



Optional Protocol to the
Convention on the Rights of the Child
on the
Sale of Children, Child Prostitution
and
Child Pornography

2011



Ministry of Women and Child Development
Government of India

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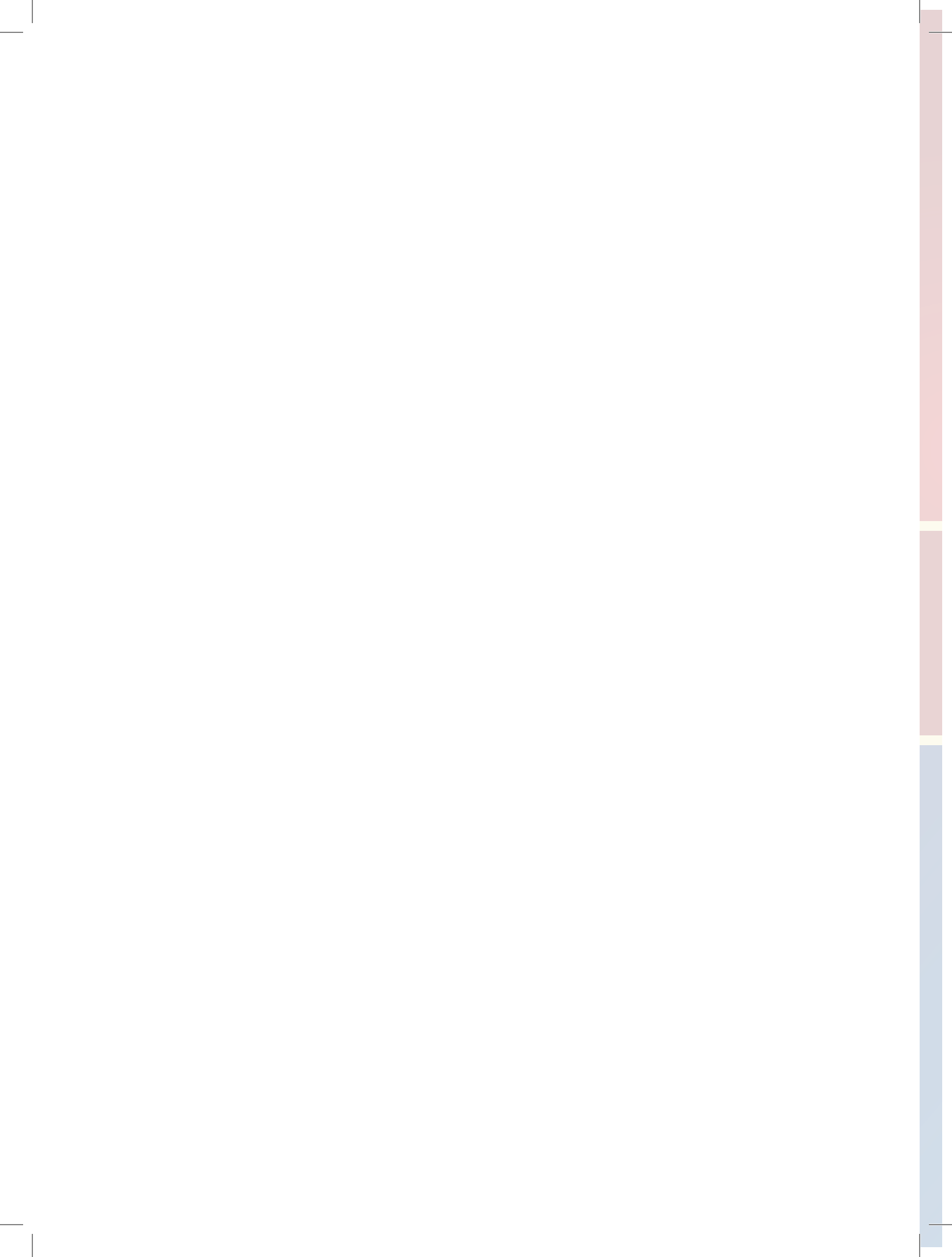
AHTU	Anti-Human Trafficking Unit
AIDS	Acquired Immuno Deficiency Syndrome
ASSOCHAM	Associated Chambers of Commerce and Industry of India
ATSEC	Action against Trafficking and Sexual Exploitation of Children
BPRD	Bureau of Police Research and Development
BSF	Border Security Force
CAC	Central Advisory Committee
CARA	Central Adoption Resource Authority
CBI	Central Bureau of Investigation
CID	Criminal Investigation Department
CII	Confederation of Indian Industry
CIF	Childline India Foundation
CMC	Central Monitoring Committee
CPCR Act, 2005	Commission for Protection of Child Rights Act, 2005
CRC	Convention on the Rights of the Child
CRPF	Central Reserve Police Force
CSO	Civil Society Organisation
CSWB	Central Social Welfare Board
CWC	Child Welfare Committee
DGP	Director General of Police
DWCD	Department of Women and Child Development
FICCI	Federation of Indian Chambers of Commerce and Industry
FIR	First Information Report
FNB	Food and Nutrition Board
GDP	Gross Domestic Product
GoI	Government of India
GWA, 1890	Guardians and Wards Act, 1890
HAMA, 1956	Hindu Adoption and Maintenance Act, 1956
HIV	Human Immunodeficiency Virus
ICPS	Integrated Child Protection Scheme

ILO	International Labour Organisation
IMA	Indian Medical Association
INGO	International Non-Governmental Organisation
IOM	International Organisation for Migration
IPC	Indian Penal Code
ISS	Institute of Social Sciences
ITEC	Indian Technical and Economic Cooperation
ITPA, 1956	Immoral Traffic (Prevention) Act, 1956
JJ Act, 2000	Juvenile Justice (Care and Protection of Children) Act, 2000
JJ (Amendment) Act, 2006	Juvenile Justice (Care and Protection of Children) (Amendment) Act, 2006
JJB	Juvenile Justice Board
MDM	Mid-Day Meal
MEA	Ministry of External Affairs
MHA	Ministry of Home Affairs
MoH&FW	Ministry of Health and Family Welfare
MHRD	Ministry of Human Resource Development
MIS	Management Information System
MoL&E	Ministry of Labour and Employment
MoU	Memorandum of Understanding
MSJ&E	Ministry of Social Justice and Empowerment
MWCD	Ministry of Women and Child Development
NACO	National AIDS Control Organisation
NACP-III	National AIDS Control Programme Phase III
NAM	Non-Aligned Movement
NCB	Narcotics Control Bureau
NCC, 2003	National Charter for Children, 2003
NCG	National Coordination Group
NCLP	National Child Labour Project
NCPCR	National Commission for Protection of Child Rights
NCRB	National Crime Records Bureau
NCW	National Commission for Women
NER	North-Eastern Region

NGO	Non-Governmental Organisation
NHRC	National Human Rights Commission
NIFT	National Institute of Fashion Technology
NIPCCD	National Institute of Public Cooperation and Child Development
NJA	National Judicial Academy
NPAC, 2005	National Plan of Action for Children, 2005
NREGS	National Rural Employment Guarantee Scheme
NTC	Nodal Training Cell
OBC	Other Backward Caste
OP	Optional Protocol
PIB	Press Information Bureau
PPP	Public-Private Partnership
PSC	Project Steering Committee
RMK	Rashtriya Mahila Kosh
SAARC	South Asian Association for Regional Cooperation
SC	Scheduled Caste
SCPCR	State Commission for Protection of Child Rights
SGRY	Sampoorna Grameen Rozgar Yojana
SHRC	State Human Rights Commission
SHG	Self-Help Group
SJSRY	Swarna Jayanti Shahri Rozgar Yojana
SLARTC	Socio Legal Aid Research and Training Centre
SOP	Standard Operating Procedure
ST	Scheduled Tribe
ToT	Training of Trainer
UNCRC	United Nations Convention on the Rights of the Child
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
UT	Union Territory

Glossary

<i>Astitva</i>	Existence, Identity
<i>Dhaba</i>	Roadside Eating Place
<i>Devadasi</i>	Girl 'Married' and Dedicated to a Deity.
<i>Devadasi System</i>	Traditional Practice of 'Marriage' and Dedication of Young Girls to Temple
<i>Doordarshan-1</i>	National Television
<i>Jogin</i>	<i>Devadasi</i> is called <i>Jogin</i> in Andhra Pradesh
<i>Lalli</i>	Girl (Girls are often fondly called Lalli)
<i>Mahila</i>	Women
<i>Mahila Mandal</i>	Women's Group
<i>Panchayat</i>	Local Governance Body
<i>Rajnat</i>	Descendents of Rajput Rulers
<i>Shishu</i>	Child
<i>Talash</i>	Search
<i>Thana</i>	Police Station
<i>Vividh Bharati</i>	Radio Service on All India (National) Radio
<i>Zari</i>	Type of Thread Meant for Weaving and Embroidery



General Measures of Implementation



General Measures of Implementation

1. The Optional Protocol (OP) to the Convention on the Rights of the Child (CRC) on the Sale of Children, Child Prostitution and Child Pornography was ratified by India on September 16, 2005. This is the initial report by India on the status of implementation of this OP under Article 12, paragraph 1, for consideration by the United Nations Convention on the Rights of the Child (UNCRC) Committee. The report has been prepared by the Ministry of Women and Child Development (MWCD), the Government of India (GoI), in consultation with concerned Ministries and agencies working for children in India following the general guidelines issued by the UNCRC Committee.

Institutional Mechanisms

2. **Ministry of Women and Child Development:** The Ministry implements and monitors all policies and programmes/schemes pertaining to children through institutional mechanisms, which include the National Institute of Public Cooperation and Child Development (NIPCCD), Central Adoption Resource Authority (CARA), Food and Nutrition Board (FNB), Central Social Welfare Board (CSWB), National Commission for Women (NCW) and Rashtriya Mahila Kosh (RMK). In addition, the MWCD has set up National Commission for Protection of Child Rights (NCPCR) to look into issues specific to child rights violation, which was earlier addressed by National Human Rights Commission (NHRC).
3. **National Commission for Protection of Child Rights:** The establishment of NCPCR in 2007, one of the few Commissions of its kind in Asia, is a major step towards the protection of rights of children in India. The Commission ensures that all laws, policies, programmes, and administrative mechanisms are in consonance with the child rights perspective enshrined in the Constitution of India and CRC. In addition, it produces and disseminates information about child rights; takes *suo motu* cognizance of violation of rights and compiles and analyses data on children. Recently, the Commission has also been entrusted with the monitoring of the fundamental right to free and compulsory education. The Government is committed to making NCPCR a strong defender of the rights of children.
4. Since its formation, the Commission has received complaints related to working children, sexual abuse, corporal punishment and juvenile justice. For instance, it has enquired into cases of female foeticide in Orissa, unauthorised medical examination of school students and employment of children in *zari* factories in Delhi. In order to improve the juvenile justice system, the Commission has examined the functioning of statutory bodies such as Juvenile Justice Boards (JJBs), visited several observation homes across the country and held consultations with senior officials from concerned departments, police and High Court judges and children

- themselves. Besides, it has constituted working groups on the juvenile justice system, corporal punishment and child labour. The Commission has also organised several conferences, workshops and public hearings on issues pertaining to child labour in the States of Andhra Pradesh, Jharkhand, Madhya Pradesh, Chhattisgarh, Bihar, Tripura, Assam, Rajasthan and Gujarat; the rights of children in civil-strife-affected areas in Andhra Pradesh and Chhattisgarh; and corporal punishment and child abuse in the State of Tamil Nadu.
5. Eight States – Goa, Sikkim, Delhi, Maharashtra, Karnataka, Assam, Madhya Pradesh and Rajasthan – have set up State Commissions for Protection of Child Rights (SCPCR) till date and others are in the process of setting up these Commissions.
 6. **National Human Rights Commission:** The Commission, functioning since 1993, has played a proactive role in ratification of two OPs to the CRC in 2005 and the United Nations Convention on the Rights of Persons with Disabilities in 2007. NHRC undertook a pioneering study in 2003-04, in collaboration with UNIFEM, the MWCD and the Institute of Social Sciences (ISS), to understand the issue of trafficking of women and children. The Commission has given recommendations on missing children, which were forwarded for compliance to all the States/Union Territories (UTs). These recommendations, *inter alia*, include: setting up of a special squad/missing person's desk at every police station across the country; the involvement of community at large by investigating police teams and the evolving of a system of mandatory reporting, whereby all incidents of missing children across the country are reported to NCPCR.
 7. State Human Rights Commissions (SHRCs), set up in 18 States in accordance with the Protection of Human Rights (Amendment) Act, 2006, are engaged in the protection and promotion of children's rights.
 8. **National Commission for Women:** The NCW, constituted on January 31, 1992, as a statutory body at the National level, in pursuance of the National Commission for Women Act, 1990, safeguards the interests of women. The Commission, along with 26 State Commissions,¹ has handled several complaints of child marriage, female foeticide, etc and has acted *suo motu* in some cases to provide speedy justice. The Commission has sponsored legal awareness programmes, constituted expert committees on economic empowerment of women and taken up publicity campaigns against female foeticide, child marriage, rape, etc.

Policy

9. The GoI recognises sale of children as an organised crime and has therefore accorded highest priority to combating sale and trafficking of children, and in this process, has adopted a multi-pronged, multi-stakeholder approach to tackle a problem, which is primarily multi-dimensional in nature.
10. The Government has adopted policies and plans, which reiterate its commitment to the rights of children. These include the National Charter for Children (NCC), 2003, and the National Plan of Action for Children (NPAC), 2005. The NCC, 2003,

provides that children are not used in the conduct of any illegal activity, namely, trafficking, prostitution, pornography or violence. The State, in partnership with the community, shall ensure that such children are rescued and immediately placed under appropriate care and protection. The NPAC, 2005, has laid down specific strategies to protect children from sexual exploitation and pornography. These include:

- i. Research to identify the nature and magnitude of all forms of child sexual abuse and exploitation.
 - ii. Setting up crisis-intervention services and centres.
 - iii. Reviewing, revising and enacting laws for prohibition and prevention of child abuse and punishment of offenders.
 - iv. Sensitising police, judiciary and medical authorities towards victims.
 - v. Sensitising media to accept social responsibility in reporting cases of child sexual abuse.
 - vi. Creating quality foster care and other alternative services.
 - vii. Protecting the identity and respecting the privacy of child victims.
 - viii. Ensuring assistance to child victims for their full physical and psychological recovery, development and social re-integration.
 - ix. Promoting public awareness on the harmful affects of such offences; and building public, private and Non-Governmental Organisation (NGO) partnerships to address the social challenge.
11. The Government has also adopted specific plans to address the problem of sexual exploitation of children and child pornography. The National Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children was formulated in 1998, with the objective of mainstreaming and re-integrating women and child victims of commercial sexual exploitation into the community. The MWCD, in collaboration with the Ministry of Home Affairs (MHA), the NHRC and the NCW, updated the existing Plan of Action into an Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women. The Integrated Plan of Action is in the process of being finalised.
 12. In 2005, the MWCD formulated a Protocol for Pre-Rescue, Rescue and Post-Rescue Operations of Child Victims of Trafficking for Commercial Sexual Exploitation. This Protocol contains guidelines for State Governments and a strategy for rescue teams concerning pre-rescue, rescue and post-rescue operations and for rehabilitation of children, who are victims of trafficking for commercial sexual exploitation. This Protocol has been circulated to the State Governments and NGOs, and is being widely used.
 13. The Central Advisory Committee (CAC) on Combating Child Prostitution, comprising members representing Departments for Women and Child Development (DWCD) in States, relevant Ministries/Departments, NGOs, UNICEF, UNIFEM and other experts, meets regularly.

14. To ensure smooth rescue, repatriation and rehabilitation of trafficked and migrant child labour, the Ministry of Labour and Employment (MoL&E) in 2008 developed a Protocol on Prevention, Rescue, Repatriation and Rehabilitation of Trafficked and Migrant Child Labour, for all stakeholders.
15. The problem of cross-border trafficking, especially of young children and women trafficked from Bangladesh and Nepal into India for the purposes of sexual exploitation, has been growing in recent years. A major problem faced is the repatriation and reintegration of these victims of trafficking back to their country of origin after their rescue. At present, no systematic procedure for repatriation of such victims exists. The MWCD, in collaboration with UNICEF, undertook a rapid assessment of the existing processes and mechanisms concerning rescue, recovery and reintegration of child victims of trafficking between India and Bangladesh. Two meetings were held, one in Kathmandu, Nepal, in December 2006 and the other in Goa, India, in June 2007, wherein a Joint Plan of Action, a draft Roadmap and a time matrix for quick repatriation of cross-border victims were prepared. These are expected to be finalised in the next meeting.
16. On the suggestion of the MWCD, the MHA has set up a nodal cell (to be upgraded to a bureau) on the lines of the Narcotics Control Bureau (NCB) to coordinate, network and provide feedback to the State Governments and develop inter-state protocol for rescue and repatriation of victims of trafficking. The cell shares inputs, best practices, innovations, etc. on a sustained and continuous basis.

Significant Jurisprudence

17. There have been many significant judgements given by courts on sexual exploitation and trafficking of children for adoption. In *Laxmikant Pandey vs. Union of India* (AIR 1984 SC 469), the Supreme Court looked into the complaints of malpractices indulged in by social organisations and voluntary agencies engaged in coordinating the adoption of Indian children by foreign parents. The Supreme Court, in a series of judgements delivered between 1984 and 1991, laid down the guidelines, *inter alia*, for inter-country adoptions. The Apex Court held it desirable that CARA be set up by the Government. In pursuance of the directives of the Supreme Court, CARA was set up in 1990 to regulate and monitor inter-country adoptions and provide guidelines for the adoption process.
18. In *Public at Large vs. State of Maharashtra* (1997 (4) Bom CP 171), judicial intervention brought about the rescue, repatriation and rehabilitation of 487 minor girls, who were victims of trafficking. The High Court order was instrumental in bringing about a radical transformation in the anti-trafficking scenario in Maharashtra and Goa. The order led to prompt care and attention being given to the rescued persons and to the setting up of an advisory committee, networking among various departments of the Government and repatriation of persons trafficked from various States in India, as well as neighbouring countries. In another case of *Public at Large vs. State of Maharashtra and Others* (writ petition No. 112 of 1996), the Mumbai High Court gave directions to the Government agencies to ensure interest of the rescued girls.

19. In *Prema vs. State of Maharashtra and Ors* [2003 (2) Mah LJ 105], the Mumbai High Court looked into the issue of rights of trafficked children and gave directions for proper implementation of the Juvenile Justice (Care and Protection of Children) Act, 2000 (JJ Act 2000), and the Immoral Traffic (Prevention) Act (ITPA), 1956. The Court directed that:
 - i. No magistrate can exercise jurisdiction over any person under 18 years of age.
 - ii. A magistrate, before whom persons rescued under the ITPA, 1956, or found soliciting in a public place, are produced, should, under Section 17 (2) of the said Act, have their ages ascertained the very first time they are produced before him.
 - iii. Any child rescued from a brothel under the ITPA, 1956, should only be released after an inquiry has been completed by the probation officer.
 - iv. The said juvenile should be released only to the care and custody of a parent/guardian, after such parent/guardian has been found fit by the Child Welfare Committee (CWC), to have the care and custody of the rescued child.
 - v. Only the parents/guardian of such child should be permitted to make representations before the CWC, either themselves or through an advocate appointed for such purpose.
20. The Goa Children's Act, 2003, was passed to address all issues relating to exploitation of children in an integrated manner. There have been many significant judgements given by courts on sexual exploitation of children in Goa. The Freddy Peats case, where a foreigner living in Goa was running an international child sex and pornography racket in the guise of a shelter home for children, was investigated by the Central Bureau of Investigation (CBI). In a landmark judgement, Peats was convicted for unnatural sexual offences, wrongful confinement, using drugs to facilitate sex, circulation of obscene material among young persons and adults, and immoral trafficking, and sentenced to long-term imprisonment².

Coordination

21. The MWCD is responsible for coordinating implementation of the OP on the Sale of Children, Child Prostitution and Child Pornography with different Ministries and State Governments at the National and Sub-National levels respectively. However, child protection is not the exclusive responsibility of the MWCD; other sectors too have a vital role to play. The Ministry, therefore, looks at child protection holistically and examines how to rationalise programmes and approaches for creating a strong protective environment for children; diversify and provide essential services for children; mobilise inter-sectoral response for strengthening child protection; and set standards for care and services.
22. The other Ministries that are extending support and bearing responsibility for achieving the commitments made under the OP on the Sale of Children, Child Prostitution and Child Pornography are the Ministry of Home Affairs, the Ministry of External Affairs (MEA), the Ministry of Social Justice and Empowerment

- (MSJ&E), the Ministry of Labour and Employment, the Ministry of Communications and Information Technology, the Ministry of Health and Family Welfare (MoH&FW), the Ministry of Law and Justice, the Ministry of Human Resource Development (MHRD), the Ministry of Information and Broadcasting, and the Ministry of Tourism. The independent bodies that are extending support are the NCPCR, NHRC, NIPCCD and CARA.
23. The recently-launched Integrated Child Protection Scheme (ICPS) is the first effort at an integrated approach in strengthening the protection of children. Details of the specific aspects for coordination and convergence required for strengthening the protective environment for children will get defined, as the operational guidelines of the Scheme for implementation are developed.
 24. The MWCD set up the National Coordination Group (NCG) on April 8, 2005, under the chairpersonship of the Secretary, MWCD, for improving coordination in implementation of child rights, including the implementation of the two OPs. The NCG was strengthened and re-constituted with expanded scope of work on October 12, 2007. Its terms of reference include: coordination of CRC implementation, including its OPs with other concerned Ministries, Departments, State Government and NGOs.
 25. The MWCD is making efforts towards Public-Private Partnership (PPP) as part of its Corporate Social Responsibility (CSR) for prevention of trafficking and rehabilitation of victims, in collaboration with UNODC and IOM, and has organised several workshops and consultations. In March 2008, the MWCD, in collaboration with UNODC and the garment and apparel industry, organised a workshop on cleaning up supply chains for prevention of child trafficking for labour. As a follow-up to the meeting, a 'Think Tank' on PPP was constituted, with representatives from Ministries, such as Home Affairs, Labour and Employment and Commerce; business bodies, such as Confederation of Indian Industry (CII), Federation of Indian Chamber of Commerce and Industry (FICCI) Associated Chambers of Commerce and Industry of India (ASSOCHAM); and the NCPCR. In the first meeting of the Think Tank, core groups for specific industries were set up. As a follow-up to the meeting, two projects were initiated: (i) Vocational Training and Skill Upgradation for Adolescent Boys and Girls of Vulnerable Groups by Apparel Export Promotion Council (APEC); and (ii) Vocational Training and Skill Upgradation for Women Self-Help Groups from Vulnerable Communities in Mewat Region, Haryana, by Impulse and GAP.

Resources

26. Child Budget refers to the total outlays for child-specific schemes in the Union Budget. The magnitude of Child Budget in the Union Budget, that is the aggregate outlay for child-specific schemes as a proportion of total budget outlay by the Union Government, has increased from 2.15% in 2001-02 to 5.08% in 2007-08. Keeping in mind the different needs of children in the country, all programmes/schemes included in the Child Budget are categorised into four sectors: child development, child health, child education, and child protection. Allocations made

for child protection are low (0.06% in 2008-09) when compared to the number of children falling out of the safety and protective net. The Budget on child trafficking, child prostitution and child pornography is a small proportion of the total Budget on child protection. Thus, child protection needs to receive necessary financial commitments from the Planning Commission, as well as the Ministry of Finance. The implementation of ICPS in the 11th Five Year Plan, with its budget of Rs 107.3 million, is a step in this direction.

Data Collection

27. Data is collected through cases reported in police stations, studies, surveys, case studies, etc. Independent organisations, such as the NHRC and the NCPCR, through their fact-finding reports, action research and field visits, collect qualitative and quantitative data related to children. NIPCCD also undertakes research studies on various issues related to children. Under the ICPS, there are provisions to create mechanisms for a child protection data management system, including management information system (MIS) and child tracking system in the country for effective implementation and monitoring of child protection services. The Scheme also has provision for undertaking research and documentation.
28. Crime in India, published annually by the National Crime Records Bureau (NCRB), Ministry of Home Affairs, provides data on crime against children, such as murder, rape, kidnapping, buying/selling of minor girls, etc. Table 1 provides details of sexual-abuse-related crimes against children in the country.
29. The MWCD undertook a Study on Rescue and Rehabilitation of Child Victims Trafficked for Commercial Sexual Exploitation (2005), in collaboration with UNICEF and Nirmala Niketan. The Study provided better understanding of the existing rescue and rehabilitation processes and suggested proactive steps to bridge the gaps.
30. The NHRC undertook a study on Trafficking in Women and Children in India, supported by UNIFEM and researched by the ISS. The research process was action-oriented and was extensive and intensive, multi-dimensional and multi-centric. Not only were the push and pull factors studied by interviewing the victims, but the demand aspect was also looked into by interviewing traffickers. The Study showed

Table 1: Crime against children

Crime Head	2001	2002	2003	2004	2005	2006	2007
Procurement of minor girls	138	124	171	205	145	231	253
Buying of girls for prostitution	6	9	24	21	28	35	40
Selling of girls for prostitution	8	5	36	19	50	123	69
Child rape	2,113	2,532	2,949	3,542	4,026	4,721	5,045
Importation of girls	0	0	0	89	149	67	0
Total	2,265	2,670	3,180	3,876	4,398	5,177	5,407

Source: Crime in India, 2004, 2005, 2006 and 2007, National Crime Records Bureau, Ministry of Home Affairs, GoI.

that child pornography and sex tourism are closely linked. The two crimes are mutually reinforcing. Child sexual exploiters are often found to be producing, collecting and circulating child pornography.

31. The Assam State Government, in its report on the CRC, stated that inter-state trafficking existed in the border Districts of the North-Eastern Region (NER) of the country and has been growing over the years. Cross-border trafficking has been closely associated with the situation in the region. Luring children under the pretence of providing domestic work in metro cities has been growing, particularly in Bodoland Territorial Council, Assam. However, no data or study is available on young girls working as barmaids, cabin girls or massage girls (masseurs) in hotels and restaurants, which engage them as sex workers. The underlying factors contributing to sale and trafficking of children are poverty, ignorance of legislation, lack of education and geographical isolation.³
32. The Working Group and Sub-Group set up by the MWCD for the 11th Five Year Plan provided data based on first-person account, field experiences, case studies, media reports, etc. The Group noted that over the years, India has emerged as a source, destination and transit country for trafficking for varied purposes like commercial sexual exploitation and labour. Intra-country trafficking forms the bulk of the trafficked victims. Children are trafficked not only for prostitution but also for labour, entertainment and sports, pornography and sex tourism, begging, organ trade, sexual exploitation through marriage and for adoption. Many of those trafficked are children, sometimes as young as eight years or even younger.⁴ Children are also trafficked to the Middle-Eastern countries and other parts of the world for purposes of cheap labour and commercial sexual exploitation; cases of adolescent boys from Punjab being trafficked and smuggled into European destinations are also known. However, trafficking of children for organ transplant and illegal activities, such as begging, drug peddling, drug smuggling, etc., makes no distinction between boys and girls. The circus industry too has been in the news for trafficking of girls and boys from Nepal and not only training them for performance but also abusing them physically, sexually and mentally. Many of these girls serve as slave labour to the ring masters and circus owners.⁵ Besides, boys are trafficked for various kinds of labour: in zari units, gem polishing and diamond cutting units in Surat, domestic work in sweetmeat shops, or in small restaurants and *dhabas*.⁶ Over the last few years, there has been an increase in trafficking of girls for, and through, marriage in States where there is gender imbalance due to low sex ratio, and finding brides for eligible men is becoming difficult. As a result, purchase of brides from other States has become common. In Haryana and Punjab, for instance, girls are bought from Assam and other parts of Eastern India for marriage. While trafficking of girls for marriage is a relatively new phenomenon, using marriage as a means to traffic girls into prostitution and farm labour has been practiced for a long time. Girls from Hyderabad continue to be sold to Arab Sheikhs in the name of marriage.⁷ Tourism contributes around 11.6% of India's Gross Domestic Product (GDP). More than 2.4 million tourists visit India every year and the growth of tourism industry in India has contributed to an increase in the sexual exploitation of children by

tourists. Child sex tourism involves hotels, travel agencies and tour operators; some companies openly advertise availability of child prostitutes⁸

33. Studies conducted by Civil Society Organisations (CSOs) have shown that with the promotion of beach tourism, there are reports of tourists moving from Goa to areas of north Karnataka. Two tourist destinations that are unfortunately becoming disreputed for paedophile activity are Kovalam in Kerala and Mamallapuram in Tamil Nadu. An Australian founder-consultant of the Visakhapatnam-based voluntary organisation New Hope had sexually abused about 50 children, some of them physically handicapped, under the guise of running several homes for children in coastal Andhra Pradesh and Orissa.⁹ Children from poor families are trafficked for labour or various forms of economic exploitation. Young girls from Orissa, Madhya Pradesh, Chhattisgarh, Jharkhand, Bihar and West Bengal are regularly being trafficked into cities through middlemen, who are part of placement agencies, which provide these girls as domestic servants. Sale of children from Salem District in Tamil Nadu has come to the light following cases of thefts of babies from hospitals.
34. Talash Information System by the NCRB at the National level is a database that contains information regarding missing persons under the broad categories – ‘missing’, ‘kidnapped’, ‘arrested’, ‘deserted’, ‘escaped’, ‘proclaimed offender’, ‘wanted’, ‘unidentified dead body’, ‘unidentified person’ and ‘traced/found’. The diaries maintained at the *thana* level also maintain data on trafficked or missing children. As data on missing children was not available in the past, efforts are being made to make available gender-disaggregated data on missing children in the age groups of 0-12 and 13-18.
35. Although research studies and surveys have been conducted, it needs to be noted that a systematic, functioning National and State-wide monitoring system is yet to be established.

Partnerships

36. For the past decade and a half, substantial efforts have been made by CSOs in their efforts to prevent and combat trafficking in women and children. CSOs have collaborated with the Government in undertaking research to identify the nature and magnitude of all forms of child sexual abuse and exploitation, including pornography. While it is impossible to cover the good work of all the organisations, some of the most innovative and appropriate ones are documented below.¹⁰
37. Action against Trafficking and Sexual Exploitation of Children (ATSEC) India is an effective network against trafficking in the country and is headquartered in Kolkata, with an NGO called Socio Legal Aid Research and Training Centre (SLARTC). The ATSEC in West Bengal is doing prosecution work on behalf of the State Judiciary that normally is an exclusive right of State appointed Public Prosecutors. This is a major achievement, wherein NGOs have been given the authority to substitute the State machinery’s specific role. The ATSEC in Jharkhand works closely with the

Social Welfare Department, Labour Department and Education Project Council. It has been successful in sensitising the Police Department on issues of trafficking.

38. Arz, a social development organisation, has been appointed by the Government of Goa as the nodal organisation to combat human trafficking in the State. Impulse NGO Network has developed the Meghalaya Model to combat child trafficking in North-Eastern India as a single comprehensive strategic plan, to be adopted by all State agencies and citizen's organisations in the region. The model has been accepted by the State Government as an integral part of its anti-trafficking operations and Memorandums of Understanding (MoUs) are being signed with various State Departments to ensure its appropriate implementation.
39. Nedan's model of creating alternative livelihood for the vulnerable and at-risk women and girl children in Assam has been replicated by the Bodo Territorial Council in other Districts within its jurisdiction. Odanadi in Karnataka has been making pioneering efforts to empower and rehabilitate victims of commercial sexual exploitation. This economic empowerment not only decreases the vulnerability of women and children to various forms of exploitation, but also empowers them towards their rights. Prajwala, an anti-trafficking organisation in Andhra Pradesh, works with survivors of trafficking, who are full-time partners in the day-to-day functioning of the organisation. The anti-trafficking intervention of Prerna has resulted in thousands of children born to prostituted women in the red light districts completing higher standards of formal education, who otherwise would have been prostituted. Prerna completed training of over 1,000 police officers on behalf of UNODC in 2007-08 with significant success. Vimochana Development Society uses education as a key tool in mainstreaming children of women in prostitution and victims of trafficking into the society. Rescue Foundation, with its protective homes for the rescued girls, provides pragmatic, practical and informed solutions to the victims to make better choices for their future. Saarthak, a voluntary organisation based in Delhi, focuses on mental health in the community and has worked with the mission of providing support to the victims of trafficking in South Asia.
40. Sanlaap works to combat human trafficking and prevent second generation prostitution. Over time, Sanlaap has evolved as a pioneering organisation to holistically address the issue of trafficking in persons, particularly for the purpose of commercial sexual exploitation. Shakti Vahini is active in the fields of human rights activism, anti-human trafficking, bonded labour, legal aid and advocacy, etc. Stop Trafficking and Oppression of Children & Women (STOP), a Delhi-based organisation, ensures that the empowerment of girl children is recognised as a strategy to create a gender-sensitive society. The Society to Help Rural Empowerment and Education (Sthree) has been a pioneering force in grassroots interventions in two Districts of Andhra Pradesh, which are high-supply zones for trafficked minors. Sthree has rescued and intercepted nearly 900 girls from returning or being sold to the brothel houses of Mumbai, Delhi and Pune.
41. The Government and NGOs consciously ensure and engage into meaningful child and youth partnership models, as it ensures best results for the design and implementation of anti-trafficking programmes.

Process of Preparation of the Optional Protocol Report

42. A High Powered Committee, comprising representatives of different Ministries, 18 State Governments, representatives of NGOs, academic institutions and international agencies was constituted by the MWCD and met in February, 2007, to guide the preparation of India: Third and Fourth Combined Periodic Report on the CRC and the report on two OPs.
43. Guidelines to the State Governments and concerned Ministries/ Departments were sent for submission of their inputs to the MWCD. Five Regional-level consultations were held between July and October, 2007, to initiate the process and engage the States and NGOs on CRC implementation and preparation of the Reports. The consultations were attended by participants from State Government Departments, such as Women and Child Development, Social Justice/Social Welfare, Police, Health, Education, Labour, and representatives of key NGOs.
44. These consultations were important for obtaining information on the situation of children at the State/UT level, advocating children's rights among the State Government leadership and officials, and promoting interaction between the Government functionaries and NGOs.
45. The MWCD advertised in leading newspapers and on its website, inviting inputs from individuals and other stakeholders. The MWCD served as the Secretariat for collating inputs from the decentralised processes and coordinating the preparation of the reports. Key Ministries, such as the Ministry of Health and Family Welfare, the Ministry of Social Justice and Empowerment, the Ministry of Labour and Employment and the Ministry of Information & Broadcasting provided inputs for the preparation of this report. In addition, research studies and reports prepared by the Government, NGOs and UN organisations were also used in preparation of this report.
46. The draft report prepared by the MWCD was placed before the High Powered Committee for approval, which gave useful comments towards the finalisation of this report.

Challenges

47. The GoI has spearheaded many of its initiatives, with enthusiastic support from the respective Ministries, State Governments, international organisations and CSOs. The recently-launched ICPS will contribute to the improvement in well-being of children in difficult circumstances and reduction of vulnerabilities. However, various factors and difficulties continue to affect the degree of fulfilment of obligations under the Protocol. Some of these include:
 - Traditional mindsets and culturally sanctioned practices, such as *devadasi*, which continue to exploit young girls.
 - Displacement and unsafe migration, which leaves a large number of children in urban poverty, majority of them living in informal and illegal settlements, such as railway lines and on the street, thus making them vulnerable.

- Lack of awareness on the issue and on legal provisions amongst caregivers, including right attitude towards the victim, which results in re-abuse of victims.
- Lack of reporting of cases of children in need of care and protection.
- Lack of systematic national and State-wise data.
- Inadequate standards of care in homes, which prevents children from being rehabilitated.
- Limited rehabilitation infrastructure and re-integration assistance for the victims once they leave the institution.
- Prosecution depending too heavily on witness testimony and too little on forensic and other evidence. There are difficulties in providing adequate evidence leading to prosecution. Sometimes, victims are the only witnesses of the crime, which poses difficulties for prosecution.
- Limited follow-up and monitoring.
- Although a progressive system has been developed with the amended juvenile justice system, its implementation in full spirit has remained a challenge. Some of the factors in this challenge include:
 - Lack of adequate infrastructure and institutional care systems with minimum standards, supervision and commitment.
 - Lack of single window mechanism and method of accreditation for registration of institutions/homes.
 - Dearth of trained and sensitised manpower at every level of implementation; absence of designated police and an overburdened judicial system.
 - Lack of effective provisions for review and re-consideration of the child's placement in institutions at regular intervals.
 - Inadequate facilities, especially counselling services and vocational skills training.
 - Creation of new options and strengthening the existing initiatives for the rehabilitation of children in institutions.

End Notes

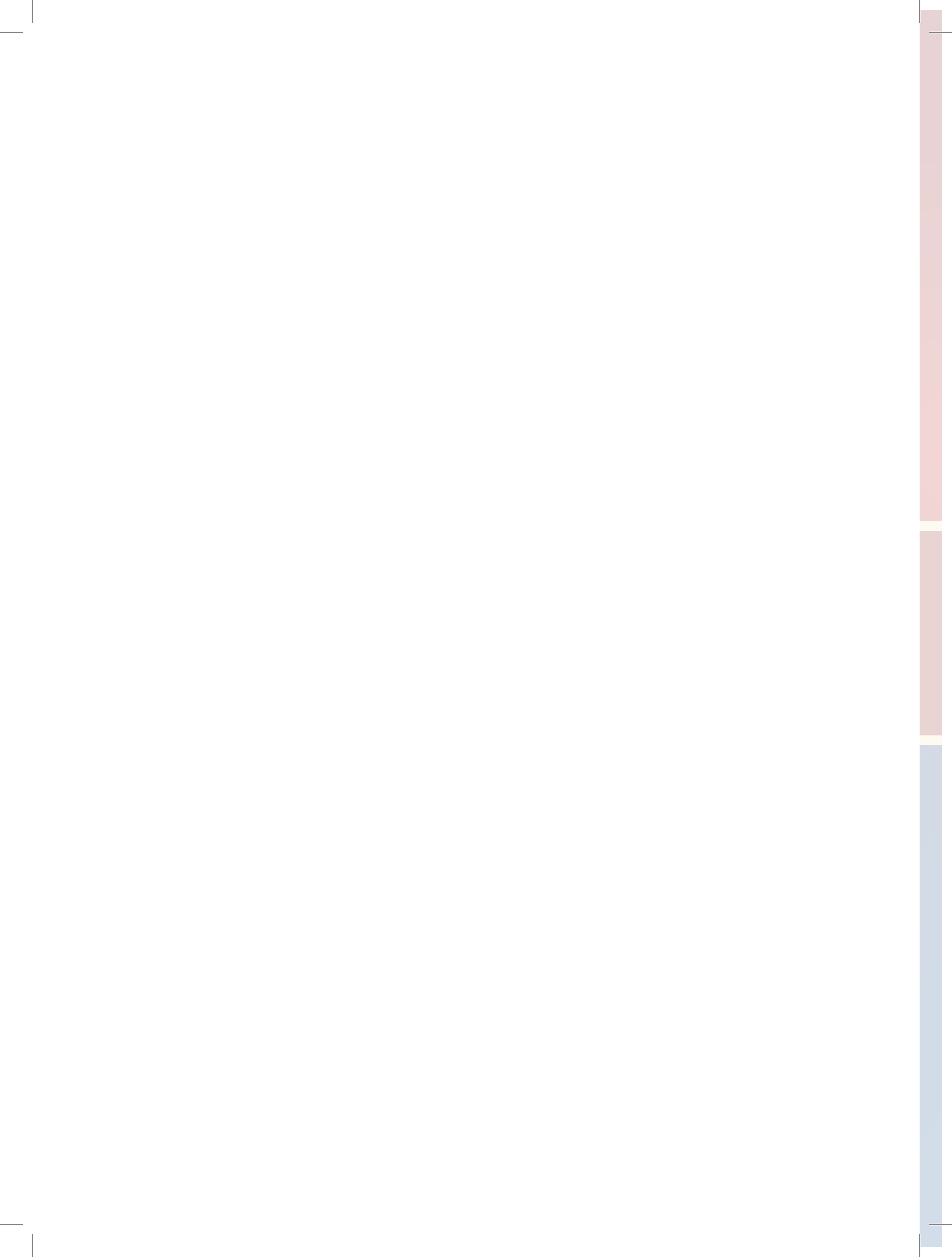
¹ Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Delhi, Goa, Haryana, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Meghalaya, Mizoram, Orissa, Puducherry, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttarakhand, Uttar Pradesh and West Bengal.

² Sen, Sankar and PM Nair, *Trafficking in Women and Children in India*, National Human Rights Commission, Orient Longman, 2005, page 154.

³ India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Assam State, 2008, page 80.

⁴ Sub-Group Report, *Child Protection in the 11th Five Year Plan*, Ministry of Women and Child Development, GoI, pp. 31-33.

- ⁵ Sub-Group Report, Child Protection in the 11th Five Year Plan, Ministry of Women and Child Development, GoI, pp. 31-33.
- ⁶ Sub-Group Report, Child Protection in the 11th Five Year Plan, Ministry of Women and Child Development, GoI, pp. 31-33.
- ⁷ Sub-Group Report, Child Protection in the 11th Five Year Plan, Ministry of Women and Child Development, GoI, pp. 31-33.
- ⁸ Sub-Group Report, Child Protection in the 11th Five Year Plan, Ministry of Women and Child Development, GoI, pp. 31-33.
- ⁹ A Situational Analysis of Child Sex Tourism in India (Kerala and Goa), Equations, 2003.
- ¹⁰ India Country Report to Prevent and Combat Trafficking and Commercial Sexual Exploitation of Children and Women, Ministry of Women and Child Development, GoI, 2008, pp. 55-64.



Prevention



Prevention

Article 9, paras 1 and 2

Programmes

1. The Government of India is implementing a large number of programmes to protect vulnerable persons, especially women and children, from sale and trafficking, and provide them economic and social empowerment.
2. To provide for relief, protection and rehabilitation of women in distress, schemes, such as short-stay homes and Swadhar shelter homes, which cater to trafficked women/girls rescued or runaway from brothels or other places or women/girls victims of sexual crimes, who are disowned by family or who do not want to go back to respective family for various reasons, are being implemented by the MWCD. These also cater to trafficked women/girls rescued or escaping from brothels or other places, and for women/girl victims of sexual crimes, who are disowned by family or who do not want to go back to their respective families for various reasons. These schemes provide for shelter, food and clothing for women and children below the age of 18 years; counselling; clinical, medical, legal and other support; training and economic rehabilitation; and helpline facilities. These schemes have benefited 8,450 women/children since their launch in 2000.
3. In December 2007, the MWCD launched Ujjawala, a comprehensive scheme for prevention of trafficking and Rescue, Rehabilitation, Re-integration and Repatriation of victims of trafficking and Commercial Sexual Exploitation. The objective of this Scheme is to prevent trafficking of women and children for commercial sexual exploitation through community-based initiatives, facilitate their rescue and long-term rehabilitation and their ultimate re-integration into society. Facilities for repatriation of cross-border victims are also provided. Rehabilitation includes providing safe shelter for victims, with basic inputs of food, clothing, counselling, medical care, legal aid, vocational training and income-generation activities. Setting up of Half-way Home, and restoring the victim into the family/community are some of the components of re-integration under the Scheme. Repatriation provides support to cross-border victims for their safe repatriation to their country of origin. Considering that repatriation of cross-border victims is a difficult task, the scheme provides for setting up of transit camp, food and other incidental expenses at the border check points.
4. Childline is an emergency child helpline, having 1098 as its toll free telephone number. The country's first 24x7 toll-free telephone helpline operates in over 83 cities and towns in India. It has, since its inception in 1996, responded to over 13 million calls up to March, 2008, and has worked with over three million children in need of care and protection, mostly for shelter, medical assistance, protec-

tion from abuse, emotional support and guidance, and information regarding referral services and missing children. According to the Childline report, 55% calls related to sexual abuse by neighbours in 2005-06, as compared to 34% in 2006-07. Calls related to sexual abuse in the family have also declined from 31% in 2005-06 to 27% in 2006-07.¹ Under the ICPS, Childline services are to be extended to the entire country.

5. Children without homes and family ties, and children especially vulnerable to abuse and exploitation, such as children of sex workers and children of pavement dwellers, are the target group of the Integrated Programme for Street Children. Financial assistance upto 90% is provided to the NGOs, which are eligible and working for the welfare of street children, for formal and non-formal education, shelter home, vocational training to children, nutrition, healthcare, sanitation and hygiene, safe drinking water, recreational facilities, and protection against abuse and exploitation. Since its inception, 321,854 street children have been extended help through 83 organisations in 21 States/UTs.
6. The Scheme for Welfare of Working Children in Need of Care and Protection provides opportunities for non-formal education and vocational training to working children to facilitate their entry/re-entry into mainstream education, in cases where they have either not attended any learning system or where for some reason their education has been discontinued, with a view to prevent their continued or future exploitation.
7. The MoL&E is implementing the National Child Labour Project (NCLP), which is a project-based action programme, under which special schools are created to provide accelerated bridge education, pre-vocational training, stipend, Mid-day Meal (MDM), and healthcare facilities to children, thereby reducing their vulnerability and bringing them back to the education system. A Central Monitoring Committee (CMC) has been set up for the overall supervision, monitoring and evaluation of the NCLP. Respective State Governments have also been advised to set up State-level monitoring committees similar to the CMC. The Government is presently implementing the NCLP in 250 Districts of the country and it is proposing to expand it to 600 Districts in the 11th Five Year Plan.
8. The MWCD has recently launched a new centrally-sponsored scheme ICPS to provide a safe and secure environment for overall development of children, who are in need of care and protection, including children in difficult circumstances. Through an outreach programme, the scheme will identify and support vulnerable families. Trained District-level functionaries will ensure convergence of services through effective networking and linkages with the village- and block-level Child Protection Committees, Integrated Child Development Services (ICDS) functionaries, NGOs and local bodies. Community capacities for protection and monitoring will be strengthened and child protection concerns and safeguards will be integrated in all sectors.
9. As poverty is a major cause of trafficking and commercial sexual exploitation of women and children, poverty alleviation programmes of the Government target people living below poverty line in backward rural areas and urban slums. These

programmes include Swarna Jayanti Shahri Rozgar Yojana (SJSRY), Sampoorna Grameen Rozgar Yojana (SGRY), National Rural Employment Guarantee Scheme (NREGS), Food for Work Programme, and Self Employment through Training and Micro-Credit for Setting up Micro Enterprises. The MWCD has written to State Governments to accord special attention to economically-backward areas or areas prone to natural or man-made disasters, as women and children in such areas become extremely vulnerable to trafficking.

10. The Self-Help groups (SHGs), which are groups of rural poor, who have voluntarily come forward to form a group for the improvement of the social and economic status of the members, are silently revolutionising and revitalising remote corners of the country. In areas where the SHGs have bloomed, informal surveys reveal that women have become more assertive, domestic violence, alcoholism and drug abuse has seen a decline, and incidence of trafficking of women and children has reduced.
11. The re-integration of victims is an important aspect of various schemes and programmes implemented by the Government. However, it is important to note that children are usually taken directly from the shelter to the family, without prior preparation of either the child or the family and community. Orientation of the child, preparatory family visits to the shelter and preparatory visits by social workers to the family and community are often not conducted. An unrecognised advantage of children spending time in care is the opportunity for caregivers to prepare the child to return, through occupational training, education and life skills. However, care facilities in India rarely conduct re-integration with case planning.² It is also difficult to provide adequate monitoring and support for children after they leave shelter care. The greatest constraint is the lack of resources. Contacting children spread over numerous rural communities takes extensive time and human resources, as well as funds for travel and support of the child and family. In addition, some children cannot return home for a variety of reasons, but there is a general lack of initiatives that prepares older boys or girls for independent living.
12. The State Governments also undertake proactive steps to prevent and combat trafficking of women and children for commercial sexual exploitation. Important initiatives being taken by some of the State Governments are described below.
13. **Andhra Pradesh:** In May 2006, Andhra Pradesh was selected as a project State by the MHA for the Anti-Human Trafficking Project of UNODC, along with four other States. Under this project, a series of empowerment programmes were held at Andhra Pradesh Police Academy, which resulted in attitudinal and behavioural change among the police officers. An Anti-Trafficking Regional Network was set up in 2004 with the participation of District Collectors, Superintendents of Police, other relevant officials from Government Departments, UNICEF and NGOs to combat the problem of trafficking in three Districts. The exercise has been replicated in other Districts as well. An Anti-Trafficking Cell has been established at the Directorate with support from UNDP's Anti-Trafficking and Human Immunodeficiency Virus (HIV)/ Acquired Immuno Deficiency Syndrome (AIDS) (TAHA) initiative.

14. **Bihar:** In 2008, the Government of Bihar formulated 'Astitva', the Bihar Action Plan for preventing and combating trafficking of human beings, and rehabilitating victims and survivors of trafficking. Vulnerable areas of trafficking in Bihar have been mapped through a consultative workshop. In 2007, a Psychosocial Support Programme was undertaken by the Directorate of Social Welfare in collaboration with UNICEF in two Districts of Bihar as a pilot project. This programme resulted in bringing a number of children back to normalcy, increased enrolment in schools and led to the prevention of trafficking.
15. **Chhattisgarh:** To deal with the issue of trafficking of young girls in Jashpur District, the police administration has identified some placement agencies and conducted operations to rescue some girls. For prevention of trafficking, a State-level advisory committee has been constituted under the chairmanship of Home Secretary. Committees have also been constituted at District level under the chairmanship of Superintendent of Police. Needful vigilance is being undertaken at both State and District level to prevent occurrence of trafficking.³
16. **Goa:** Goa Children's Act, 2003, promotes and protects the best interest of children, including those who are victims of trafficking and commercial sexual exploitation. The State Government has constituted a five-member panel to suggest ways to help rescued children and women. Special trafficking officers have also been appointed to maintain strict vigil in their respective areas to check child prostitution. In collaboration with NGOs and UNODC, training programmes for police officers and public prosecutors have been conducted on matters related to trafficking of women and children.
17. **Gujarat:** For effective implementation of the ITPA, 1956, training programmes to develop skills have been conducted for victims of trafficking by National Institute of Fashion Technology (NIFT). To prevent the second generation from being trafficked, 98 children of women in prostitution have been admitted in children's homes and are provided shelter, care, protection, education, medical treatment, vocational training and rehabilitation.
18. **Himachal Pradesh:** The State Government has set up a cell headed by the Inspector General of Police, Criminal Investigation Department (CID), to monitor the crime of immoral trafficking and sexual exploitation of women and children in the State. The police, through *mahila mandal* and the Community Policing Scheme, conducts awareness programmes amongst women and children on issues related to trafficking. The State Government has notified Special Police Officers, as stipulated under the ITPA, 1956. Community surveillance groups are being set up at the District, block and village levels.
19. **Karnataka:** Karnataka has been focusing on the eradication of the *devadasi* system in certain selected Districts of the State. The DWCD in the State has formulated an action plan with the involvement of other relevant departments, such as police, education and labour, NGOs and other stakeholders.
20. **Madhya Pradesh:** The DWCD in the State is implementing the Rajkiya Mahila Uddhar Griha Scheme to prevent trafficking of women in prostitution. The benefi-

ciaries and their children below seven years are provided rehabilitation, education and vocational training services under the Scheme.

21. **Orissa:** The State Government has constituted a State-level Coordination Committee to combat trafficking and sexual exploitation of women and children. The Government has set up *mahila* and *shisu* desks in all the police stations in the State. A compendium of laws related to women and children has also been published and circulated to all police stations.
22. **Tamil Nadu:** The State Government has constituted a State-level Coordination Committee to combat trafficking and sexual exploitation of women and children. Similarly, District-level advisory committees and Village-level watchdog committees have also been constituted. Hundred-and-ninety-seven all-women police stations have been established across the State to address the problems and issues relating to crime against women. Railway police have installed 30 help-booths in 27 railway stations across the State. An anti-trafficking Cell to combat trafficking and commercial sexual exploitation of women and children has been established in Chennai under the Central Bureau-CID, with jurisdiction across the State. Vigilance committees headed by District Collectors have been formed in tourist centres throughout Tamil Nadu.
23. **West Bengal:** The DWCD and Social Welfare Department have set up a State-level Committee for combating trafficking in the State. For effective implementation of the ITPA, 1956, all police officers above the rank of inspector in the Districts have been designated as Special Trafficking Police Officers. The Border Security Force (BSF) has also been engaged to prevent trafficking in border areas. Mobile parties have been formed for checking the entry and exit points at important railway stations and bus stands for suspicious movements of women and children.

Awareness Generation

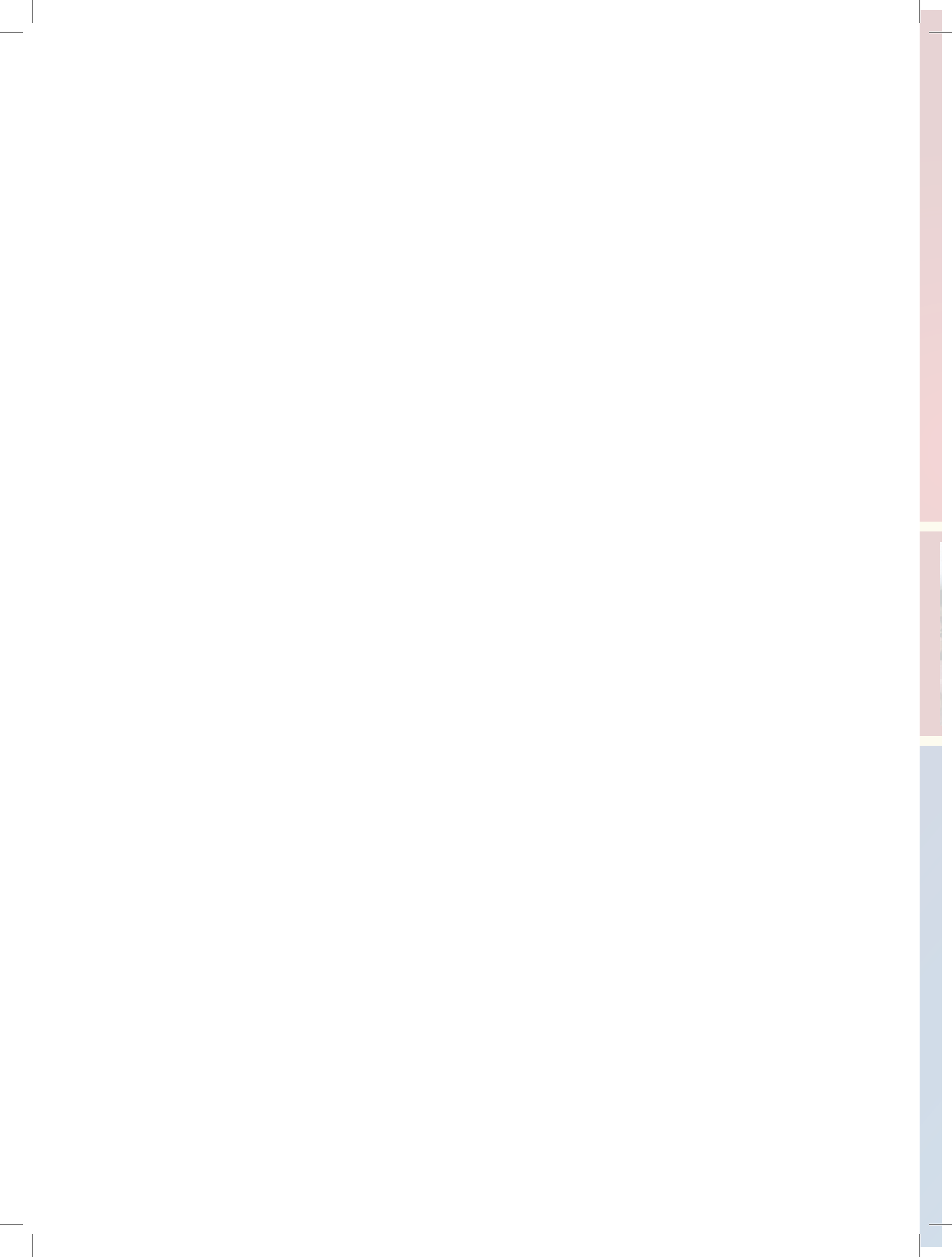
24. Awareness generation and sensitisation is an in-built component of the MWCD's programmes and various models have been formulated for tackling different stakeholders through a multimedia campaign. A communication strategy for prevention of trafficking for commercial sexual exploitation of children has also been developed for specific target groups, such as parents, *panchayat* members, police, teachers and others. Various poverty-alleviation programmes and women's SHGs too have specially-designed information packages to prevent sexual exploitation and trafficking.⁴
25. Issues related to sexual abuse and trafficking of children are broadcast through the electronic and print media and considering the wide reach of television and radio, these programmes reach out to children in large numbers in remote areas. Initiatives taken by the MWCD, in collaboration with UNICEF, to spread awareness include display of messages on trafficking on kiosk hoardings, and back panels of buses belonging to many State Governments, such as Himachal Pradesh, Punjab, Rajasthan, Maharashtra, Madhya Pradesh, Uttarakhand, Gujarat, Orissa, Bihar, Andhra Pradesh and Tamil Nadu. 'Lalli', a 30-second spot on trafficking, was telecast on National and Regional television networks and private channels in 2005.

'Human Chain', a 30-second spot on trafficking on *Doordarshan-1*, and two episodes of 15-minute duration on 'Trafficking' were aired on *Vividh Bharati* and 15 primary channels of All India Radio (National Radio) in 2005-06.

26. The Press Information Bureau (PIB) in the Ministry of Information and Broadcasting caters to print media through briefings, press releases, backgrounders, features and by arranging interviews with senior decision makers. The Bureau also uses other measures to publicise provisions of child welfare by telecasting spots on children on television from time to time. Campaigns are undertaken by the Ministry of Women and Child Development, the Ministry of Health and Family Welfare, the Ministry of Human Resource Development and other ministries to address social issues, such as child abuse, exploitation of children, among others. The Directorate of Field Publicity gives priority to publicity on the rights of child. Under this theme, different aspects of all-round development of children are publicised, such as health, education, nutrition, etc.
27. There are awareness generation programmes targeting specific groups, such as tourists, hotel workers, members of the Armed Forces, etc. Programmes on human and child rights are a part of the training of BSF and Central Reserve Police Force (CRPF). Such courses are also part of the training at the National Police Academy and Police Training Colleges.
28. The MWCD has launched an awareness generation programme, whereby all the Chief Secretaries of all the States/UTs and Director General (Tourism) have been directed to make it legally binding for the hotels, lodging/boarding houses to prominently display at the reception, counter anti-trafficking messages and penal provisions against sexual exploitation.
29. The National AIDS Control Programme Phase-III (NACP-III) provides for prevention, care and support and treatment of HIV/AIDS in order to halt and reverse the epidemic in India over the next five years. The programme covers high-risk groups, including commercial sex workers, with targeted interventions. The media campaign of National AIDS Control Organisation (NACO) has focused not only on conventional media but also on non-conventional media. While focusing on young people, the multimedia campaign has been made more youth- and women-oriented, with NACO sending out its messages through the internet, cable and satellite services, and plays at college and university campuses.
30. The awareness generation programmes of the Ministry are supported by NGOs, media, private sector and children themselves. Children are involved in developing appropriate communication strategy tools, such as posters and captions to spread awareness on sale and trafficking. Children have also been involved in various television programmes in spreading awareness.

End Notes

- ¹ Childline Calling... Is India Listening 1098, Childline in India, An Analysis of Calls to 1098, Vol. 2, Childline India Foundation, 2008, page 35.
- ² This process involves a participatory assessment of the child's educational, social and vocational needs and future aspirations, preparing case plans to address those needs, and supporting the child's rapid accomplishment of skills and strengths to ensure his/her successful re-integration.
- ³ India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of Chhattisgarh State, 2008, page 2.
- ⁴ India Country Report to Prevent and Combat Trafficking and Commercial Sexual Exploitation of Children and Women, Ministry of Women and Child Development, GoI, 2008, page 17.



Prohibition and Related Matters



Prohibition and Related Matters

Articles 3 and 4, paras 2, 3, 5, 6 and 7

Legislations

1. The laws that give effect to the OP on the Sale of Children, Child Prostitution and Child Pornography are listed below.
2. **The Indian Penal Code (IPC), 1860**, lays down a number of provisions, which are related to trafficking. Some of these include:
 - i. Sale, etc. of obscene books, etc. (Section 292).
 - ii. Sale, etc. of obscene objects to a young person (Section 293).
 - iii. Procurement of a minor girl (Section 366A).
 - iv. Importation of a girl from foreign country (Section 366B).
 - v. Selling a minor for purposes of prostitution, etc. (Section 372).
 - vi. Buying a minor for purposes of prostitution, etc. (Section 373).
 - vii. Wrongful restraint (Section 339).
 - viii. Wrongful confinement (Section 340).
3. Under Section 292 of IPC, 1860, a person on first conviction is punished with imprisonment of either description for a term, which may extend to two years, and with fine, which may extend to Rs 2,000, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and also with fine, which may extend to Rs 2,000. Under Section 293, a person is punished with imprisonment of either description for a term, which may extend to three months, or with fine, or with both. Under Section 366A and B, a person is punishable with imprisonment, which may extend to 10 years, and shall also be liable to fine. Punishment for rape under Section 376 of IPC is imprisonment of either description for a term, which is not less than seven years, but which may be for life or for a term, which may extend to 10 years. Punishment under Section 339 is simple imprisonment for a term, which may extend to one month, or with fine, which may extend to Rs 500, or with both. Punishment under Section 340 is simple imprisonment of either description for a term, which may extend to one year, or with fine, which may extend to Rs 1,000, or with both.¹
4. **The Immoral Traffic Prevention Act, 1956**, is the primary legislation for prevention of trafficking for commercial sexual exploitation. Section 5 of the Act provides for punishment on conviction for procuring, inducing or taking a person for the

sake of prostitution. To further strengthen the Act, amendments are being proposed to widen its scope, focus on traffickers and perpetrators of crime, and prevent re-victimisation of victims.

5. **The Juvenile Justice (Care and Protection of Children) Act, 2000**, is the primary law relating to juveniles in conflict with law, as well as children in need of care and protection, which includes children who are vulnerable and are likely to be abused, tortured or exploited for the purpose of sexual or other illegal acts. The Act seeks to provide care/protection to children by catering to a child's development needs, adopting a child-friendly environment and approach for adjudication of cases related to juveniles/children, keeping the child's 'best interest' in mind and rehabilitation of the child as the goal.
6. **The Commissions for Protection of Child Rights (CPCR) Act, 2005**, provides for the constitution of a National Commission and State Commissions for protection of child rights and children's courts for providing speedy trial of offences against children and for violation of child rights. The NCPCR was set up in 2007 as a statutory body to protect, promote and defend child rights in the country. It has conducted fact findings on sale of children for labour in different States.
7. **The Child Labour (Prohibition and Regulation) Act, 1986**: A large number of children are sold not only for sexual exploitation but also for other forms of non-sex-based exploitation, such as domestic labour, industrial labour, agricultural labour, etc. The Child Labour (Prohibition and Regulation) Act prohibits employment of children in certain specified hazardous occupations and processes, and regulates the working conditions in others. The Government issued two notifications (on July 10, 2006 and September 25, 2008) expanding the list of banned and hazardous processes and occupations in Schedule II of the Child Labour (Prohibition and Regulation) Act, 1986. Among the additions are domestic work, work in hotels, *dhabas*, spas and recreation centres, diving, processes involving exposure to excessive heat and cold, such as mechanised fishing, food processing, beverage industry, timber handling and loading, mechanical lumbering and warehousing, etc.² The number of occupations listed in Part A is 16 and the number of processes listed in Part B is 65.
8. Under **the Child Labour (Prohibition and Regulation) Act, 1986**, whoever employs any child or permits any child to work in contravention of the provisions of the Act, is punishable with imprisonment for a term, which is not less than three months but which may extend to one year or with fine, which is not less than Rs 10,000, but which may extend to Rs 20,000, or with both. Whoever, having been convicted of an offence under the Act, commits a like offence afterwards, is punishable with imprisonment for a term, which is not less than six months but which may extend to two years. Further, whoever fails to give notice or fails to maintain a register, as required under the Act, makes any false entry in any such register, fails to display a notice containing an abstract of the Act or fails to comply with or contravenes any other provisions of this Act or the Rules is punishable with simple imprisonment, which may extend to one month, or with fine extending to Rs 10,000, or with both.

9. **The Bonded Labour System (Abolition) Act, 1976**, is the legislative fulfilment of the Indian Constitution's mandate against begging and forced labour, which includes children. It frees all bonded labourers, cancels any outstanding debts against them, prohibits the creation of new bondage agreements, and orders the economic rehabilitation of freed bonded labour.³
10. **The Bonded Labour System (Abolition) Act, 1976**, prescribes a penalty of up to three years in prison and Rs 2,000 in fine for any violation under the Act.
11. **The Information and Technology (Amendment) Act, 2008**, addresses the exploitation of children through the internet. Section 67 (b) provides for punishment for publishing or transmitting material depicting children in sexually explicit act, etc. in electronic form. The amended Act provides for punishment to whoever:
 - i. Publishes or transmits or causes to be published or transmitted material in any electronic form, which depicts children engaged in sexually explicit act or conduct.
 - ii. Creates text or digital images, or collects, seeks, browses, downloads, advertises, promotes, exchanges or distributes material in any electronic form depicting children in obscene or indecent or sexually-explicit manner.
 - iii. Cultivates, entices or induces children to online relationship with one or more children for, and on, a sexually explicit act or in a manner that may offend a reasonable adult on the computer resource.
 - iv. Facilitates abusing children online.
 - v. Records in any electronic form own abuse or that of others pertaining to sexually-explicit act with children.
12. Under **the Information and Technology (Amendment) Act, 2008**, a person is punished on first conviction with imprisonment of either description for a term, which may extend to five years and with fine, which may extend to Rs one million, and in the event of second or subsequent conviction with imprisonment of either description for a term, which may extend to seven years and also with fine which may extend to Rs one million.⁴
13. **The Young Persons (Harmful Publications) Act, 1956**, addresses cases of pornographic material involving or affecting children and defines the term 'harmful publication' as 'any book, magazine, pamphlet, leaflet, newspaper or other like publication, which consists of stories told with the aid of pictures or wholly in pictures, being stories portraying wholly or mainly: i) the commission of offence; ii) acts of violence or cruelty; and iii) incidence of a repulsive or horrible nature'.
14. Under **the Young Persons (Harmful Publications) Act, 1956**, a person is punishable with imprisonment which may extend to six months, or with fine, or with both. On a conviction, the court may order the destruction of all the copies of the harmful publication, in respect of which the conviction was had and which are in the custody of the court or remain in the possession or power of the person convicted. All offences under this Act are cognizable.

15. **The Cable Television Network (Regulation) Act, 1995**, lays down rules and regulations, regulates programmes and thus, protects children. It lays down that no programme should be carried in the cable service, which denigrates children; care should be taken to ensure that programmes meant for children do not contain any bad language or explicit scenes of violence; programmes unsuitable for children must not be carried in the cable service at times when the largest number of children are viewing; and no advertisement, which endangers the safety of children or creates in them any interest in unhealthy practices or forces them into begging or shows them in an undignified or indecent manner, shall be carried in the cable service.
16. Under **the Cable Television Network (Regulation) Act, 1995**, whoever contravenes any of the provisions of the Act is punishable (i) for the first offence, with imprisonment for a term, which may extend to two years or with fine, which may extend to Rs 1,000 or with both; and (ii) for every subsequent offence, with imprisonment for a term, which may extend to five years and with fine, which may extend to Rs 5,000.
17. **The Transplantation of Human Organ Act, 1994**, provides for the regulation of removal, storage and transplantation of human organs for therapeutic purposes, and prevents commercial dealings in human organs. The Act also provides for the regulation and registration of hospitals engaged in removal, storage and transplantation of human organs. The provisions of this Act are applicable to children also.
18. **The proposed Prevention of Offences against the Child Bill, 2009**: The MWCD felt the need for a dialogue on various kinds of abuses against children and a comprehensive legislation to address these more effectively. After wide consultations with voluntary organisations, experts, and UN agencies, the Prevention of Offences against the Child Bill, 2009, was prepared and is being reviewed by the MWCD.
19. **The Statute of Limitations**: The statutes of limitations for offences related to sale of children, child prostitution and child pornography under the above described laws are described below.
20. **The Indian Penal Code, 1860**: This law makes 'attempt' to commit an offence, as well as complicity in offences, punishable. Legal or judicial persons are also equally liable, if they are involved in commission of such offences.
21. **The Indian Code of Criminal Procedure, 1973**: Under this law, there is no period of limitation for taking cognizance of offences, which are punishable with imprisonment for a period of more than three years.
22. **Extra-Territorial Offences**: Indian law provides for extra-territorial jurisdiction over an Indian national in respect of an offence committed by him outside Indian territory anywhere in the world. Further, any person, not being an Indian national, is subject to the jurisdiction of Indian courts for an offence committed onboard a ship or aircraft registered in India (Section 4 of IPC, 1860, Section 188 of Indian Code of Criminal Procedure and Section 34 of the Extradition Act).

23. **Extradition Treaties:** Matters related to extradition of fugitives from justice are normally governed by extradition treaties or arrangements between States. Additionally, international criminal law conventions oblige the State parties to extradite fugitives of the offences dealt thereunder and to provide legal assistance in respect of such offences.
24. According to Section 2(c) of the **Indian Extradition Act, 1962**, amended in 1993, offences that are listed in an extradition treaty with a foreign State are treated as extradition offences. In relation to a foreign State other than a treaty State, an offence punishable with imprisonment of at least one year is treated as an extradition offence.
25. The Extradition Act, 1962 has provision for treating an international convention as an extradition treaty, to which India and the foreign State concerned are parties in respect of the offences dealt under that convention. It provides mechanism for implementing India's obligations under the international conventions.
26. **Mutual Legal Assistance:** India provides legal assistance in criminal matters on the basis of bilateral treaties and international conventions, to which India and the State requesting assistance are a party. Indian Code of Criminal Procedures provides, under Section 166 A & B, for assistance for collection of documents on recording or oral statements on the basis of reciprocity, even without a formal bilateral agreement. Chapter VIIA of the Code contains guidelines concerning the legal assistance in criminal matters.
27. **South Asian Association for Regional Cooperation (SAARC):** The Convention on Mutual Assistance in Criminal Matters was adopted on August 3, 2008, at Colombo and signed by all member States.
28. The member States of Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (BIMSTEC)⁵ are also in the process of concluding a convention on mutual assistance in criminal matters.
29. India has also concluded bilateral treaties on mutual legal assistance in criminal matters with the following countries: Bahrain, Belarus, Bulgaria, Canada, Egypt, France, Kazakhstan, Kuwait, Mauritius, Mexico, Mongolia, Korea (Republic of), Russian Federation, Singapore, South Africa, Spain, Switzerland, Tajikistan, Thailand, Turkey, United Arab Emirates, Ukraine, United Kingdom, United States of America, Uzbekistan and Vietnam.

Adoption

30. At present, adoption is undertaken both formally and informally in the country. Formal adoptions take place under the Hindu Adoption and Maintenance Act (HAMA), 1956, (applicable to Hindus, Sikhs, Jains and Buddhists, wherein the child gets all the rights of a biological child). The provisions of the Guardians and Wards Act (GWA), 1890, are used to facilitate inter-country adoptions. Now, all communities can adopt destitute children under the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006 (JJ (Amendment) Act, 2006).

31. Inter-country adoption is governed by 'Guidelines for Adoption from India - 2006', issued on February 14, 2006, following India's ratification of the Hague Convention in 2003.⁶ These guidelines replaced the earlier guidelines in order to bring in more simplicity and transparency in adoption procedures. The guidelines provide a framework to protect the interests of both biological and adoptive parents, along with that of children, through the mechanisms of licensing, follow-up reports and documents, etc. In consonance with the Hague Convention, CARA ensures that consideration is first accorded to place a child in his/her own socio-cultural milieu in his best interest, before giving him/her in inter-country adoption.
32. CARA, as nodal agency, promotes domestic adoption and regulates inter-country adoptions in India. It is also the central authority for the Hague Convention for the Protection of Children and Cooperation for Inter-Country Adoption, 1993, ratified by India, which stipulates rights and privileges of all orphan, abandoned and surrendered children.
33. To regulate and monitor all adoption programmes and working of recognised social/child welfare agencies engaged in in-country adoptions through State Governments and UT Administrations, CARA has notified the In-Country Adoption Guidelines-2004.
34. With the enactment of the JJ (Amendment) Act, 2006, a person belonging to any caste, creed, religion or gender can adopt orphaned, abandoned or surrendered children, including child beggars, without bias.⁷ The JJ Act, 2000, was silent on inheritance rights of an adopted child, but the JJ (Amendment) Act, 2006, for the first time defines 'adoption' in absolute terms as a process through which the adopted child is permanently separated from his biological parents and becomes the legitimate child of the adoptive parents and enjoys the rights, privileges and responsibilities of a biological child. With this provision, adoption no longer remains a grey area and cases of a child taking his biological parent to the court for giving him in adoption or parents staking claim on the child, whom they had given in adoption, can be dealt with appropriately.

End Notes

- ¹ Indian Penal Code, 1860, Section 292, 293, 366A, 366B, 372, 373, 339 and 340.
- ² The Gazette of India: Extraordinary, Part II-Section 3-Sub Section (ii), Ministry of Labour and Employment (Child Labour Section) Notification, September 25, 2008, page 2.
- ³ Bajpai, Asha, Child Rights in India, Law, Policy, and Practice, Second Edition, Oxford University Press, 2006, page 172.
- ⁴ Information and Technology (Amendment) Act, 2008, Ministry of Law and Justice, GoI, February 9, 2009.
- ⁵ Bay of Bengal Initiative for Multi Sectoral Technical and Economic Cooperation (BIMSTEC) is an international organisation involving a group of countries in South Asia and South-East Asia. The member countries of this group are: Bangladesh, India, Myanmar, Sri Lanka, Thailand, Bhutan and Nepal.
- ⁶ Report of Working Group on Development of Children for the 11th Five Year Plan, Ministry of Women and Child Development, GoI, page 42.
- ⁷ 11th Five Year Plan (2007-12), Vol. II, Social Sector, Planning Commission, GoI, page 218.

Protection of the Rights of Victims



Protection of the Rights of Victims

Articles 8 and 9, paras 3 and 4

Best Interest of the Child

1. India had created a protection mandate for children much before ratifying the OP to the CRC on the Sale of Children, Child Prostitution and Child Pornography. Article 39(e) of the Constitution directs the State to ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that the childhood and youth are protected against exploitation and against moral and material abandonment. Article 24 provides that no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment. Article 23 prohibits the trafficking of human beings and forced labour. Article 47 imposes on the State the primary responsibility of ensuring that all the needs of children are met and that their basic rights are fully protected.
2. The criminal investigations and proceedings, which concern child victims of trafficking and sexual exploitation, ensure that the rights and best interests of children are fully recognised.
3. The Protocol for pre-rescue, rescue and post-rescue operations of child victims of trafficking for commercial sexual exploitation clearly specifies the measures to be taken to protect the identity of victims. According to the strategy for rescue operations, the identity of victim should be kept confidential; his/her name, address, photograph or any other information should not be published in any newspaper, magazine, news sheet or visual media. This is also mandatory as per Section 21 of the JJ Act, 2000. The ITPA, 1956, also has provisions for in-camera trial of victim, in order to ensure his/her best interest and protection of his/her identity.
4. The NHRC has come up with guidelines for speedy disposal of child rape cases. The Commission prepared the draft guidelines after receiving comments and suggestions from Home Secretaries and Director Generals of Police (DGPs) of all the States/UTs. The guidelines seek to ensure that a child victim is made comfortable before proceeding to record the complaint. They also specify that the identity of the victim and the family is kept secret and the family is ensured protection; atmosphere in the court is child-friendly; and the recordings are done in video conferencing/in conducive manner so that the victim is not subjected to close proximity of accused, etc.
5. The NCPCR, set up under the CPCRA Act, 2005, inquires into the violation of child rights and can take *suo motu* notice of matters relating to deprivation and violation of child rights.

6. The JJ (Amendment) Act, 2006, the principal law dealing with children in need of care and protection, has adopted a child-friendly approach in the adjudication and disposition of matters in the best interest of children. The Act is based on the following principles:¹
- i. Principle of Presumption of Innocence: According to this principle, a juvenile or child is presumed to be innocent of any *malafide* or criminal intent up to the age of 18 years. The basic components of presumption of innocence are: age of innocence, which is the age below which a juvenile or child cannot be subjected to the criminal justice system; procedural protection of innocence, which means that all safeguards that are guaranteed by the Constitution and other statutes to the adults are guaranteed to the juvenile or child; provisions of legal aid and guardian *aid litem*, which means that a child will have a right to be informed about the accusations against him and a right to be legally represented.
 - ii. Principle of Dignity and Worth: Respect of dignity includes not being humiliated; personal identity, boundaries and space being respected; not being labelled and stigmatised; being offered information and choices and not being blamed for his/her act.
 - iii. Principle of Right to be Heard: This principle includes every child's right to express his/her views freely in all matters affecting his/her interest.
 - iv. Principle of Best Interest: This principle implies that the traditional objectives of criminal justice, retribution and repression, must give way to rehabilitative and restorative objectives of juvenile justice. The principle seeks to ensure physical, emotional, intellectual, social and moral development of a juvenile in conflict with law or a child, so as to ensure the safety, well-being and permanence for each child, and thus enable each child to survive and reach his or her full potential.²
 - v. Principle of Family Responsibility: The principle implies that the primary responsibility of bringing up children, providing care, support and protection is that of biological parents; however, in exceptional situations, this responsibility may be bestowed on willing adoptive or foster parents.
 - vi. Principle of Safety: This implies no harm, abuse, neglect or maltreatment to the child; and extreme care to be taken to avoid any harm to the sensitivity of the juvenile or child.
 - vii. Positive measures: These aim at reducing vulnerabilities and reducing the need for intervention under the law, and also include avenues for health, education, relationship, livelihoods, leisure, creativity and play.
 - viii. Principle of non-stigmatising semantics, decisions and actions: The non-stigmatising semantics of the Act are to be strictly followed and the use of adversarial or accusatory words are prohibited in the processes pertaining to child or juvenile.

- ix. Principle of non-waiver of rights: Non-waiver of rights of a child or a juvenile, whether by himself or a competent authority or anyone acting, or claiming to act, on behalf of the child or juvenile, is either permissible or valid.
 - x. Principle of equality and non-discrimination: This implies equality of access and opportunity and equality in treatment to every child or juvenile.
 - xi. Principle of right to privacy and confidentiality: This implies a child's right to privacy and confidentiality through all proceedings, and care and protection processes.
 - xii. Principle of repatriation and restoration: This implies right of a juvenile or child to be re-united with family and restored back to the same socio-economic and cultural status that the child enjoyed before becoming vulnerable to any form of neglect, abuse or exploitation.
7. The Juvenile Justice (Care and Protection of Children) Rules, 2007 (JJ Rules, 2007), ensure that the best interests of the child are a primary consideration in the treatment afforded by the juvenile justice system to children, who are victims of sale, child prostitution and child pornography. The Rules ensure the safety, well-being and permanence for each child and thus enable each child to survive and reach his or her full potential.

Age Determination

8. The Supreme Court has held that on the point of proof of age, school-leaving certificate is the best evidence and so far as the medical certificate is concerned, the same is based on estimate, and possibility of error cannot be ruled out. However, regarding the date of birth, the secondary school certificate is not to be taken to be correct, unless corroborated by parents, who got the same entries made.³
9. Under the JJ Act, 2000, for the determination of age of juvenile or child, the competent authority makes due inquiry by obtaining: (i) the matriculation or equivalent certificates, if available, and in the absence whereof, the date of birth certificate from the school and in the absence whereof, birth certificate given by corporation or a municipal authority or a *panchayat*; and (ii) only in the absence of (i), the medical opinion from a duly constituted medical board is sought, which declares the age of the juvenile or child. In case the exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on the lower side within the margin of one year.

Capacity Building

10. The Government provides appropriate training to all relevant professional and para-professional groups, including law enforcement officers, judges, social workers, teachers and legislators.

11. The MHA, in association with the UNODC, initiated a two-year project in 2005 for training of law-enforcement officers on human trafficking in five States, namely Maharashtra, Goa, West Bengal, Bihar and Andhra Pradesh. The project has facilitated networking of law-enforcement agencies with civil society partners and other stakeholders, undertaking of several innovative initiatives in rehabilitation and prevention of human trafficking and setting up of Integrated Anti-Human Trafficking Units (AHTUs), involving synergy between Government officials and NGOs in the States of Goa, West Bengal, Andhra Pradesh and Bihar, where they are functional. A total of 390 training programmes for police and prosecutors have been organised, in which 13,490 police officials and prosecutors have been trained in the five project States; grants had been extended to all the project States for setting up Nodal Training Cells (NTCs); two films have been developed under the project; one on 'Anti-Human Trafficking' and another on 'Anti-Human Trafficking Units'; and two workshops organised for judicial officers for awareness generation on human trafficking.⁴
12. In 2006, the MWCD, in collaboration with the NIPCCD and UNICEF, developed three manuals: a judicial handbook on combating trafficking of women and children for commercial sexual exploitation; a manual for medical officers for dealing with child victims of trafficking and commercial sexual exploitation; and a manual for counselling services for child survivors of trafficking. These manuals are available on the website of the MWCD, and have also been widely disseminated to various agencies for use at the grassroots level.
13. The NIPCCD organises workshops for NGOs on issues related to trafficking of children for commercial sexual exploitation. A special module for counsellors of trafficked victims has been formulated. The NIPCCD has been declared the nodal training agency of SAARC nations in 2007 and since then has been organising a series of training and capacity-building workshops for stakeholders from SAARC countries.
14. In April 2008, a manual for police officers was released by the GoI. This manual will be part of compulsory training material in all police training programmes and will teach the policemen to be more sensitive while dealing with the victims of human trafficking, who should be treated as victims rather than criminals. The manual will be translated into regional languages for easy accessibility.
15. All Chief Secretaries have been requested to sensitise lower level functionaries on issues related to sexual abuse or molestation, so that perpetrators of child abuse are severely dealt with under the specific laws. A number of efforts have been made to impart training to police personnel on issues of trafficking by the Bureau of Police Research and Development (BPRD). Efforts are being made for wide dissemination of child helpline numbers in police stations and other law-enforcement agencies. The MWCD has written to all State Secretaries and DGPs to provide information on appointment of Special Police Officers, number of protective homes in the State, number of raids conducted and girls rescued, and details on prevention programmes implemented by States.
16. The MWCD, in collaboration with UNICEF, Nirmala Niketan and the College of Social Work, organised a series of training workshops for field functionaries in

Delhi, Hyderabad, Chennai, Mumbai, Bangalore and Kolkata. Regional workshops for capacity-building of medical officers on issues related to trafficking, medical examination of child victims of trafficking, particularly on conducting age-determination test, were organised in collaboration with UNICEF and Indian Medical Association (IMA).

17. The MWCD, in collaboration with UNICEF, has developed a communication strategy for prevention of trafficking through social mobilisation. A presentation on the strategy has been made to the State Governments and they have been requested to adopt the strategy suited to their local needs.
18. There have been significant ongoing training and capacity-building initiatives targeting all judicial sector professionals on the provisions of the JJ Act, 2000. The National Institute of Social Defence (NISD), National Judicial Academy (NJA) and NIPCCD have been playing a key role in imparting regular training to and building capacity of key functionaries, including members of JJBs and CWCs, magistrates and judges, police, social welfare officers, institutional staff and NGOs, on issues of juvenile justice and child protection. The focus of these training programmes has now progressed from merely training and capacity-building on law to care-giving and psycho-social rehabilitation of children/juveniles in conflict with law. The NIPCCD has been organising orientation workshop on ICPS for NIPCCD faculty, the MWCD staff, CARA and Childline India Foundation (CIF) functionaries, and on juvenile justice and management of child-care institutions for executives of voluntary organisations.⁵
19. The MWCD, the Ministry of Social Justice & Empowerment and the NISD have been collaborating with various NGOs and International Non-Governmental Organisations (INGOs) throughout the country, for undertaking capacity-building and training of child protection professionals, especially on juvenile justice. Training and capacity building of all personnel involved in child protection is being taken up across the country under ICPS.
20. A comprehensive Scheme for strengthening the law enforcement response to trafficking through Training of Trainers programmes and by establishing AHTUs, has been proposed by the MHA. This will ensure that sensitisation on these issues percolates right down to the grassroots level among police personnel. There will be a coordinated approach to prevent and combat trafficking at the District level in all the States. Fifty per cent of the affected Districts in all the States are proposed to be covered under the Scheme, which is proposed to be implemented in three years.
21. States, such as Bihar, Chhattisgarh, Orissa, Madhya Pradesh, Karnataka, Tamil Nadu, Maharashtra, etc. have initiated training programmes for judicial members and officers engaged in implementing Juvenile Justice.

End Notes

¹ The Gazette of India: Extraordinary, Rules under the JJ Act, 2000 (as amended by the Amendment Act 33 of 2006) to be administered by the States, Ministry of Women and Child Development, GoI, Part II-Section 3 (i), page 137.

- ² The Gazette of India: Extraordinary, Rules under the JJ (Care and Protection of Children) Act, 2000 (as amended by the Amendment Act 33 of 2006) to be administered by the States, Ministry of Women and Child Development, Part II-Section 3(i) page 137.
- ³ *Bhoop Ram vs. State of UP* (AIR 1989 SC 1329) as quoted in Asha Bajpai's *Child Rights in India, Law, Policy and Practice*, 2006, page xi.
- ⁴ Annual Report (2007-08), Ministry of Home Affairs, GoI, pp. 43-44.
- ⁵ India: Third and Fourth Combined Periodic Report on the CRC draft, Inputs of National Institute for Public Cooperation and Child Development, 2008, pp. 17-24.

International Assistance and Cooperation



International Assistance and Cooperation

Article 10

1. India signed two SAARC Conventions in 2002, namely the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution and the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia. The provisions of these Conventions are being implemented. In addition to this, India is also signatory to a SAARC Social Charter for addressing all issues pertaining to the social sector, including women and children, in the SAARC region.
2. Under the SAARC Convention on Preventing and Combating Trafficking of Women and Children in Prostitution, a Regional Task Force was set up to ensure that the legislations, programmes, etc. are in place for operationalising the provisions of the SAARC Convention. Three Regional Task Force meetings were organised in July 2007, May 2009, and April 2010 respectively. In the second meeting, the standard operating procedures (SOPs) were finalised. A common helpline for SAARC countries is proposed to be instituted. The programme for capacity-building of personnel has been taken up in India by the NIPCCD, with programmes on child rights, child protection, and preventing and combating trafficking in children and women.
3. The GoI collaborates with UN agencies, INGOs and NGOs towards the prevention, detection and investigation of the offences related to children, and prosecution and punishment of offenders. The MHA, in collaboration with UNODC, has taken up several anti-human trafficking initiatives to prevent and combat trafficking. It has developed a number of publications on anti-human trafficking. The SOPs and Protocols are being used as operational tools for law-enforcement agencies and the manuals are being utilised for imparting training at the field level. The MHA, in collaboration with UNODC, organised the South Asia Regional Conference on Human Trafficking in October 2007 as part of the UN Global Initiative to fight human trafficking. Recognising that being trafficked for exploitation goes against basic human rights and that each of the South Asian countries have to work in a unified way towards eradicating human trafficking in all its manifestations, Delhi Declaration was made in the Conference. The key points of the Declaration were to:
 - i. Undertake concerted action in law enforcement, so that offenders are punished quickly.
 - ii. Work towards systemic training and capacity-building of all stakeholders.
 - iii. Recognise the role of youth as change agents and to promote education of the girl child.

- iv. Identify vulnerable areas and to undertake focused programmes.
 - v. Ensure the availability of proper protocols and legal processes for rescue and repatriation procedures.
 - vi. Encourage awareness campaigns to prevent trafficking by way of PPPs.
 - vii. Build a coalition of media partners and popular personalities to advocate for the prevention of trafficking.
4. The MWCD works in close coordination with UNICEF and also with State Governments and has taken a number of initiatives, which include action research and communication strategy for prevention of trafficking and commercial sexual exploitation of children, development of manuals, Indo-Bangladesh initiative on cross-border victims of trafficking, and various programmes at State level, particularly in the States of Andhra Pradesh, Karnataka, Maharashtra, Uttar Pradesh and West Bengal. It has also provided technical inputs in the development of Integrated Plan of Action, Protocols on trafficking, and inter-departmental State Plan of Action against trafficking by the States of West Bengal and Bihar.
 5. The Government of India supports international organisations to assist the physical and psychological recovery, social re-integration and repatriation of the victims. Partnerships between the Government, UN agencies (including the ILO, UNICEF, USAID and UNIFEM), the US State Department, NGOs and professionals has led to the formation of a South Asia Forum against Human Trafficking. This facilitates and supports activities of National, Regional and Local networks, including exchange of information and experiences. A South Asia Professionals against Trafficking unit has also been set up, comprising committed police personnel, prosecutors/lawyers, judges/magistrates, doctors and media persons, as a non-formal pressure group of professionals against trafficking.
 6. India's acceptance of the Millennium Development Goals and participation in fora such as the Non-Aligned Movement and World Trade Organization shows that India fights for a better deal for developing countries. India has contributed to the development of neighbouring countries under different programmes of assistance, such as under Indian Technical and Economic Cooperation Programme, with grants, technical assistance and trade preferences. Such development of neighbours brings rich rewards in the form of not only expanded markets for Indian exports but also helps in solving problems of migration of refugees and trafficking.