva Shiksha Abhiyan, surveys conducted by the Department of Labour or community micro-planning or by any Government or Non-Government Organization or any other person.

The child can be rescued by any person who is competent to produce the child before CWC as under Section 31 of the Juvenile Justice (Care and Protection of Children) Act, 2015 namely:

- (i) any police officer or special juvenile police unit or a designated Child Welfare Police Officer or any officer of District Child Protection Unit or inspector appointed under any labour law for the time being in force;
- (ii) any public servant;
- (iii) Child-Line Services or any voluntary or non-governmental organization or any agency as may be recognized by the State Government;
- (iv) Child Welfare Officer or probation officer;
- (v) any social worker or a public spirited citizen;
- (vi) by child himself;

Such competent person may also include:

- (i) A team constituted by NCPCR, SCPCRs, Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, Bonded Labour System (Abolition) Act, 1976 or any other law for the time being in force.
- (ii) Person as defined in Rule 17A of Child and Adolescent Labour

(Prohibition and Regulation) Rules, 2017, which may include school teachers and representatives from School Management Committee, Child Protection Committee, Panchayat or Municipality, who shall be sensitized to file complaint, in the event that any of students in their respective schools is employed in contravention to the provisions of the Act.

(iii) Task Force as provided under Rule 17C(1)(iii).

**[Explanation: The rescue of such children who are found to be working as child labour is not limited to be done by the Task Force but can be done by any person/organization]**

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## Step 2: Production of the Child before the Child Welfare Committee (CWC)

The child shall be produced before the Child Welfare Committee within 24 hours of his/her rescue, as given under Section 31 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

- i. As soon the child is produced before the CWC (having powers to function as bench of Magistrate/Judicial Magistrate under section 27 of JJ Act, 2015), the statement of the child shall be recorded by CWC, as far as may be following the procedure laid down in the CrPC, 1973 as provided in the procedure for inquiries, appeals and revision proceedings under Section 103 of JJ Act, 2015. The said statement should be sent to the Magistrate by whom the case is to be enquired into or tried. The CWC shall ask the questions to the child in so far as provided in **Annexure A**.
- ii. In case a translator is required to understand the language of the Child and record his/her statement, the DCPU shall provide translator to overcome the problem of language barrier in case of migrant child labour.
- iii. After recording the statement of the child, if any violation is found by CWC under Child and Adolescent (Prohibition and Regulation) Labour Act, 1986 and Bonded Labour System (Abolition) Act, 1976, Immoral Traffic (Prevention) Act, 1956, abduction and sexual abuse, then CWC should direct the District Child Protection Officer to take up the case with the Police for registration of First Information Report (FIR) as the offence under section 3 and 3A of CALPRA is a cognizable offence as provided under section 14A of CALPRA, 1986. On the basis of the statement of the child, the District Child Protection Officer will fill out a performa duly authenticated, verified and signed by the Child Welfare Committee. The copy of the performa shall be submitted by the DCPO to the District Magistrate and the Police for getting the FIR filed in the case. The DCPO shall fill the performa as provided in **Annexure B**.

- iv. If the child is found to be a victim of sexual abuse, then the CWC shall immediately report about the offence to the police authorities as per Section 19 of POCSO Act, 2012, which makes reporting of sexual abuse offences against children mandatory.
- v. On the basis of the statement recorded by CWC, if there is a prima facie offence made out under the CLPRA, then the Police shall, without delay, file an FIR under the relevant provisions of law. The copy of the FIR shall be procured by the DCPO and submitted to the CWC for their records. Where the Police fails to register an FIR in the case, the DCPO shall inform about the same to the CWC and the District Magistrate.
- vi. Where the Police fails to register FIR within 24 hours of the receipt of information from the DCPO, the concerned CWC shall write a complaint to the concerned JJB for getting the FIR filed in the matter. **[Section 8(3)(I) of the JJ Act, 2015]**
- vii. A copy of the Statement recorded by CWC should also be sent to the District Legal Service Authority (DLSA) by the DCPO for further coordination and compliance of the provisions under CrPC.
- viii. Where the CWC inquiry prima facie establishes that the child is a victim of child labour, a report of CWC along with the statement of the child should be sent to the **nodal officer** *[as appointed by the District Magistrate under Rule 17C (1)(i) of the CLPR (Amendment) Rules, 2017]* through the District Child Protection Unit along with **Annexure C**, for ascertaining the Back Wages, penalty, fine etc. of the rescued child. A copy of the same should also be sent to the District Magistrate who presides over the task force as provided under Rule 17C (iii) of the CALPR (Amendment) Rules 2017.
- ix. The District Magistrate is to also ensure compliance of Rule 17C Clause (3) of the CAPLR (Amendment) Rules 2017 in so far as rehabilitation of children rescued is concerned. The report of the DCPU

should be sent as per the performa as provided in **Annexure C**.

- x. Where the CWC inquiry prima facie establishes that the child is a victim of bonded labour, a report of CWC along with the statement of the child should be sent to the **District Magistrate** through the District Child Protection Unit along with **Annexure C**, for necessary inquiry for issuing release certificate and ascertaining the Back Wages, compensation under Central Sector Scheme, penalty, fine etc. of the rescued child.
- xi. CWC shall conduct due inquiry as prescribed under Section 36 of the Juvenile Justice (Care and Protection of Children) Act, 2015. The inquiry before the CWC is for the purpose of restoration and rehabilitation of the child and is independent of the investigation by the Police. While the inquiry before CWC is ongoing, the Police has to continue its investigation in accordance with the procedures prescribed by Law, as the inquiry before CWC is not in contravention and interference of the investigation by the Police on the matter. The said inquiry shall be conducted in adherence to the procedure provided under Section 36 of the Juvenile Justice (Care and Protection of Children) Act, 2015, which is as follows:

#### **Manner of Production of a child before the concerned CWC**

- (1) After the rescue of the child, the said child shall be produced before the CWC in a manner and by any person as given under the Juvenile Justice Act, 2015. The child shall be produced before the CWC of the district where the child has been rescued. For procedure related to the inquiry of the child thereafter, the concerned CWC will be of the district where the child has been rescued or found. The inquiry before the concerned CWC shall be for two purposes-
  - (i) To inquire into the employment details of the child, duration of employment of the child, amount of minimum wages received and due and to record statement of the

child to assess whether the child is child labour or bonded labour.

(ia) Where the CWC inquiry prima facie establishes that the child is a child labour, then the CWC shall send its report and copy of recorded statement to the concerned Labour Department.

(ib) Where the CWC inquiry prima facie establishes that the child is a victim of bonded labour, the CWC shall send its report and copy of recorded statement to the concerned District Magistrate department.

(ii) To conduct inquiry for social rehabilitation of the child as per provisions of JJ Act, 2015 and JJ (Model) Rules, 2016.

- (2) Where the child belongs to the same district as where he/she has been found or rescued then the CWC of the rescued district will conduct both the above-mentioned inquiries for the rescued child labour.

#### **Inquiry in case of child belonging from another district-**

- (3) Where it is established and found before the CWC of the rescued district that the child belongs to another district or State, the said CWC may write to the CWC of the native district to call for a home visit report as given under Rule 82 of the Juvenile Justice (Model) Rules, 2016 for the purposes of restoration and repatriation of the child to its native district immediately. The Home visit report from the CWC of the native district shall be submitted to the CWC of the rescued district within 10 days of sending the request. Till the receipt of the home visit report, the CWC may pass orders for temporary shelter for the child.



- (4) After receipt of the home visit report from the native district, the CWC of the rescued district conducting inquiry for the child will examine the home visit report for purposes of restoring the child to its native district.
- (5) Where the child is restored to the native district by the CWC of the rescued district, the CWC of the native district shall conduct the social investigation report and individual care plan of the child as specified under Section 36 of the JJ Act, 2015 and Rule 19 of the JJ (Model) Rules, 2016. The social investigation report as per Form 22 of the JJ (Model) Rules, 2016 shall be completed within fifteen days so as to enable the Committee to pass final order within four months of first production of the child.
- (6) The individual child care plan [Form 7 of the JJ (Model) Rules, 2016] shall also be made for the child and wherever the child is eligible to be given financial assistance under any Central Government or State Government implemented Scheme, then the child shall be given the benefit of the same. The DCPO shall ensure and facilitate that the child gets the benefit under the Government implemented Schemes.
- (7) However, the CWC of the rescued district will still conduct the inquiry into the employment details of the child, duration of employment of the child and to record statement of the child to assess whether the child is child labour or bonded labour and thereafter send it to the concerned labour department (child labour) and/or District Magistrate (bonded labour).

**In cases where the child belongs to the same district where he is found/rescued-**

- (8) Where the child is not restored to the native district from the district where he/she has been rescued then the CWC of the district

rescued shall continue the inquiry for social rehabilitation report of the child by following the procedure as given above in point (5) and (6)

and inquiry for ascertaining whether the child is a victim of child labour and/or bonded labour and thereafter send it to the concerned department.

#### Inquiry by the CWC of the rescued district-

(9) On production of a child or receipt of a report under section 31 of the JJ Act, 2015, the CWC of the rescue district shall hold an inquiry for examining the following-

(9A) An inquiry will be conducted by CWC of the rescued district wherein the CWC shall make a report of the employment details of the child, duration of employment of the child, amount of minimum wages received and due and to record statement of the child to assess whether the child is child labour or bonded labour. This report of CWC of the rescued district will be prepared by it irrespective of the fact that the child belongs to another district.

(9B) Where it is seen that the child is a bonded labour under the bonded labour system, the CWC shall forward the case to the concerned District Magistrate in writing through the DCPO. While forwarding the case of bonded labour of a minor to the District Magistrate, the CWC order shall specify the following-

- i. The manner and circumstances in which the child had been produced before the CWC.
- ii. The reasons because of which the child was working as a bonded labour.
- iii. The amount of bonded debt that has been given for the child to work in the bonded labour system.

***\*The District Magistrate shall conduct an inquiry for a transferred case of minor bonded labourer as prescribed under the Bonded Labour System (Abolition) Act, 2017 and while ascertaining the quantum of compensation to be given to***

***the minor victim, consider the order of the CWC where the child had been produced.***

***[Section 2(g) of the Bonded Labour System (Abolition) Act, 2017 states that bonded labour is any system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that,—***

*(i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by any document) and in consideration of the interest, if any, due on such advance, or*

*(ii) in pursuance of any customary or social obligation, or*

*(iii) in pursuance of an obligation devolving on him by succession, or*

*(iv) for any economic consideration received by him or by any of his lineal ascendants or descendants, or*

*(v) by reason of his birth in any particular caste or community, he would—*

*(1) render, by himself or through any member of his family, or any person dependent on him, labour or service to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either without wages or for nominal wages, or*

*(2) forfeit the freedom of employment or other means of livelihood for a specified period or for an unspecified period, or*

*(3) forfeit the right to move freely throughout the territory of India, or*

*(4) forfeit the right to appropriate or sell at market value any of his property or product of his labour or the labour of a member of his family or any person dependent on him, and includes the system of forced, or partly forced, labour under which a surety for a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on*

*behalf of the debtor.*

*Explanation.—For the removal of doubts, it is hereby declared that any system of forced, or partly forced labour under which any workman being contract labour as defined in clause (b) of sub-section (1) of section 2 of the Contract Labour (Regulation and Abolition) Act, 1970 (37 of 1970), or an inter-State migrant workman as defined in clause (e) of sub-section (1) of section 2 of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979), is required to render labour or service in circumstances of the nature mentioned in sub-clause (1) of this clause or is subjected to all or any of the disabilities referred to in sub-clauses (2) to (4), is “bonded labour system” within the meaning of this clause;]*

(9C) Where the inquiry of the CWC establishes that the child is a victim of child labour under the CLPRA, then the case documents including the statement of the child shall be forwarded to the concerned labour department through the DCPO. The CWC may also order for financial assistance under any other scheme or fund from which the child is eligible to receive money.

(9D) While holding an inquiry for a child before a CWC of the rescued district, where it is established that the conditions of working for children and adolescents as given under the CLPRA (**Annexure-D- Part III from Section 6-13**) have been violated, the CWC may declare the child as a child in need of care and protection under the JJ Act, 2015 and forward the case to Police through the DCPO for investigation under Section 75 and 79 of Juvenile Justice Act, 2015 and in case the child/adolescent is a victim of trafficking or sexual abuse or any other violation prescribed under law, then the investigation under those offences will also be undertaken by the Police department.

***\*The appropriate Government/Labour Department of the State where the child has been rescued shall follow the procedure as given under Section 14B of***

***the CLPRA and Rule 16A of the CLPR Rules for crediting the amount in the bank account of the child who is a victim of child labour. The manner in which the bank account of the child has to be opened by the district authorities is given under Step 5 of this SOP.***

(9E) The CWC after holding due inquiry of the child, may pass an order to send the child to the children's home or a fit facility or fit person or restore the child to its parents/guardians or repatriate the child to his/her native district.

*Provided that all children below six years of age, who are orphan, surrendered or appear to be abandoned shall be placed in a Specialised Adoption Agency, where available.*

(9F) The CWC of the rescued district shall also get the FIR filed in the case of the child under relevant provisions of law through the DCPO.

(4) The rehabilitation of the child either by the CWC of the rescue district or by the CWC of the native district shall be in a manner as given under the provisions of the JJ Act, 2015 and Section 14C of the CLPRA.

(5) The information of such a child shall also be uploaded on PENCIL portal of the Ministry of Labour & Employment, Government of India.

(6) The concerned DCPO shall upload the information about the child on the Baal Swaraj Portal of NCPCR. Where the child labour is also a Child in Street Situation, the information shall be uploaded on Baal Swaraj Portal-CiSS and where the child labour is not in a street situation then the information shall be uploaded on Baal Swaraj Portal-Child Labour.

### **Step 3: Registration of First Information Report**

Registration of the First Information Report (FIR) by Police after receiving documents and copy of the statement of the child from DCPU:-

- i. On receipt of the information from the DCPU in respect of a cognizable offence against a child under CLPRA, the Police shall register an FIR immediately on the basis of the statement given by the child before CWC(**Annexure A**) and the **performa (Annexure B)** and/or any other relevant documents submitted by the DCPU.
- ii. A copy of the registered FIR shall be submitted to the District Magistrate and CWC within 24 hours of the information given by DCPO to the Police.
- iii. Where the Police fails to register FIR within 24 hours of the receipt of information from the DCPO, the concerned CWC shall write a complaint to the concerned JJB for getting the FIR filed in the matter. **[Section 8(3)(I) of the JJ Act, 2015]**
- iv. The District Magistrate will exercise his duties as provided under Rule 17C of the Child and Adolescent Labour (Prohibition and Regulation) Amendment Rules 2017 and Bonded Labour System (Abolition) Act, 1976 as the case may be or as provided under any other provision of law for ensuring suitable rehabilitation of the child.
- v. While filling the FIR, due care shall be taken to ensure that all provisions that apply, across different statutes, are incorporated in the FIR/Complaint. *[Note: Provisions under Child Labour Act, 1986, Bonded Labour Act, 1976, Juvenile Justice Act, 2015 and POCSO Act, 2012, Plantation & Labour Act, 1954, Mines & Mineral Act, 1956, Factories Act, 1948, IPC 1860, Immoral Trafficking Act, 1956 or any other Act should be incorporated in the FIR]*
- vi. The FIR shall be uploaded on the official website of the Police within 24 hours of the registration of the FIR as directed by the Hon'ble Supreme

Court of India in ***Youth Bar Association of India v. Union of India***, AIR 2016 SC 4136. However, there should be no disclosure of the identity of the child. [ Ref. Section 74 of the JJ Act, 2015 & Section 23 of POCSO Act,2012]

- vii. The Police shall hold an independent investigation as per the CrPC, 1973 for initiating prosecution against the offenders. [*Note: The investigation being undertaken by the Police to implicate the offender and the inquiry being conducted by CWC are independent of each other. It is to be understood that the inquiry before CWC and the investigation by the Police can process simultaneously without affecting each other as the purpose of the investigation by the Police is to inquire into the violations and apprehend the offenders while the purpose of the inquiry by CWC is to restore, repatriate and rehabilitate the child while keeping in view the best interest and welfare of the child.*]
- viii. Once the investigation is done by the Police, a charge sheet shall be prepared and the judicial proceedings under the CrPC, 1973 shall be initiated.

#### **Step 4: Placement and restoration of a child**

If the parents, family or guardian of the child were present with the child at the time of rescue or were present before the CWC, then restoration of the child shall be done as per the discretion of the CWC. The Parents/Family/Guardians of the child present should not be in contravention of laws themselves. While making any decision, CWC shall give utmost importance to the interest of the child. The CWC may not restore the child with the offender/accused including Parents/Family/Guardians.

In case parents, family or guardian of the child are not present or the child belongs to another district, then the child should be taken to any Child Care Institution for a short period of time. In case of child belonging from another district, the child may not be restored/repatriated back to the native district by the CWC.

Where the CWC of the rescued district decides to restore the child back to its native district, the said CWC should inform about the restoration/repatriation of the child to the CWC of the native district.



### **Step 5: Proceeding before the Labour Department and payment of wages and compensation**

- i. After receiving the information from DCPU, the nodal officer (***as appointed by the District Magistrate under Rule 17C(1)(i) of the CLPR (Amendment) Rules, 2017***) shall follow the due procedure with the Labour Department to ascertain the back wages, penalties, compensation etc. of the child based on their statement made to the CWC within 7 days of the child's rescue. This would ensure the suitable rehabilitation of the rescued children as well. **[Rule 17C(3) of the CLPR (Amendment) Rules, 2017]**.
- ii. The concerned Labour Department would be responsible-
  - (i) To ascertain the back wages in both the cases of child labour and bonded labour.
  - (ii) Compensation under the Child Labour and Adolescent Rehabilitation Fund created under Section 14B of CLPRA to child labour, and
  - (iii) Compensation under the Central Sector Scheme for rehabilitation of bonded labour to a child who is a victim of bonded labour.

### **In case of payment of wages-**

- iii. Once the amount of back wages is ascertained by the Labour Department for the child labour and/or child bonded labour, then the same shall be recovered by the Labour Department from the offender/accused within 10 days of ascertaining the amount. The money shall be recovered in a manner as prescribed and followed by the Labour Department.
- iv. It is the responsibility of the District Magistrate to ensure that recovery is done in a time bound manner and in case of any delay in recovering the back wages amount, the District Magistrate will issue appropriate orders at the request of the CWC or Labour Department or any other authorised Government Agency, the parent, guardian of the child, at the instance of

the child or the District Magistrate may *suo-motu* issue such orders.

- v. The labour officer or any nodal officer nominated by the District Magistrate for the purposes of payment of wages to child labour shall open the bank account of the child and the amount of back wages recovered from the offender/accused shall be deposited in the child's bank account. The report of the payment of back wages to the child shall be submitted by the labour officer to the CWC through the DCPU. The DCPU shall facilitate the procurement of the final report of payment of back wages from the labour officer.
- vi. In cases where the child has been restored/repatriated to another district, then the District Magistrate of the rescued district shall coordinate with the District Magistrate of the repatriated district for opening of bank account of the child in the district where the child has been repatriated.
- vii. The District Magistrate of the repatriated district shall ensure that in cases where child labour or child bonded labour has been repatriated to its district, payment of back wages in both the cases is credited to the bank account of the child. The report of the payment of back wages to the child shall be submitted by the labour officer to the CWC through the DCPU. The DCPU shall facilitate the procurement of the final report of payment of back wages from the labour officer.

**In case of payment of compensation under CLPRA to the child labour-**

- vii. Section 14B of the CLPRA provides for creation of a Child and Adolescent Labour Rehabilitation Fund to be constituted in every district or for two or more districts. The Fund so constituted shall be called as Child and Adolescent Labour Rehabilitation Fund to which the amount of the fine realized from the employer of the child and adolescent, within the jurisdiction of such district or districts, shall be credited.
- viii. The appropriate Government shall credit an amount of fifteen thousand

rupees to the Fund for each child or adolescent for whom the fine amount has been credited. The amount credited to the Fund as mentioned above shall be deposited in such banks or invested in such manner as the appropriate Government decides but which should be in the best interest of the child.

- ix. The amount deposited or invested, as the case may be, and the interest accrued on it, shall be paid to the child or adolescent in whose favour such amount is credited, as per Rule 16A of the CLPR Rules, 2017.

**\*This fund has been created in compliance to the directions given by the Supreme Court of India in *M.C. Mehta vs State Of Tamil Nadu And Others*, AIR 1997 SC 699.**

Rule 16 A of the CLPR Rules, 2016 provides for the procedure that needs to be followed for making payment of amount to the child and or adolescent from and out of Child and Adolescent Labour Rehabilitation Fund. It provides for the following:-

(1) The amount credited, deposited or invested, as the case may be, under sub-section (3) of section 14B to the Child and Adolescent Labour Rehabilitation Fund and the interest accrued on it, shall be paid to the child or adolescent in whose favour such amount is credited in the following manner, namely:-

(i) the Inspector or the nodal officer having jurisdiction shall, under his supervision, ensure that an account of such child or adolescent is opened in a nationalised bank and inform the bank in which the amount of the Fund is deposited or, as the case may be, to the officer responsible to invest the amount of the Fund under sub-section (3) of section 14B;

(ii) The interest accrued on the proportionate amount of the Fund in favour of the child or adolescent shall be transferred every six months to the account of the child or adolescent, as the case may be, by the bank

or officer responsible to invest the amount under information to the Inspector;

(iii) when the concerned child or adolescent completes the age of eighteen years, then, as soon as may be possible forthwith or within a period of three months, the total amount credited, deposited or invested in favour of the child along with interest accrued thereon remaining in the bank or remaining so invested under sub-section (3) of section 14B, shall be transferred to the said bank account of child or adolescent, as the case may be; and

(iv) The Inspector shall prepare a report of the amount transferred under clause (ii) and clause (iii) with particulars of the concerned child or adolescent sufficient to identify him and send a copy of the report annually to the Central Government for information.

(2) Any amount recovered by way of fine or for composition of offences in pursuance of an order or judgement of a Court in favour of a child or adolescent for the contravention of the provisions of the Act, shall also be deposited in the Fund and shall be spent in accordance with such order or judgement.

#### **Payment of wages and compensation in case of Bonded Labour-**

If the child is found to be a bonded labourer under the Bonded Labour System (Abolition) Act, 1976, the District Administration is to ensure that the compensation shall be given to the child in accordance with the Central Sector Scheme for Rehabilitation of Bonded Labourer, 2021. The minor bonded labourer victim shall be given an immediate assistance of Rs.30,000/- from the District Bonded Labour Rehabilitation Fund by the District Authorities. The benefits prescribed in the scheme shall be, in addition to, other cash or non-cash benefits, which a beneficiary under the scheme is entitled to, by or under any other scheme or law applicable for the time being in force.



## **Step 6: Prosecution and Adjudication**

- (1) The matter should be prosecuted and adjudicated by the competent authority having jurisdiction to adjudicate the matter.
- (2) Section 14 of the CLPRA provides that any person in violation of section 3 and section 3A of the CLPRA shall be punishable under the Act. However, the parents or guardians of any child or adolescent referred to in section 3 or section 3A, shall not be liable for punishment, in case of the first offence.
- (3) Rigorous punishment has been provided under the Act for repeated offenders.
- (4) Section 14B of CLPRA provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence committed by an employer and punishable under section 3 or section 3A shall be cognizable.
- (5) Where any person ostensibly engages a child and keeps him in bondage for the purpose of employment or withholds his earnings or uses such earning for his own purposes shall be punishable with rigorous imprisonment for a term which may extend to five years and shall also be liable to fine of one lakh rupees under Section 79 of the JJ Act, 2015. ***It further provides that employment under this Section includes selling goods and services, and entertainment in public places for economic gain.***
- (6) Where an offence under these above-mentioned provisions is said to have been committed against a child, immediately an FIR shall be filed by Police and prosecution and adjudication shall proceed as per procedure prescribed in law.
- (7) For offences committed under the Juvenile Justice Act, 2015, POCSO Act, 2012, Immoral Trafficking Act, 1956, IPC, 1890, Plantation & Labour Act, 1954 , Mines & Mineral Act, 1956 , Factories Act, 1948 , IPC 1860, etc. the investigation shall be conducted in the manner prescribed under these Acts. For offences which are cognizable in nature, the investigation into such offences shall proceed as per procedure laid down under Criminal Procedure Code, 1973 for cognizable

offences.

(8) **Compounding of offences under the CLPRA-** As per Section 14D of the CLPRA compounding of offences under the CLPRA will only be done before a District Magistrate, where an application in this regard has been filed by the accused person. The compounding of offences shall be done in a manner prescribed under Section 14D.

*\*Guardian will be termed as defined under JJ Act, 2015*

## ANNEXURE-A

*The statement is to be recorded by CWC after ensuring that the child giving statement has understanding/maturity to provide the reasonable answers to the following questions:*

*Questions to be asked while recording the statement of a rescued child:*

### **A. General Information**

Child's name, age, nationality, family, address and such other information required for identification of the child

### **B. Recruitment**

- i. What is the child's native place?
- ii. What location was the child last residing in?
- iii. How long was the child residing at that location?
- iv. How old was the child when he/ she left the native place?
- v. Do members of the family know the child's whereabouts?
- vi. Was the child forcibly transported to another location in his/her native place? If yes, how?
- vii. Who recruited the child?
- viii. What was the purpose of the recruitment?
- ix. Was initial contact with recruiter voluntary or not?
- x. When did the child start receiving salary/wages?
- xi. Was there any advance given to the child before commencement of work?

### **C. Use of Force or Threat**

If force was used in the recruitment, please ask the following questions:

- i. Was the child abducted or kidnapped?
- ii. Was the child threatened with harm to his or her self or family?
- iii. Was the child sold? By whom?
- iv. What were the circumstances of the forcible removal?
- v. Who initiated the contact? How?

- vi. What was the method of recruitment (e.g. by advertising, acquaintance, family, relative, agency, study, training, etc.)

#### **D. Employment**

If the recruitment was for employment, please ask the following questions:

- i. What activities did the child believe she/he would be engaged in following arrival at the new location?
- i. What kind of work was offered to the child?
- ii. How much money was promised to the child and by whom?
- iv. Did the child sign a contract? (e.g. an employment contract) If so, what are the terms of the contract?
- v. Does the child know them (e.g. was the contract in a language the child understood)?
- vi. Does the child possess a copy of the contract?
- vi. Was the child coerced into signing the contract? How?
- vii. Was anyone paid a fee for recruiting the child for work?

#### **E. Identity Documents**

- i. Does the person have any identity proof? If so, is it his own legitimate document or is it a fraudulent one?
- ii. How did he acquire this document?
- iii. What kind of employment authorization was promised to the child and by whom?

#### **F. Working Conditions(Exploitation)**

- i. Does the child believe that she/ he is subject to some form of debt bondage?
- ii. Does the child believe that she/ he owes money to recruiters/ transporters/exploiters?
- iii. Was the child paid and at what rate?
- iv. Who has the possession of these earnings now?
- v. How many hours a day did the child work?
- vi. Was the child allowed any time off? Allowed to rest if sick?



### **G. Restriction of Freedom**

- i. Was the child unable to quit working for the employer and get a job somewhere else?
- ii. Was the child's movement restricted? How? (e.g. did the child have a key of the house)
- iii. Was the child living and working at the same place?
- iv. Was the child allowed to communicate with other workers and family members, if the child is not living with his/her family?

### **H. Living Conditions**

- i. What were the living conditions of the child? (e.g. no. of rooms, no. of people living together)
- ii. Did the child have friends?
- iii. Did the child have money?
- iv. Could the child buy his/ her own belongings?
- v. Was the child given proper food, clothing, shelter etc.?

### **I. Physical Coercion**

- i. Was the child subject to physical assaults or torture? (pinching, hitting, slapping, punching, kicking, shaking, burning, branding, chained, etc.)
- ii. Was the child subject to sexual assaults as defined under section 7 of The Protection of Children from Sexual Offences Act, 2012 (forced sexual contact, rape, forced prostitution etc.) or Sexual Harassment as defined under Section 11 of POCSO Act, 2012?
- iii. Was the child forcibly confined or isolated?
- iv. Was the child denied essential medical care?
- v. Was the child denied food/ clothes and other basic necessities including ability to maintain basic hygiene?

### **J. Psychological Coercion**

- i. Was the child threatened with violence, harm or retaliation against child or the child's family members (or friends)?

- ii. Were there threats to report the child to authorities?
- iii. Did the child view or hear others being physically or sexually assaulted/harassed?
- iv. Was the child deceived regarding the employment, activities or basic conditions of his or her employment?
- v. Was the child subject to verbal abuse, name calling, degrading remarks about child's ethnicity/social group?
- vi. Was the child photographed and filmed while being physically or sexually assaulted, humiliated or degraded?

## Annexure B

A Child was produced before the CWC\_\_\_\_\_ (State and District) by\_\_\_\_\_ (name of the person/agency) on\_\_\_\_\_ (date) at\_\_\_\_\_ (time).

The child has given the CWC the following information:

His / Her name is\_\_\_\_\_ (name) is aged about\_\_\_\_\_ years (age). He/she was working at\_\_\_\_\_ (name and place of the employment) from \_\_\_\_\_ (time from which he has been working) as \_\_\_\_\_ (position) for \_\_\_\_\_ (the person concerned). His/her duties were\_\_\_\_\_ (explain the nature of his work).

In the enquiry held before the CWC and on account of the statement of the child and the evidence, a *prima facie* offence of child labour appears to have been committed under the Child and Adolescent Labour (Prohibition and Regulation) Act or/ and the Bonded Labour System (Abolition) Act, 1976.

As per the functions and responsibilities given to the CWC under Section 30 (xv) of the Juvenile Justice (Care and Protection of Children) Act, 2015 you are hereby requested to register an FIR in the present matter.

Dated .....

Signature  
(Child Welfare Committee)  
Place.....

Annexure C

A Child was produced before the CWC \_\_\_\_\_(State and District) by \_\_\_\_\_(name of the person/agency) on \_\_\_\_\_(date) at \_\_\_\_\_(time).

The child has given the CWC the following information:

His / Her name is \_\_\_\_\_(name) is aged about \_\_\_\_\_years (age). He/she was working at \_\_\_\_\_ (name and place of the employment) from \_\_\_\_\_ (time from which he has been working) as \_\_\_\_\_ (position) for \_\_\_\_\_ (the person concerned). His/her duties were \_\_\_\_\_(explain the nature of his work).

In the enquiry held before the CWC and on account of the statement of the child and the evidence, a *prima facie* offence of child labour appears to have been committed under the Child and Adolescent Labour (Prohibition and Regulation) Act or/ and the Bonded Labour System (Abolition) Act, 1976.

As per the functions and responsibilities given to the CWC under Section 30 (xv) of the Juvenile Justice Act, you are hereby requested to ascertain the back wages, penalty, compensation etc. to be paid to the child and recover the same.

Dated .....

Signature  
(Child Welfare Committee)  
Place.....

## Annexure D

### PART III

#### REGULATION OF CONDITIONS OF WORK OF ADOLESCENTS

**6. Application of Part.**—The provisions of this Part shall apply to an establishment or a class of establishments in which none of the occupations or processes referred to in [Section 3A] is carried on.

**7. Hours and period of work.**—

(1) No [adolescent] shall be required or permitted to work in any establishment in excess of such number of hours as may be prescribed for such establishment or class of establishments.

(2) The period of work on each day shall be so fixed that no period shall exceed three hours and that no [adolescent] shall work for more than three hours before he has had an interval for rest for at least one hour.

(3) The period of work of a [adolescent] shall be so arranged that inclusive of his interval for rest, under sub-section (2), it shall not be spread over more than six hours, including the time spent in waiting for work on any day.

(4) No [adolescent] shall be permitted or required to work between 7 p.m. and 8 a.m.

(5) No [adolescent] shall be required or permitted to work overtime.

(6) No [adolescent] shall be required or permitted to work in any establishment on any day on which he has already been working in another establishment.

**8. Weekly holidays.**—Every [adolescent] employed in an establishment shall be allowed in each week, a holiday of one whole day, which day shall be specified by the occupier in a notice permanently exhibited in a conspicuous place in the establishment and the day so specified shall not be altered by the occupier more than once in three months.

**9. Notice to Inspector.**—

(1) Every occupier in relation to an establishment in which a [adolescent] was employed or permitted to work immediately before the date of commencement of this Act in relation to such establishment shall, within a period of thirty days from such commencement, send to the Inspector within whose local limits the establishment is

situated, a written notice containing the following particulars, namely:—

- (a) the name and situation of the establishment;
- (b) the name of the person in actual management of the establishment;
- (c) the address to which communications relating to the establishment should be sent; and
- (d) the nature of the occupation or process carried on in the establishment.

(2) Every occupier, in relation to an establishment, who employs, or permits to work, any [adolescent] after the date of commencement of this Act in relation to such establishment, shall, within a period of thirty days from the date of such employment, send to the Inspector within whose local limits the establishment is situated, a written notice containing the particulars as are mentioned in sub-section (1).

**Explanation.**—For the purposes of sub-sections (1) and (2), “date of commencement of this Act, in relation to an establishment” means the date of bringing into force of this Act in relation to such establishment.

(3) Nothing in sections 7, 8 and 9 shall apply to any establishment wherein any process is carried on by the occupier with the aid of his family or to any school established by, or receiving assistance or recognition from, Government.

**10. Disputes as to age.**—If any question arises between an Inspector and an occupier as to the age of any [adolescent] who is employed or is permitted to work by him in an establishment, the question shall, in the absence of a certificate as to the age of such [adolescent] granted by the prescribed medical authority, be referred by the Inspector for decision to the prescribed medical authority.

**11. Maintenance of register.**—There shall be maintained by every occupier in respect of [adolescent] employed or permitted to work in any establishment, a register to be available for inspection by an Inspector at all times during working hours or when work is being carried on in any such establishment, showing—

- (a) the name and date of birth of every [adolescent] so employed or permitted to work;
- (b) hours and periods of work of any such [adolescent] and the intervals of rest to

which he is entitled;

(c) the nature of work of any such [adolescent]; and

(d) such other particulars as may be prescribed.

**12. Display of notice containing abstract of 4 [sections 3A and 14].—**Every railway administration, every port authority and every occupier shall cause to be displayed in a conspicuous and accessible place at every station on its railway or within the limits of a port or at the place of work, as the case may be, a notice in the local language and in the English language containing an abstract of 4 [sections 3A and 14].

**13. Health and safety.—**

(1) The appropriate Government may, by notification in the Official Gazette, make rules for the health and safety of the [adolescent] employed or permitted to work in any establishment or class of establishments.

(2) Without prejudice to the generality of the foregoing provisions, the said rules may provide for all or any of the following matters, namely:—

(a) cleanliness in the place of work and its freedom from nuisance;

(b) disposal of wastes and effluents;

(c) ventilation and temperature;

(d) dust and fume;

(e) artificial humidification;

(f) lighting;

(g) drinking water;

(h) latrine and urinals;

(i) spittoons;

(j) fencing of machinery;

(k) work at or near machinery in motion;

(l) employment of [adolescent] on dangerous machines;

(m) instructions, training and supervision in relation to employment of [adolescent] on dangerous machines;

(n) device for cutting off power;

(o) self-acting machines;

- (p) easing of new machinery;
- (q) floor, stairs and means of access;
- (r) pits, sumps, openings in floors, etc.;
- (s) excessive weights;
- (t) protection of eyes;
- (u) explosive or inflammable dust, gas, etc.;
  
- (v) precautions in case of fire;
- (w) maintenance of buildings; and
- (x) safety of buildings and machinery

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