

HANDBOOK ON
**HUMAN
TRAFFICKING**
FOR PROSECUTING OFFICERS
IN TELANGANA



ACKNOWLEDGEMENTS

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Founder, General Secretary, Prajwala

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FOREWORD

Human trafficking is a complex and multi-dimensional organised crime that is victimising millions of girls across the world. The inhuman exploitation of young adolescent girls and women through trafficking is more in underdeveloped and developing countries. The trafficking is taking place in varied forms and is becoming difficult to prevent by the government machinery alone.

The trafficking signifies wide ranging crimes like cheating, kidnapping, abduction, buying, selling, and wrongful confinement thus manifesting in various forms of exploitation.

The human trafficking is also resulting in crimes like child labour, bonded labour, sexual exploitation, rape, organ trade, etc.,

In order to deal with this highly organised crime of human trafficking, it has been recognised and proved that only a concerted and an efficiently organised response system must be put in place in the first instance.

It calls for the united effort from all stakeholders with effective discharging of their individual responsibilities while working in tandem under a common umbrella goal of rooting out human trafficking in all forms.

In this context, I am really glad to know that a definitive response system that encompasses advocacy, prevention, action, rescue, and rehabilitation is being promoted by Prajwala, India, a pioneering anti-trafficking organisation founded by Ms Sunitha Krishnan, the Padma Shri awardee.

I really appreciate the daring initiatives with stupendous conviction, whole hearted dedication, and impeccable integrity of Ms Sunitha Krishnan and her Team Prajwala in carrying out their inspiring fight against human trafficking with special focus on sex trafficking for the past two decades.

In this backdrop, I extend my heartiest congratulations to Prajwala for successfully coming out with the customised Handbooks on Human Trafficking for five different warriors in this fight.

The exhaustive and highly informative Customised-Handbooks, which are replete with numerous case studies, will help the duty bearers in their efforts to obliterate human trafficking which results in a brazen violation of basic human rights of the victims and is robbing of them of their human dignity, protection, and self-determination.

The five specialised and customised handbooks will go a long way in training and empowering Judicial Officers, Prosecuting Officers, Labour Officers, Child Welfare Committees, and Civil Society Organisations in ending trafficking.

The Handbooks, I am sure, will serve as the ready-reckoner, for the duty bearers in preventing and fighting against all forms of human trafficking and to effectively prosecute those who perpetrate such heinous crimes.

The customised handbooks will also help to fight against human trafficking with a noble aim to create a safe and protective environment for victims of this atrocious crime.

I found the customised handbooks, written in lucid style laced with many real-life examples and come up with practical and legal solutions to deal with the complex crime of this nature will immensely be helpful in effective discharge of the duties by the officers concerned.

I deeply appreciate the unique and gigantic initiative of collating and presenting exhaustive information compiled in the customised handbooks.

I am sure the handbooks will serve as the game changers in the functioning of the duty bearers in their respective areas of work while dealing with the inhuman crime of human trafficking.

Legendary Saint Thiruvalluvar, the great philosopher, in his immortal "Thirukkural" has said

**"ஒழுக்கத்தின் ஒல்கார் உரவோர் இழுக்கத்தின்
ஏதம் படுபாக் கறிந்து"**

Which means that....

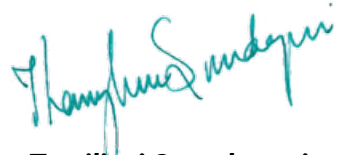
"Those firm in mind will not slacken in their observance of the proprieties of life, knowing, as they do, the misery that flows from the transgression from them."

I hope all the warriors of this maha yagna of eradication of human trafficking from the State of Telangana will keep this in mind while dealing with the cases relating to human trafficking.

I extend my hearty congratulations and heartfelt appreciation to Ms Sunitha Krishnan and her Team Prajwala for the inspiring work done to bring out these handbooks and for their tremendous selfless and daring work with an objective to end human trafficking and in giving a new life to the most vulnerable sections.

I wish your amazing and inspiring work continues to inspire many to be part of this mission to end human trafficking and all forms of exploitation.

Best wishes



Dr. Tamilisai Soundararajan

4th February, 2021

FOREWORD

Trafficking in any form is a curse – whether it is trafficking in animals or in humans. It crushes the spirit and soul of the victim. Unfortunately, this crime does not seem to be going away and being an underground activity, the number of victims mentioned in official records may not necessarily be reflecting the true picture.

The task of obliterating trafficking from the face of the Earth is not the sole responsibility of the government - all of us, as responsible citizens, have an obligation to humanity to ensure that trafficking is abolished. But that is easier said than done. The next best that we can do is to try and wipe the tear from the eye of every victim. The five-volume Handbook on Human Trafficking is, in that sense, an extremely significant publication marking, as it were, a concerted step in that direction.

While each duty holder has his or her role to play in the exercise, it must be appreciated that only a concerted effort will yield results. Therefore, each of the duty holders addressed in these volumes must work in tandem. Parliament may enact excellent laws in relation to trafficking, but if they are not faithfully implemented, they will remain only in the statute and law books. Similarly, the State Government may frame excellent welfare schemes, but the benefits must roll out to those who need them. It is in this exercise that we must work collectively and with a mission.

It is also necessary to appreciate that there are several forms of exploitation that have been haunting adults and children – sexual exploitation is only one of them. There are instances of those who have been victims of a disaster having to take loans at usurious rates of interest and are unable to repay them. They are then victims of bonded labour and some of the more broken souls seek a violent release from bondage and the vicissitudes of life. Women are sometimes driven to prostitution and the girl child is sometimes forced into marriage, as the pandemic has shown us. There have been instances of the sale of children,

illegal adoptions and worse, sale of organs. In each of such cases, the police, prosecution, judges and government officials at various levels have an important role to play. Civil society organizations can independently play a powerful role in changing the societal narrative in favour of the victims and providing them the support that laws and welfare schemes of State Governments seek to give as a matter of their right.

My commendations to all for their excellent work which, I am sure, will go a long way in alleviating the pain and suffering of so many.



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FOREWORD

In the last few decades, Ms Sunitha Krishnan, Founder, General Secretary of Prajwala, a pioneering anti-trafficking organization has presented to this society how tenacious she is and how meticulously she undertakes her job for the betterment of the lives of victims of human trafficking. She is a person who has dedicated her life to the cause of victims of human trafficking and under her leadership this Handbook on Human Trafficking for Prosecuting Officers in Telangana has been designed.

In fact, I have been always wishing for such a Handbook on this topic as it would be beneficial to both Prosecuting as well as to the Investigating Agencies. I am sure that this handbook would reach out to the needs of several agencies in the society and would be a very useful guide for the stakeholders of the law enforcing agencies.

The practical language, compilation of the law, schemes of both Government of Telangana and Central Government and the overall design of the handbook will be much appreciated by a Prosecuting Officer as this is useful for ready reference.

I am also sure, knowing the commitment, spirit and enthusiasm of Ms. Sunitha Krishnan and her team of Prajwala and their collaborative partner International Justice Mission, India, the Handbook would be revised periodically incorporating the new provisions and the gist of the Laws decided by the Court of this Great Nation.

Hyderabad.
Dt: 23-12-2020

(G. VYJAYANTHI)
Director of Prosecution (FAC)



**CONSULATE GENERAL OF THE
UNITED STATES OF AMERICA**

HYDERABAD, INDIA

FOREWORD

Human trafficking threatens the security of people around the world. Trafficking is an extreme violation of human rights, infringing upon the basic rights to human dignity, self-determination, protection, and integrity of victims who may be women, men, or children.

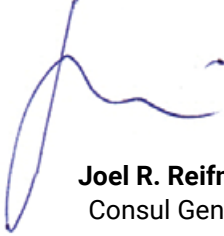
Countries around the globe are battling this problem, and the United States is no exception. The U.S. government has strived to create comprehensive mechanisms to fight this menace domestically and internationally. Through the Department of State, the U.S. government has created global partnerships to combat human trafficking, bringing all segments of society to a common platform in the fight against modern day slavery.

The Governments of India and Telangana have taken measures to combat human trafficking. However, despite our best intentions the problem of human trafficking continues to grow, making it incumbent on us to strengthen our collective efforts, improve our capabilities, and build on existing momentum in eradicating this abhorrent evil.

Each year, human traffickers deprive millions of victims – through force, fraud, and coercion – of their unalienable rights to life, liberty, and the pursuit of happiness. The role of a public prosecutor is paramount in cases of human trafficking. A public prosecutor represents not just the state, but also carries the added responsibilities of representing victims of crime, and the society at large. This user-friendly handbook collates existing laws, policies, and judgments to empower prosecutors to effectively prosecute cases of human trafficking. This handbook will serve as a guide to public prosecutors in Telangana as they represent the interests of victims of human trafficking at various steps during a case.

I would like to thank the Government of Telangana and our partner Prajwala, led by 2009 recipient of the U.S. Department of State TIP Report Hero

Acting to End Modern Day Slavery Award Ms. Sunitha Krishnan, for their support in conceiving and implementing this project, which I see as another step towards dismantling human trafficking and ensuring the protection of future generations.

A handwritten signature in blue ink, consisting of a large loop on the left and a series of smaller loops and strokes on the right.

Joel R. Reifman
Consul General

Sunitha Krishnan
Padmashree Awardee
Founder, Prajwala



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FOREWORD

The Crime in India Report 2019, issued by the National Crime Records Bureau, Ministry of Home Affairs, Government of India states that the conviction rate in trafficking cases is 29.1%. An analysis of Crime in India Report issued by NCRB in the last 3 years shows that the average conviction rate in trafficking cases is 32.7%. The three main reasons observed for the low conviction rate are :

- 1. Hostile witnesses*
- 2. Inadequate investigation*
- 3. Delay in a trial resulting in loss of evidence*

Human Trafficking is an organised crime with transnational reach and connections. In this scenario, it is imperative that law enforcement bodies and prosecution agencies address it as such and ensure culpability in all cases. Threat, intimidation, repeatedly having to describe past trauma and the high costs involved are just some of the reasons victims feel discouraged to access justice through the criminal justice system. In the current system, the weight of evidence is on the victim and this needs to change to ensure victim protection and effective prosecution in cases of human trafficking.

The Ministry of Home Affairs, Government of India in its recent advisories No. 24013/4/2020-ATC issued on 6th July 2020 and No. 15011/31/2019-ATC issued on 27th December 2019, emphasized the role of the prosecution in combating the organised crime of human trafficking in the country. The role of the Prosecuting Officer (PP) is essential to ensure justice is done and the rights of the victims are protected in the process.

This user-friendly handbook for prosecuting officers in Telangana is an attempt to collate existing laws, policies and judgements to empower prosecuting

officers to effectively prosecute cases of human trafficking keeping the victim at the centre of focus.

I place my humble gratitude to Smt. G. Vyjayanthi, Director of Prosecutions, Telangana for her support in reviewing this handbook and making it relevant for all Prosecuting Officers in Telangana.

This handbook would not be possible without the support of our valued partner International Justice Mission, India whose practical experience and longstanding efforts in the anti-trafficking mission shaped the content.

The U.S. Consulate General Hyderabad and the U.S. Embassy, New Delhi has been our long-standing partner and collaborator, supporting us actively in the anti-trafficking mission. I humbly acknowledge the entire team of Public Affairs, U.S. Consulate General Hyderabad who were actively involved in the development of this handbook.

I do believe this humble initiative will be a ready to use guide for any prosecuting officer who is dealing with a case of human trafficking, supporting the prosecution to uphold truth and ensure justice for the victim.



Sunitha Krishnan
Padmashree Awardee
Founder, Prajwala

PREFACE

From the word go, this Handbook was meant to be a practical tool to aid Prosecuting Officers (PPs) to successfully prosecute trafficking cases and ensure justice for victims. To maintain this objective, a brief needs assessment was conducted with Prosecuting Officers across the country. The goal was to understand the following:

- a) Specific challenges PPs face while prosecuting human trafficking cases
- b) Gaps in current resource materials available to PPs
- c) Recommendations for the development of the Handbook

The conclusion of the needs assessment is below:

Challenges faced by PPs include:

- 1. Witnesses especially victims turning hostile.
- 2. Delays in the trial.
- 3. Victim's unwillingness to testify due to stigma.
- 4. Lack of institutional mechanism for convergence amongst duty bearers resulting in lack of legal support to victims.

Gaps in Current Resource Materials available on the topic:

- 1. Some resource books are too bulky and wordy to be effective on the ground.
- 2. In the absence of comprehensive legislation on human trafficking, the PP has to refer to multiple legislations and judgements to successfully prosecute a human trafficking case but also uphold the victim's rights during the trial. Hence, a ready reckoner would be most helpful.
- 3. Most resource materials do not provide samples, templates etc.

Based on this needs assessment, it was felt that the current handbook for prosecuting officers must encompass the following points:

- 1. The handbook must be in the format of a ready reckoner that lays down the rights that a victim has during a trial and the mandate of the court

in a human trafficking case.

2. Content must include both Central and State Government notifications and G.O.s and schemes for rehabilitation.
3. Supporting template of letters, applications, orders etc.

This user-friendly handbook has been designed primarily as a ready reckoner supported with citations and templates. The hope is that this handbook serves as a guide to the prosecuting officers in Telangana on their role in the various stages of a human trafficking case.

LIST OF ABBREVIATIONS

AHTU	Anti-Human Trafficking Unit
BLSA	Bonded Labour System (Abolition) Act, 1976
CID	Criminal Investigation Department
CrPC	Code of Criminal Procedure, 1973
CSE	Commercial Sexual Exploitation
CWC	Child Welfare Committee
DLSA	District Legal Services Authority
DM	District Magistrate
FIR	First Information Report
GOI	Government of India
IPC	Indian Penal Code, 1860
ITPA	Immoral Traffic (Prevention) Act, 1956
JJA	The Juvenile Justice (Care and Protection of Children) Act, 2015
NALSA	National Legal Services Authority
NCLP	National Child Labour Project
NGO	Non-Governmental Organisation
POCSO	The Protection of Children from Sexual Offences Act, 2012
PP	Public Prosecutor / Prosecuting Officer
PW	Prosecution Witness
SOP	Standard Operating Procedures

TABLE OF CONTENTS

S.No	Chapter	Pg.No.
1	HOW TO USE THE HANDBOOK	1
2	ROLE OF PROSECUTING OFFICERS	4
	I. First Remand Hearing	5
	II. Post Remand Hearing	14
	III. Framing Charges	20
	IV. Trial	21
3	DRAFT TEMPLATES	39
4	RELEVANT POLICIES AND SCHEMES	67

HOW TO USE THE HANDBOOK

This Handbook provides an outline of the role that Prosecuting Officers play in a human trafficking case as one of the primary functionaries in our criminal justice system. The role of the PP has been derived from existing laws, judgements, policies, Government Orders and Standard Operating Procedures issued to combat trafficking.

This handbook has three segments:

- I. Role of Prosecuting Officers** - This provides the role of the prosecuting officers sequentially right from the start of the case, from the first remand hearing to the judgement.
- II. Draft Templates** - This provides a suggestive list of templates that can be used by the prosecuting officers for filing relevant applications in the court especially those related to Government Policies and Schemes.
- III. Policies and Schemes** - This provides the relevant policies and schemes of Government of Telangana that can be used for the welfare and rehabilitation of the victim.

Some important pointers for prosecuting officers to use this handbook are-

- i. The 'Role of Prosecuting Officers' is a comprehensive chapter that details the step-by-step process in a case. Each step has the statutory requirement clearly outlined, additionally, it also provides the policies and schemes of Government of Telangana which can be used for the welfare of the victim at that stage.
- ii. As victim assistance and support is integrated into the sequential steps which is not a statutory requirement, but if provided could change the course of prosecution, draft templates are provided as a suggestive document that can be easily used.

- iii. The 'Policies and Schemes' chapter is a ready reference of all the relevant policies and schemes issued by Government of Telangana which if appropriately used can become a great support mechanism for a victim who will be further motivated to testify in the court. The chances of compliance of a policy or a scheme is much higher if there is a supporting judicial order.

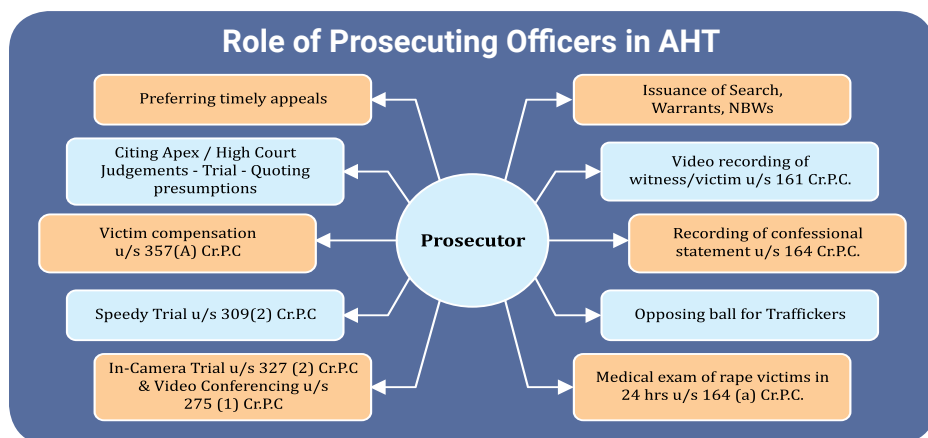
ROLE OF PROSECUTING OFFICERS

ROLE OF PROSECUTING OFFICERS

The role of the prosecuting officer in human trafficking cases begins when the police file the first remand report to the concerned court. The prosecuting officer may or may not see the victims at this stage. The prosecuting officer must consider the rights of the victim and the needs of the victim at every stage of prosecution. In cases of human trafficking where an organized crime syndicate is operating, safety and protection of the victim is paramount which needs to be taken into account at every step when a victim is required in the court.

A PP must note the jurisdiction of courts hearing trafficking cases, as given below:

A Special Court constituted u/s 22A ITPA and presided over by a Judicial Magistrate First Class will hear cases registered under ITPA. Cases registered under POCSO will be heard by a Special Court constituted u/s 28, 30 and 33 of POCSO. In accordance with Sec. 31(1) of POCSO, the Special Court can take cognizance of an offence under the Act without any order of committal for trial. It can be done on a complaint disclosing facts, which constitute such an offence, or upon a police report on such facts. A case registered u/s 370 IPC and under SC/ST (POA) Act will be heard by a Judicial Magistrate and after commitment, it will be heard by Special Court constituted under the SC/ST (POA) Act. A case registered u/s 370 IPC and BLSA will be heard by a Judicial Magistrate in the pre-trial stage and a Sessions Court after commitment. Please note that in a case where IPC sections are charged in addition to BLSA, the District Magistrate has no jurisdiction to hear the said case.



I. FIRST REMAND HEARING

COMMON PROCEDURES IN ALL FORMS OF TRAFFICKING

The common procedures to be following by a prosecuting officer in any case of human trafficking whether for commercial sexual exploitation, forced labour, bonded labour or any other purpose -

1. May Submit before the Learned Magistrate:

- i. Oppose bail if bail application filed by accused.
- ii. If victims produced before the court are children (aged under 18 years), oppose custody application on grounds that Learned Magistrate has no jurisdiction and order be passed for production of the rescued children before the Child Welfare Committee (CWC) u/s 31 of the Juvenile Justice (Care and Protection of Children) Act, 2015, who will order for their safe custody. Also, in accordance with the judgement passed by the Hon'ble Bombay High Court in **Prerana v. State of Maharashtra 2003 (2) MhLj 105** that no Magistrate can exercise jurisdiction over any person under 18 years of age if such person is in need of care and protection.
- iii. If the minor victims have been produced before the magistrate, they should be forwarded to the CWC u/ s 29 of the JJA, the CWC has the final authority for the care, protection, treatment, development and rehabilitation of children in need of care and protection.
- iv. For instance, on perusal of FIR filed under BLSA, CLA, u/s 342 IPC and case diary, the PP might assess that investigation u/s 370 IPC must be initiated since prima facie it seems to be a case u/s 370 IPC.

2. May file application to Honorable Court to direct the Investigating Officer of the case to:

- i. Conduct Medical Examination of the victim by a registered medical practitioner, if not conducted already.

This is in accordance with:

- a) SOP for Identification and Rehabilitation of Bonded Labourer and Prosecution of Offender, F.No. S11012/01/2015-BL issued by MoLE, GoI on 17th August 2017 (**Refer - Relevant Policy I**).

- b) u/s 27 of POCSO, for the purposes of determination of age (Ossification test), injury or disease incidental to the exploitation.
 - c) u/s 15(5A) of ITPA, for the purposes of determination of the age of such person, or for the detection of any injuries as a result of sexual abuse or for the presence of any sexually transmitted diseases.
- ii. Forward the case documents to the DM, the Chair of the District Level Committee on Human Trafficking formed vide G.O.M No. 1, 'Policy for Combating Trafficking of Women and Children for CSE' issued by the Department of Women Development and Child Welfare, Government of Andhra Pradesh on 03/01/2003 (**Refer - [Relevant Policy II](#)**) to enable the Committee to monitor the rehabilitation and case progress of the victims.
- iii. Forward the case documents to DLSA for interim compensation u/s 357A CrPC and for assigning a Panel Advocate and Para Legal Volunteer.
- iv. Initiate proceedings under the Prevention of Money Laundering Act, 2002 if applicable.
- v. Notify the District AHTU, State AHTU and State Nodal Office of Human Trafficking (if the case isn't from AHTU) for monitoring purposes in compliance with G.O.M No. 165 dated 25/06/2011 issued by Home Department, Govt. Of A.P. (**Refer - [Relevant Policy III](#)**)
- vi. If victims have been returned to their home state, to record victim's statements u/s 161 CrPC via video conferencing facilitated by DLSA, to avoid delay in investigation. Since video conferencing for victim's evidence during the court trial has been provided for vide Memo No. 2323/ W.P. A 2/2011 dated 02/04/2014 issued by Department of Women Development and Child Welfare, Govt. of A.P. (**Refer - [Relevant Policy -IV](#)**)
- vii. If victims are being threatened, to proceed under the Witness Protection Scheme, 2018 issued by the Ministry of Home Affairs, GoI and in the judgement passed by Hon'ble Supreme Court of India dated 5th December 2018 in WP (Cri) No. 156 of 2016.
- viii. Notify case details to the Inter-state task force, if formed.

- 3. PP may advise I.O** to prepare the **Victim Impact Assessment** report as per the judgement passed by Hon'ble Supreme Court of India in **Madhya Pradesh vs. Saleem (2005) 5 SCC 554** and Hon'ble Delhi High Court in **Satya Prakash v. State (2013) 3 MWN (Cri) 373**.
- 4. May file application for Learned Court to direct the District Legal Services Authority to:**
- i. Initiate process for interim compensation to be provided to the victim in accordance to G.O.M No. 9 dated 07/03/2015 issued by the Telangana State Legal Services Authority u/s 357A CrPC. (Refer - [Relevant Policy V](#))
 - ii. Assign a panel advocate to represent the victims in the case and a Para Legal Volunteer for follow up for rehabilitation. This is in accordance with the Legal Services Authorities Act, 1987 and the NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015. (Refer - [Relevant Policy VI](#))
 - iii. To coordinate with the respective DLSA of the district where the victim currently resides, in cases of inter-state and inter-district trafficking. In case of a child victim, such order shall be simultaneously forwarded to the respective Child Welfare Committee for necessary information and action.
 - iv. To facilitate the recording of victim's statement via video conferencing in compliance with Memo No. 2323/ W.P. A 2/2011 dated 02/04/2014 issued by Department of Women Development and Child Welfare, Govt. of A.P.
- 5. If the FIR has u/s 4, 7, 8 of ITPA wrongly charged** against the trafficked victims, submit before the Learned Court to direct the I.O to comply with the G.O issued by Addl. DIG CID, A.P Hyderabad, C. No. 21/DIG/WPC/CID 2003 dated 19/04/2003. (Refer - [Relevant Policy VII](#))
- 6. Submit request before court** for support person to be assigned for the victim during accused identification/ TI.

SPECIFIC PROCEDURES IN SEX TRAFFICKING AND LABOR TRAFFICKING CASES

As there are different legislations for trafficking for prostitution or sex trafficking and trafficking for forced labor, these are the specific measures to be taken while dealing with such cases.

A. In a sex trafficking case:

1. If major victims have been removed as per Sec.15(4) or Sec.16(1) of ITPA, 1956, then victims must be produced before a Magistrate within 24 hours as per Sec.17(1) of ITPA.
2. File an application before the Learned Magistrate to direct for temporary protective custody of the victim, in accordance with Sec.17(2) of ITPA. The Magistrate may order for temporary protective custody for not more than 21 days after giving the victim an opportunity to be heard and order for a home inquiry to be conducted by Probation Officer to determine the correctness of age, character and antecedents of the person, and the suitability of his/her parents, guardian for taking charge before releasing the victims.
3. If the appropriate Magistrate is unavailable, then the police must produce the victims to the nearest magistrate of any class, who will pass an order for intermediate custody, which shall not be more than 10 days till the victim can be produced before the appropriate magistrate.
4. After the inquiry u/s 17(2) of ITPA is completed, and the Magistrate feels that the major victim is in need of care and protection, then the Magistrate may order for the safe custody of a major in a protective home for not less than 1 (one) year, and not more than 3 (three) years.
5. Submit that the Learned Magistrate may consult a panel of 5 respectable social workers while issuing the custody order of victims and passing the placement order in accordance with the judgement passed by the Hon'ble Delhi High Court in the case of ***Kumari Sangeetha v. State. 1995 Cri. L.J. 3923 (Del.)***.
6. Get in touch with the Protective Home where the victim has been

admitted for safe custody and get the Individual Care Plan of the victim based on her aptitude and education.

7. Based on the Individual Care Plan of the victim file the following application to seek directions from the Learned Court for protection and rehabilitation of the victims:
 - i. Direct the DM to implement the following G.O. issued by the Department of Women Development, Child Welfare and Disabled Welfare for sustainable livelihood and rehabilitation of trafficked victims:
 - a) G.O.M No. 14 dated 23/05/2008 for 70% reservation of seats for trafficked victims for the diploma course in Smt. Durgabai Deshmukh Women Technical Training Institute, Hyderabad. **(Refer - [Relevant Policy VIII](#))**
 - b) G.O.M No. 47 dated 31/08/2010 for 'Reservation of Child Victims in Govt. run residential institutions.' **(Refer - [Relevant Policy IX](#))**
 - c) Direction be passed to DM if FIR contains charges under SC & ST (POA) Act to issue compensation as per the Notification G.S.R 316(E) dated 31/03/1996 issued by Ministry of Welfare in accordance with Sec.23(1) of the SC & ST (POA) Act. **(Refer - [Relevant Policy X](#))**
 - ii. Direct the Department of Women Development and Child Welfare, Government of Telangana to issue Rs. 20,000/- as relief amount to the women and child victims of trafficking in this case immediately within 48 hours of receipt of this order. This is in compliance of G.O.M No. 28 dated 15/10/2012 issued by the Department of Women Development and Child Welfare, Govt. of Andhra Pradesh. **(Refer - [Relevant Policy XI](#))**
 - iii. Direct the Protective Home to comply with the Minimum Standards of Care provided for in G.O.M. No. 16, dated 24/04/2010 issued by the Department of Women Development, Child Welfare and Disabled Welfare, Government of A.P. **(Refer - [Relevant Policy XII](#))**

* Home Inquiry Report, Sec.17(2), ITPA, 1956

Home inquiry for victims indicates the likelihood of the custody petitioner who could be the parents/members of the family or extended families being involved in trafficking or living on the earnings of the victim. It should be specifically recorded in the HIR whether the address of the victim were traced and verified. This would also include the family's socio-economic situation, physical condition of the house, neighborhood environment and the psychological condition of the family. Some other factors that should be studied is the family's response when the victim left home, whether any missing complaint was filed.

The HIR cannot assess the family being 'permanently unfit' but can be assessed as 'currently unfit'. After considering all the facts gathered, the Magistrate will then make final orders for the safety and care of minor/major victims of trafficking. Magistrate must consult a panel of 5 respectable social workers while passing the placement order in accordance with the judgement passed by the Hon'ble Delhi High court in the case of ***Kumari Sangeetha v. State. 1995 Cri. L.J. 3923 (Del.)***.

(See [Draft Template I](#) for Template Application filed in Sex Trafficking Case)

B. In a labour trafficking case:

1. File the following application to **seek directions from the Learned Court** for protection and rehabilitation of the victims:

i. To Direct the DM:

- a) To immediately conduct inquiry under the Bonded Labour System Abolition Act, 1976 (if it's a bonded labour case), and Central Sector Scheme for Rehabilitation of Bonded Labourers, 2016, F. No, S-11012/01/2015-BL, issued by Ministry of Labour, Gol on 18th May 2016 and in accordance with SOP for Identification and Rehabilitation of Bonded Labourer and Prosecution of Offender, F.No. S11012/01/2015-BL issued by MoLE, Gol on 17th August 2017. (Refer - [Relevant Policy XIII](#))

- b) To issue a Release Certificate to each victim after inquiry if found to be bonded labourer in accordance with the said documents.
- c) To provide initial cash assistance of Rs. 20,000/- under the said Scheme within 24 hours of the issuance of the Release Certificate, from the Bonded Labour Rehabilitation Fund of the District created as G.O.Ms No. 26 dated 23/05/2018 issued by Department of Labour Employment Training and Factories (Labour) Department, Government of Telangana to facilitate safe inter-state/inter-district return of victims, if not done already. **(Refer - Relevant Policy XIV)**
- d) If FIR contains charges under the SC & ST (POA) Act, then a direction be passed to DM to issue compensation as per the Notification G.S.R 316(E) dated 31/03/1996 issued by Ministry of Welfare in accordance with Sec.23(1) of the SC & ST (POA) Act.
- e) In accordance with Sec.10 of the said SOP, coordinate with relevant authorities for issuance of the following documents to the victims to ensure holistic rehabilitation: Aadhar Card, Ration Card, Caste Certificates, Voter ID, MNREGA Card, Land Patta, Government health insurance and other relevant documents.
- f) In accordance with Sec.5(v) of the said Scheme, coordinate with departments to provide the non-cash rehabilitation benefits to be provided to the victims:
 - Allotment of house-site and agricultural land;
 - Land development;
 - Provision of low-cost dwelling units;
 - Animal husbandry, dairy, poultry, piggery etc. and;
 - Wage employment, enforcement of minimum wages etc.
- g) Notify the Vigilance Committee so rehabilitation of the victims may be monitored.
- h) Coordinate with the source state district for rehabilitation

in an instance of inter-state/inter-district trafficking.

ii. To direct the Labour Officer/Commissioner to:

- a) Initiate proceedings under the Minimum Wages Act and Payments of Wages Act for recovery of wages and other violations of labour law as per the SOP issued by the Ministry of Labour and Employment, Gol.
- b) Enrol and register victims under relevant labour laws for access to benefits.
- c) Initiate proceedings under other labour laws, if violations are found.
- d) In cases of child labour, direct the Inspector or Nodal officer having jurisdiction, to ensure that an account of the child is opened and the appropriate funds are transferred from the Child and Adolescent Labour Rehabilitation Fund to the child's account. Ensure that the funds are transferred to the child's account as per Rule 7 of the Child Labour (Prohibition and Regulation) Amendment Rules, 2017 and the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986.
- e) In cases of child labour, direct District Nodal Officer to upload case in PENCIL Portal.
- f) In cases of child labour, provide rehabilitation and economic compensation as per **MC Mehta v State of Tamil Nadu and Ors AIR 1997 SCC 699** judgement in which
 - 1) Rs. 5,000 per child are to be paid by the employer to a 'Child Labour Rehabilitation-cum-Welfare Fund' to be used only for the benefit of that child and
 - 2) In addition, the government is to provide employment to an adult family member of the child or contribute Rs. 5,000 per child to this fund. See Section 8.3 of the Standard Operating Procedure for the Enforcement of Child and Adolescent (Prohibition and Regulation) Act, 1986 issued by the Ministry of Labour and Employment, Government of India in September 2017. (Refer - **Relevant Policy XV**)

- g) Notify the case details to the following Committees formed by Department of Labour Employment Training and Factories (Labour) Department, Government of Telangana for further action and relief:
- a. District Vigilance Committee formed under Sec.13 BLSA and G.O.M 20 dated 04/04/2018 issued by the Department of Labour Employment Training and Factories (Labour) Department, Government of Telangana. **(Refer - [Relevant Policy XVI](#))**
 - b. State Level Monitoring Committee for Bonded Labour formed vide G.O.M No. 19 dated 04/04/18 Department of Labour Employment Training and Factories (Labour) Department, Government of Telangana for further action and relief. **(Refer - [Relevant Policy XVII](#))**
 - c. State Level Monitoring Committee for Child Labour formed vide G.O.M No. 25 dated 23/06/17 Department of Labour Employment Training and Factories (Labour) Department, Government of Telangana for further action and relief. **(Refer - [Relevant Policy XVIII](#))**
 - d. State Resource Centre for Child Labour formed vide G.O.M 246 dated 26/05/2018 Department of Labour Employment Training and Factories (Labour) Department, Government of Telangana. **(Refer - [Relevant Policy XIX](#))**

(See [Draft Template II](#) for Template Application in Labour Trafficking Case)

II. POST REMAND HEARINGS

i. Home Investigation Report

Submit before Learned Magistrate that he may cause a Home Investigation to be made by a recognized welfare institution or organisation in accordance with Sec.17A of ITPA before passing order to place victims rescued u/s 16 of ITPA to parents, guardian or husband, to satisfy himself about the capacity and genuineness of the parents, guardian or husband to keep the victim.

ii. Recording of victim statement u/s 164 CrPC

Submit that the Learned Magistrate may record statement of a victim of sex trafficking u/s 164 CrPC only when victim is ready as held in ***Qutbun Nisha v. State of U.P., 2008 Cr. L.J. 3233.***

This special provision is taking into consideration the impact of sex trafficking on a victim which renders her hostile and resistant to any support immediately after rescue and is more open to disclose true facts of her situation after due trauma care is provided.

iii. Challenging closure report

On completion of the investigation, if the IO files a B report, closure report on insufficient grounds, file an application opposing such closure report and seeking a direction for issuing process or directing for further investigation.

The Judicial Magistrate, upon receiving a B Report or Closure Report, is not obligated to abide by the closure recommendation. If the Magistrate is of the opinion that a prima facie case has been made out against the accused, he may:

- a) Take action based on the police report – If the Magistrate feels that the police investigation justifies prosecution of the accused, the Magistrate may take cognizance of the offence and issue process, pursuant to Sec.190 of the Code of Criminal Procedure, 1973; or
- b) Direct further investigation – Where the Magistrate disagrees with the report and on applying his mind to the facts feels that there must

be further investigation, he may direct the police to conduct further investigation and submit a supplementary report.

iv. Seeking status report in case of a prolonged investigation

The longer a charge sheet is delayed, the more difficult police investigation and the subsequent trial becomes. In cases where there has been prolonged delay in filing of a charge sheet, submit before the Learned Court to enquire about the status of the investigation by filing an application u/s 172(2) of the Code of Criminal Procedure, 1973. The Court may then send for the police diary of the case, which contains a daily report of the steps taken in the investigation by the police officer and check the progress made in the investigation. The Court can monitor the investigation as per the decision in ***Sakri Vasu Vs State of U.P. and another (2008) 2 SCC 409.***

v. Bail

- a) Submit before the Court that following guidelines must be considered in human trafficking cases while hearing the bail application of the accused:

Bail Guidelines in Human Trafficking Cases:

Freedom Firm v. Commissioner of Police, Pune and Ors., Cr. Public Interest Litigation No. 4 of 2015 decided by the Bombay High Court on 30.10.2015:

"... We cannot but see the malaise as both astonishing as how a judicial officer can grant such bail and artful as to how an accused would successfully overreach law and justice." "... The application for bail must take into account –

- a. The fundamental right of the victim not to be trafficked.
- b. The antecedents of the accused.
- c. The repetitiveness of the offence - since it is a career in crime, it is bound to be repeated upon the accused being released on bail thus trafficking further similar victims which is the State's duty to prevent.

- d. The intimidation and threat that accompanies the relationship between the accused and the victim. The victim is the helpless chattel of the accused, the accused being in a position to threaten her to lie and coerce her to turn hostile and thus tamper with evidence.
- e. The economic position of the accused, if a trafficker.
- f. The violence involved in the case - reflected from the statement of the victim and the other witnesses.
- g. The subterfuge deployed by the accused in diverting the police machinery from himself or herself - when non traffickers and other docile persons who may be working for the accused in various positions may be kept in the frontline for arrest and who need to be released on bail as harmless co-accused."

The Bombay High Court has also given guidelines to be followed in relation to bail applications:

Freedom Firm v. Commissioner of Police, Pune and Ors., Cr. Public Interest Litigation No. 4 of 2015 decided by the Bombay High Court on 30.10.2015:

"... It would be appropriate to set out some of the most needed guidelines thus:

- (i) Bail should be denied to habitual offenders .
- (ii) Bail should be refused to brothel owner until the brothel is closed and sealed .
- (iii) Bail should also be denied if the victim is a minor .
- (iv) Bail should also be denied its case of violent offence which would be seen from the statements of the victims and witnesses.
- (v) Bail, upon stringent conditions, (if at all), be granted to the trafficker or the brothel owners only after the statement of the

victim is recorded u/s 164 of the Code of Criminal Procedure and only if all other aforesaid conditions are met.

(vi) Anticipatory bail should be denied in ITPA cases.

(vii) Women accused who may be trafficker, brothel keeper or pimp have the benefit of not being arrested after sunset. Hence if she has to be arrested the next day or has to be directed to report to the police station the next day, it should NOT be stated to be a reason for granting bail; she should be arrested during the legally permissible hours and her application for bail must be considered on the aforesaid parameters the next day.

The Magistrates and Judges may use the following bail checklist proforma while deciding the application for bail:

- i. Whether antecedents of the bail applicant have been checked.
- ii. Whether antecedent report has been submitted before the Court.
- iii. Whether the address of the bail applicant and the local surety has been verified by the Police and whether a report has been submitted before the Court.
- iv. Whether bail applicant has had bail cancelled in the past.
- v. If bail is applied for on medical grounds, whether treatment within the jail is possible.
- vi. Whether accused is likely to have contact with the victim and intimidate or threaten her.
- vii. Whether the accused is likely to repeat the offence; i.e. whether he/she would be able to return to and run the brothel.
- viii. Whether the brothel is already sealed (and if not to undergo the process of sealing before any order of bail is passed).

“Needless to mention that once an accused has absconded or jumped bail, his or her bail must be cancelled and treated as cancelled.”

- b) File for cancelation of bail if accused intimidates the victim witnesses –

In Upadhyay v Singh & Ors (2002) 3 SCC 598, Supreme Court has recognized that a valid and “basic” ground upon which to cancel bail u/s 439(2) of the Code of Criminal Procedure 1973 is if the accused tampers with or threatens a prosecution witness.

- c) In a trafficking case where SC/ST (POA) Act Sections are charged, accused are not entitled to anticipatory bail u/s 18 of the Act.
- d) In cases where an accused has been charged under both, Sec.370 of the IPC and BLSA, a common objection is that the facts of the particular case does not attract the offence u/s 370 of the IPC. This is because, while offences u/s 370 are non-bailable, offences under the BLSA, are bailable offences. This argument can be countered by submitting before the Court judgements where the accused has been convicted under both those offences. Additionally, the Court’s attention must be drawn to the evidence in the case satisfying the elements of trafficking.
- e) The defence may also obtain affidavits from relatives of the victim stating that a false case has been lodged or that the victims migrated of their own volition.

To counter this, two arguments may be furthered—

That the explanation to Sec. 370 of the Indian Penal Code, 1860, states that consent of the victim is immaterial in determining the offence of trafficking; or

That the Supreme Court in ***Rachapalli Abbulu and Others v. State of Andhra Pradesh (2002) 4 SCC 208***, disapproved of the practice of such affidavits being obtained in advance and called it an attempt to subvert the justice system.

Case excerpt: Para 10, ***Rachapalli Abbulu and Others v. State of Andhra Pradesh (2002) 4 SCC 208***, the practice adopted by the defence side in getting the affidavits of these witnesses in advance

is to be deprecated. That, in a way, amounts to an attempt aimed at dissuading the witnesses from speaking truth before the court. The Trial Judge as well as the High Court rightly rejected the defence contention. These witnesses appear to be illiterate persons. Their so-called affidavits must have been either cooked-up or obtained by playing a fraud on them. This type of interference in the criminal justice system shall not be encouraged and is to be viewed seriously.

- f) In the case of ***Thammanam Shaji Vs State of Kerala AIR 2006 SC 100***, if any of the bail condition are violated the Magistrate can cancel bail even if the bail is granted by higher courts.

III. FRAMING CHARGES

- i. If at the time of charge sheet, insufficient charges are filed to submit a petition to add relevant charges. It is seen that since there is low awareness of Sec.370 IPC or the Special Laws, charge sheets do not always have accurate charges in trafficking cases thereby leading to a discharge or acquittal. See [Draft Template III](#) for template application for adding charges.
- ii. Oppose discharge application filed by accused.

Stree Atyachar Virodhi Parishad v. Dilip Nathumal Chordia (1989) 1 SCC 715 (para. 14): "In fact, Sec.227 itself contains enough guidelines as to the scope of enquiry for the purpose of discharging an accused. It provides that "the Judge shall discharge when he considers that there is no sufficient ground for proceeding against the accused". The 'ground' in the context is not a ground for conviction, but a ground for putting the accused on trial. It is in the trial, the guilt or the innocence of the accused will be determined and not at the time of framing of charge. The Court, therefore, need not undertake an elaborate enquiry in sifting and weighing the material. Nor it is necessary to delve deep into various aspects. All that the Court has to consider is whether the evidentiary material on record if generally accepted, would reasonably connect the accused with the crime. No more need be enquired into."

- iii. As per Office Memorandum No. 14051/14/2011-F. VI dated 1st May 2012, issued by the MHA, Gol foreign victims should not be charged u/s 14 of the Foreigner's Act, 1946. They are victims of trafficking. It would result in re-victimisation. (Refer - **Relevant Policy XX**)

IV. TRIAL

a. SPLITTING OF TRIAL

While Sec.370 of IPC is a non-bailable offence, in practice, persons accused of offences under it are usually released on bail. This often results in an accused absconding, and many a time due to overworked police force it reduces the possibility of him/her being apprehended again. Since the norm in cases where there are multiple accused is to conduct joint trials, the trial proceedings are indefinitely stalled even if one of the accused is absconding.

If there is delay in apprehending co-accused, file a petition asking for separate trial u/s 317(2) of the CrPC.

Ashok Dhingra vs N C T of Delhi, (2000) 9 SCC 533: The Supreme Court held that if the trial has been delayed on account of delay in apprehending the co-accused, the trial court may split up the case against the accused u/s 317 (2) of CrPC., and proceed with the trial so that the matter can be disposed as expeditiously as possible.

Proceeding against absconding accused: Every accused is given the right to a fair trial, which includes the opportunity to confront/cross examine witnesses. However, while this is an invaluable right, it is not absolute. Sec.299 of CrPC allows for recording of evidence in the absence of the accused. This ensures when the accused is subsequently arrested and tried for the offences they have been charged with, they cannot benefit from the non-availability of witnesses due to their death or any other incapability to give evidence. Their previously recorded statements can form the basis of conviction against the accused who had absconded.

Nirmal Singh vs the State of Rajasthan, 1999 (3) SCC 650: The Supreme Court held that statements of witnesses produced by the prosecution can be recorded u/s 299(1) of CrPC if the court is satisfied that the accused has absconded or that there is no immediate prospect of arresting him/her. Later when the accused is arrested and put up for trial, and such deposition of any witness is intended to be used as an

evidence against the accused, then the court must be satisfied that either the deponent is dead or incapable of giving evidence or cannot be found or his/her presence cannot be procured without an unreasonable amount of delay, expense or inconvenience. In such cases, the evidence recorded u/s 299(1) of CrPC can form the basis of conviction.

Aarun Basha vs The State, CRL O P no. 28952 of 2018: The Madras High Court observed that the issue of absconding accused is one of the major causes for pendency of criminal cases before trial courts. It passed several important guidelines to deal with cases where some of the accused persons were absconding, and instructed trial courts to effectively put into practice the provisions of Sec.299 of the code which deals with recording of evidence in the absence of accused.

b. OPPOSE ADJOURNMENTS

It is observed that prolonging a trial in a human trafficking case is a defence tactic to buy time so that crucial prosecution evidence such as the evidence of victims is lost. Hence the trial must be completed in a timely manner. **See [Draft Template IV](#)** for opposing adjournments.

c. ADDING DOCUMENTS/WITNESSES

If certain documents are not present in the charge sheet, the PP must apply before Court to summon a witness (Refer to Sec.311 CrPC) through which the requisite documents may be exhibited. For e.g. if the charge sheet doesn't contain release certificates issued under the BLSA in a 370 IPC and BLSA case, then the SDM/DM who issued the RC may be summoned so the RCs can be exhibited. In sex trafficking cases, if proceedings u/s 18 of ITPA for closure of brothel has been initiated, the DM may be summoned to exhibit the said documents. Also, Magistrate may summon any person as witness, if his evidence appears to be essential to the just decision of the case.

d. RECORDING OF VICTIM'S EVIDENCE

i. Language Interpreter

File application for a court-appointed translator when required if victims are from another state. **See [Draft Template - VI](#)**

- ii. A statement recorded u/s 164 (5A) of a person who is temporarily or permanently mentally or physically disabled shall be considered a statement in lieu of Examination in Chief.
- iii. Ensure trial under POCSO Act is conducted in compliance with Sec.33 to 38 of the Act to protect victim:
 - Counsel for the accused while in Examination-in-chief, Cross-examination & Re-examination of the child must put the questions through the Special Judge & also child is permitted to take frequent breaks during trial as per Sec.33 of the POCSO Act.
 - Ensure child friendly environment in the court as per Sec.33(4) of the POCSO Act.
 - Counsel to ensure the identity of the child to not be disclosed in investigation and trial unless with permission of Special Court in written order for best interest of child as per Sec.33(7) of the POCSO Act.
 - Child is not to be exposed in any way to the accused at the time of recording the evidence as per Sec.36 of the POCSO Act.
 - Trial to be conducted in camera and in presence of the parents of the child or any other person as per Sec.37 of the POCSO Act. If the offence is charged u/s 376 of IPC, then in camera proceedings must be held as per Sec.327 of the CrPC.
- iv. In child sex trafficking cases registered under POCSO, evidence of the child must be recorded within 30 days from taking cognizance of the offence and the trial must be concluded within a period of one year from the date of cognizance of the offence in accordance with the Sec.35 of POCSO Act. If offence under SC & ST (POA) Act is charged along with trafficking, PP must ask the court to provide travelling and maintenance expenses to the victim during investigation, inquiry & trial as per the Sec.15A of ST & SC (POA) Act. In other cases, the victim/witnesses are entitled to travel expenses as per the rule 236 – 251 of Andhra Pradesh Criminal Rules of Practice and Circular Order, 1990.
- v. In cases of human trafficking, mostly deposition of the victim is critical to the cases. Hence, it is vital to the case to bring out the elements of all the offences charged. Example of few guiding questions for the consideration of the prosecuting officer:

- Details of source, transit and destination.
 - What promise (job, marriage, salary, place of work promised) has been made by the trafficker to lure the victim?
 - What were the conditions of the work provided by the trafficker?
 - Was the victim allowed to go home after work?
 - Was any monetary or any such other relief given to the parents/ relatives of the victims?
 - How did the trafficker contact the victim? Was it randomly or through someone?
 - What is the mode of transport used by trafficker?
 - If any exchange of money was seen between the traffickers when they were handed over from one to another?
 - Where did the trafficker physically restrain the victims? Was it a guarded place? If not, why didn't the victims try to escape?
 - How did the traffickers ensure that the victims were physically restrained?
 - Were they working for the trafficker without any payment or for any previous debt?
- vi. Hostile Victim/Witness: If victim/witness turns hostile while giving evidence, the PP shall declare the victim hostile and proceed to cross-examine the witness and the parts of statement recorded u/s 161 of CrPC may be put to him and also to IO to mark the contradiction. This will help in closing arguments.
- vii. To avoid re-traumatization of the victim and to expedite the trial, file an application for recording evidence of the victims via video conferencing. **See [Draft Template - V](#).** Recording of victim's statement via video conferencing in compliance with Memo No. 2323/ W.P. A 2/2011 dated 02/04/2014 issued by Department of Women Development and Child Welfare, Govt. of A.P.

STANDARD OPERATING PROCEDURES ON THE INTER-JURISDICTIONAL TRANSFER OF EVIDENCE IN TRAFFICKING CRIMES THROUGH VIDEO CONFERENCING, 2017

1

The Presiding officer at the court point may direct the coordinator at the remote point to introduce himself and all the other persons present along with him in the room, before the witness starts testifying.

2

Where, for any reason, a person unconnected to the case is present at the Remote point, then that person may be identified by the coordinator at the remote point at the start of the proceedings and the purpose for his being present should be explained to the Presiding Officer.

3

Third parties may be allowed to be present during VC subject to orders of the Presiding Officer.

4

In case a victim is testifying, the Presiding Officer may allow a guardian or a social worker to be present during the VC.

5

The Presiding officer shall confirm the identity of the person to be examined with the assistance of the coordinator at the Remote Point at the time of recording of the evidence.

6

The Presiding Officer needs to ensure that the person to be examined at the Remote Point can be seen and heard clearly and similarly, that the person to be examined at the Remote Point can clearly see and hear the Court.

7

The Presiding Officer needs to have, at all times, the ability to control the camera view at the Remote Point so that there is an unobstructed view of all the persons present in the room. In case the person being examined in the Remote Point would need to identify the accused at Court Point, or vice versa, the Court would need to ensure that the video camera is positioned in such a way that would allow the person being examined to have a clear and fair view of such individual as if he/she were physically present in the Court room.

8

The Presiding Officer may have a clear image of each deponent to the extent possible so that the demeanour of such a person may be observed.

9

While recording the evidence in writing, the Presiding Officer along with making note of the demeanour of the witness must record any interruptions due to internet connectivity or any other interference that occurred while the testimony was being recorded.

10

The record of proceedings including transcription of statement needs to be prepared at the Court Point under supervision of the Court and accordingly authenticated. Certain options are in vogue. One is video-recording of the entire proceedings. Another, and a better option, is that the soft copy of the transcript digitally signed by the coordinator at the Court Point shall be sent by e-mail to the Remote Point where a printout of the same may be taken and signed by the department. A scanned copy of the statement digitally signed by co-ordinator at the Remote Point be then sent by e-mail to the Court Point. The statement received by the Court Point through email be finally re-endorsed by the Presiding Officer.

11

The Presiding Officer may at the request of a person to be examined, or on its own motion, taking into account the best interests of the person to be examined, direct appropriate measures to protect his privacy keeping in mind the witness's gender and physical condition.

12

If, in the course of examination of a person at the remote point through VC, it is necessary to present a document to her/him, the Court may permit such a document to be presented in the following manner.

- a. If the document is at the Court Point, by transmitting a copy of it to the remote point electronically, including through a document visualiser, and the transmitted copy being then presented to the person being examined;
- b. If the document is at the Remote Point, by presenting it to the person being examined and transmitting a copy of it to the Court Point electronically, including through a document visualiser. The hard copy would also be sent, subsequently, to the Court Point by courier/mail.

13

The Presiding Officer needs to ensure that the provisions u/s 33 of the POCSO Act, is adhered to, while examining a minor victim. This includes:

- a. Communicating all questions to the Presiding Officer, who shall in turn put those questions to the minor victim.
- b. Creating a victim friendly atmosphere by allowing a family member, a guardian, a friend or a relative, in whom the minor victim has trust or confidence, to be present in the court.
- c. Frequent breaks for minor victims.
- d. Not permitting aggressive questioning or character assassination of the minor victim and ensure that dignity of the minor victim is maintained at all times during the trial.

viii. If the victim names any new accused, PP may file petition u/s. 216 of the CrPC to alter the charge and to add the name of such new accused provided that his name was mentioned in the FIR and later deleted by the IO as u/s 319 of CrPC.

ix. Oppose deferring the Evidence

Oppose application filed by defence u/s 231 CrPC to defer the evidence of the witnesses and delay the trial. Sec.135 of the Indian Evidence Act (1982) states that the order in which witnesses are produced and examined in a criminal case is regulated by the CrPC, in the absence of any such law in the CrPC, the order is left to the Court's discretion.

Sec.231 of the CrPC addresses the evidence for the prosecution in a trial before a Sessions Court, but neither CrPC Sec.231 nor any other section in the CrPC directly address the order in which witnesses should be produced and examined. Following Judgements may be referred.

Lalu Alam vs. The State of West Bengal 2003 (2) ALT Cri 2 The discretion to permit cross examination of any witnesses to be deferred until any other witness or witnesses have been examined u/s 231(2) doesn't give the accused a right to ask for deferring the cross-examination in a blanket way.

Abarna Mukhopadhyay vs. Diptiman Mukhopadhyay 2005 (2) CHN 92 The accused has no right to ask for wholesale deferring of cross-examination of witnesses.

e. CLOSING ARGUMENTS

The following are suggestive information that can be used for closing arguments.

LABOUR TRAFFICKING CASES

Definition of Bonded Labour:

People's Union for Democratic Rights Vs Union of India (1982) 3 SCC 235, Every form of forced labour, 'begar' or otherwise, is within the inhibition of Article 23 and it makes no difference whether the person who is forced to give his labour or service to another is remunerated or not. Even if remuneration is paid, labour supplied by a person would be hit by this Article if it is forced labour, that is, labour supplied not willingly but as a result of force or compulsion. Where a person provides labour or service too another for remuneration which is less than the minimum wage, the labour or service provided by him clearly falls within the scope and ambit of the words 'forced labour' under Article 23.

Neeraja Chaudhary Vs State of Madhya Pradesh (1984) 3 SCC 242, Whenever it is found that any workman is forced to provide labour for no remuneration or nominal remuneration, the presumption would be that he is a bonded labourer unless the employer or the State Government is in a position to prove otherwise by rebutting such presumption.

Dhanurjaya Putel Vs State of Orissa 2002 (H) OLR 412, Deprivation of the freedom of movement and right of expression with respect to person or property can be connoted as the meaning to the term 'slave' or 'slavery'. In this case, as per the prosecution allegation, when a person is allowed to put a labour of about 18 hours a day for a paltry sum of Rs.30/- may be with the assistance of his family members and yet he shall not have the freedom of expressing his grievance against the exploitation and meagre payment, this Court finds no better example of satisfying the requirement of the term 'slavery' in the context of the present day scenario and the prevailing law. Therefore, the allegation available from the Case Diary makes out a prima facie case satisfying the requirement of the terms 'slave' and 'slavery' too.

Conviction in Labour Trafficking Cases:

Kumara v. State of Karnataka, (2014) SCC OnLine Kar 8254, (2014) 5 Kant LJ 345, para. 4, 5: In this case, the accused made false assurances to the victims that he would pay them handsomely, then took them as workers in his brick factory. He did not let them go outside, provided no facilities like food, shelter or clothing, and assaulted them. The Court found the offences u/s 370 IPC, u/s 23 and 26 JJA, and u/s 16, 17 and 18 of BLSA were prima facie shown, sufficient to deny the bail application.

Explanation when NGO is complainant:

Neeraja Chaudhary Vs State of Madhya Pradesh (1984) 3 SCC 242 at 251-252: What is really necessary is to involve social action groups operating at the grass roots level in the task of identification and release of bonded labourers.....It is only through social action groups working amongst the poor that we shall be able to discover the existence of bonded labour and we shall be able to identify and release them.....(and) the State Government should start taking their assistance instead of looking at them askance and distrusting them.

Burden of proof for bonded debt:

As per Sec.15 of the BLSA, the burden to show that debt claimed by a bonded labourer is not bonded debt lies on the creditor.

Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161: The Court held that "there would be no occasion for a labourer to be placed in a situation where he is required to supply forced labour for no wage or for nominal wage, unless he has received some advance or other economic consideration from the

employer and under the pretext of not having returned such advance or other economic consideration, he is required to render service to the employer...". Also, "whenever it is shown that a labourer is made to provide forced labour, the Court would raise a presumption that he is required to do so in consideration of an advance or other economic consideration received by him and he is therefore a bonded labourer." The Supreme Court also said that u/s 15, BLSA, "...lays down that whenever any debt is claimed by any labourer or a Vigilance Committee to be a bonded debt, the burden of proof that such a debt is not a bonded debt shall lie on the creditor." This presumption exists because otherwise, it would be extremely difficult for bonded labourers to prove it is not a bonded debt because they often do not have access to the appropriate evidence. If the employer has complied with employment law documentation requirements then he/she will have easy access to disprove the presumption if it the debt is not a bonded debt.

Fines alone are insufficient and need for appropriate punishment for bonded labour violations:

People's Union for Democratic Rights Vs Union of India (1982) 3 SCC 235, Magistrate seem to overlook the fact that labour laws are enacted for improving the conditions of workers and the employers cannot be allowed to buy off immunity against violations of labour laws by paying a paltry fine which they would not mind paying, because by violating the labour laws, they would be making profit which would far exceed the amount of the fine. We would like to impress upon the Magistrates and Judges in the country that violation of labour laws must be viewed with strictness and whenever any violations of labour laws are established before them, they should punish the errant employers by imposing adequate punishment.

Bandhua Mukti Morcha Vs Union of India (1984) 3 SCC 160: The Magistrates and Judicial Officers are not sufficiently sensitised to the importance of observance of labour laws with the result that the labour laws are allowed to be ignored and breached with utter callousness and indifference and the workmen begin to feel that the defaulting employers can, by paying a fine which hardly touches their pocket, escape from the arm of law and the labour laws supposedly enacted for their benefit are not meant to be observed but are merely decorative appendages intended to assuage the conscience of the workmen. We would therefore strongly impress upon the Magistrates and Judicial Officers to take a strict view of violation of labour laws and to impose adequate punishment on the erring employers so that they may realise that it does not pay to commit a

breach of such laws and to deny the benefit of such laws to the workmen.

Sec.370 of IPC applies to labour trafficking:

State of Odisha v. Pradesh, C.T (Special Act) Case No.11 of 2014, C.T(SA) Case No. 27 of 2014 (Court of Additional Session Judge-cum-Special Judge, Dharamgarh, District: Kalahandi, 24/12/2016): Based on the observations the accused had engaged the victims in the field of the accused for labour work without any payment, using force with threat, after abducting them without allowing them to come outside made against the accused persons, it can be easily held that the essentials of the offence u/s. 370 of IPC have been duly fulfilled by the prosecution for making out that offence.

Dharmendra Kumar Beuria v. State of Orissa, (2015) SCC OnLine Ori 472: If there is no dispute that there is severe allegation, which is supported by independent materials that the victim was exploited and harboured as a person's similar to slave there is prima facie material before the Court indicating that the victim girl was, for the purpose of exploitation, recruited and harboured in the houses of the petitioners by inducing payment of money where FIR has been filed u/s. 370 of IPC and BLSA.

SEX TRAFFICKING CASES

Consent obtained by fraud is not valid:

Deelip Singh @ Dilip Kumar v. State of Bihar, AIR 2005 SC 203, If the consent of the person from whose possession the girl is taken is obtained by fraud, the taking is deemed to be against the will of such a person.

When detention may occur with victim's consent or movement of victim's was not restricted:

Nilofar and Nilam Usman Shaikh v. State of Gujarat, (2004) 3 GLR 2630: While the girls movements might not have been restricted but that would not take out the case at present from the phrase as used in Sec.9 of ITPA, 'having the custody, charge or care of, or a position of authority over any person'.

Abetment is allowed even if main accused has been acquitted:

Jamuna Singh v. State of Bihar, AIR 1967 SC 553, It cannot be held in law that a person cannot ever be convicted of abetting a certain offence when the person

alleged to have committed that offence in consequence of the abetment has been acquitted. The question of the abettor's guilt depends on the nature of the act abetted and the manner in which the abetment was made.

Procedural Irregularities:

Lack of local witness

Bai Radha v. State of Gujarat, AIR 1970 SC 1396, Failure to fully comply with the requirements of Sec.15(2) regarding local witnesses is not an illegality but is a mere irregularity.

Failure to record grounds for search without warrant

Jurisdiction or power to make a search was conferred by the statute and not derived from the recording of reasons. A search which is to be conducted under the Act must comply with the provisions contained in Sec.15; but it cannot be held that if a search is not carried out strictly in accordance with the provisions of that section the trial is rendered illegal.

Evidence from illegal search — can still be used if the evidence is relevant

State of Himachal Pradesh v. Shri Pirthi Chand and Anr., AIR 1996 SC 977, It is settled law that illegality committed in investigation does not render the evidence obtained during that investigation inadmissible. In spite of illegal search, property seized, on the basis of said search, still would form basis for further investigation and prosecution against the accused.

Victim's Age:

Victim age - determined at the time the offense occurred, not at the time of rescue

Smt. Narmada Govind Kamble v. State of Mah., 2010 CriLJ 1220, Even if it is presumed that she was 18 years of age at that time, she was brought in the prostitution about 5 to 6 months before that and therefore it can be held that she was minor at the time when she was first put in the prostitution.

Determining Victim's age - No rule that additional years must be added for margin of error.

State of U.P. v. Chhoteylal, AIR 2011 SC 697: There is no such rule much less an absolute one that two years have to be added to the age determined by a doctor.

Sec.109 – Abetment:

U/S 109 of IPC, the act abetted must be committed in order to prosecute the abettor. A person is an abettor of a thing if he/she instigates a person to act/ engages in any conspiracy/ intentionally aids, by an act or illegal omission, in the commission of an offence.

Ashok Nivruti Desai v. State of Maharashtra, 1995 Cri. L.J. 826: The Bombay High Court held that the following acts amount to abetment: 1) The abettor watched the victim so that she could not leave the hut and 2) Though the victim told her story to the abettor, the abettor did nothing to help.

State v. Sayed Mohd Rowther. 1969 K.L.T. 819, 5811: Abetment is a substantive offence, so, an abettor therefore can be convicted before the principal offender is apprehended and put on trial.

Priya Patel v State of Madhya Pradesh, 2006, 6 S.C.C. 263: The residential question on whether a woman can be charged for abetment of rape was left open to the Courts to decide. The Court held that if in law, it is permissible and the fact warrants such a course to be adopted, then the courts can act in accordance with the law.

Other useful rulings:

Laxmi v. State, 2010 Manu Del. 3231: The Delhi High Court applied Indian Evidence Act Sec.106 to place the burden on a brothel owner charged under ITPA, to prove that he or she did not have knowledge of the prostitution taking place on the premises. The High Court reasoned that such knowledge was within the brothel owner's mind.

Jagbir Walia v. Delhi Administration, 1998 S.C.C. (Cri.) 1519: u/s 15 of ITPA, the investigation is legal if the sub-inspector records the complainant's statement and then calls the SPO to the scene.

State v. Sardar Bahadur, 1969 Cri. L.J. 1120 (Cal.). No countersign of the SPO is needed: While subordinates can carry out, and even conduct a warrantless search, the SPO must be present *Delhi Administration v. Ram Singh, A.I.R. 1962 (S.C.) 63*. Subordinates may sign search lists, witness statements or any other document related to the search and investigation.

Madhavi Jadhav v. State, 2006 (1) Bom. C.R. (Cri.) 784: The SPO can delegate the investigation to a subordinate officer.

Harbhajan Kaur v. State, 1969 Cri. L.J. 1038 (Bom.): Also, the subordinate officer can sign the charge sheet.

Bai Radha v. Gujarat, A.I.R. 1970 (S.C.) 1396: While the compliance with the SPO provision is mandatory, non-compliance with procedure related to panchas and women police constables does not vitiate the trial unless the accused can demonstrate prejudice.

Raja v. State, 2004 MANU Kar. 0520: The Karnataka High Court upheld the conviction u/s 366 of IPC based on the facts: 1) The appellant abducted a girl from Mysore by drugging her coffee and making her unconscious, 2) trafficked her to Mumbai from Bangalore and 3) sold her to a Mumbai brothel for prostitution.

Manjappa v. Karnataka, (2010) 9 S.C.C. 334: The Supreme Court affirmed the appellants' conviction for violating IPC Sec. 366A because the following evidence was sufficient to prove the offence: (i) The appellants tricked a minor girl to come from her home in Karnataka by claiming they would find her a job, (ii) They sold the minor girl to a brothel keeper and (iii) The brothel keeper forced her to prostitute.

Judgements that apply to both Labour trafficking & Sex trafficking cases

Understanding Discrepancies

Ignore discrepancies that do not affect the root of the offence of trafficking.

Supreme Court in Krishna Mochi and Others vs. State of Bihar, AIR 2002 SC 1965: When a rustic or illiterate witness face an astute lawyer, there is bound to be imbalance and, therefore, minor discrepancies have to be ignored. Some discrepancy is bound to be there in each and every case which should not weigh with the Court so long it does not materially affect the prosecution case.

State of U.P. v. Krishna Master and Ors. AIR 2010 SC 3071: The prosecution evidence may suffer from inconsistencies and discrepancies, but that is a short-coming from which no criminal case is free. The main thing to be seen is whether those inconsistencies go to the root of the matter or pertain to insignificant aspects thereof.

State of Madhya Pradesh v. Surendra Singh, (2014) SCC OnLine MP 8706: Urmila Devi has corroborated the statement of the prosecutrix and given the details. There are minor omissions and contradictions, but these are natural. The omissions and contradictions show that the witnesses are not tutored. Keeping in mind that the witnesses are not highly educated, therefore, these contradictions are obvious.

Failure to examine some witnesses:

Raj Narain Singh v. State of U.P. and Ors. (2009) 10 SCC 362: It is not necessary that all those persons who were present at the spot must be examined by the prosecution in order to prove the guilt of the accused.

f. VICTIM COMPENSATION

File application for victim compensation u/s 357A CrPC and also in accordance with the G.O.Ms No. 9 dated 07/03/2015 issued by Govt. of Telangana. **Check [Draft Template – VII](#).** Recommendation must be made to the DLSA irrespective of the decision of conviction or acquittal of the accused in the case.

g. DETAILED LEGAL OPINION OF PP IN CASE OF ACQUITTAL

If the case results in acquittal, study the judgement and form an opinion and send it to Director of Prosecution for processing. As per the Judgement in ***State of Gujarat v. Kishanbhai, ((2014) 5 SCC 108)*** on the culmination of a criminal case in acquittal, the concerned investigating/prosecuting official(s) responsible for such acquittal must necessarily be identified. A finding needs to be recorded in each case, whether the lapse was innocent or blameworthy. Each erring officer must suffer the consequences of his lapse, by appropriate departmental action, whenever called for. Taking into consideration the seriousness of the matter, the concerned official may be withdrawn from investigative responsibilities, permanently or temporarily, depending purely on his culpability.

DRAFT TEMPLATES

INDEX

Draft Template I

Application Filed In Sex Trafficking Case on First Remand Hearing

Draft Template II

Application Filed In Labour Trafficking Case on First Remand Hearing

Draft Template III

Application for Addition of Charges

Draft Template IV

Application to Oppose Adjournment u/s 309 CrPC

Draft Template V

Application for Video Conferencing

Draft Template VI

Application to Appoint Language Interpreter/Translator

Draft Template VII

Application for Victim Compensation

APPLICATION FILED IN SEX TRAFFICKING CASE ON FIRST REMAND HEARING

In the Learned Court of Judicial Magistrate First Class

Case No. _____

State of Telangana Vs _____

May it please your Honour.

1. That on _____, the AHTU on a complaint filed by _____ conducted a rescue operation at _____ and rescued _____ and arrested _____ for allegedly trafficking the victims for exploiting them for commercial sexual exploitation. That the FIR No. was filed u/s _____ against _____.

2. That the State has prayed for _____ custody of the accused.

3. To ensure convergence in the said case to ensure victims are rehabilitated and provided legal aid, the following directions be passed in the case:

The I.O be directed to:

- i. Conduct Medical Examination of the victim by a registered medical practitioner, if not conducted already.

This is in accordance with:

- a) SOP for Identification and Rehabilitation of Bonded Labourer and Prosecution of Offender, F.No. S11012/01/2015-BL issued by MoLE, Gol on 17th August 2017 (See Relevant Policy –I),
- b) u/s 27 of the POCSO, for the purposes of determination of age (Ossification test), injury or disease incidental to the exploitation.
- c) u/s 15(5A) of the ITPA, for the for the purposes of determination of the age of such person, or for the detection of any injuries as a result of sexual abuse or for the presence of any sexually transmitted diseases.

- ii. Forward the case documents to the DM, the Chair of the District Level Committee on Human Trafficking formed vide G.O.M No. 1, 'Policy for Combatting Trafficking of Women and Children for CSE' issued by the Department of Women Development and Child Welfare, Government of Andhra Pradesh on 03/01/2003 to enable the Committee to monitor the rehabilitation and case progress of the victims.
- iii. Forward the case documents to DLSA for interim compensation u/s 357A CrPC and for assigning a Panel Advocate and Para Legal Volunteer.
- iv. Initiate proceedings under the Prevention of Money Laundering Act, 2002 if applicable.
- v. Notify the District AHTU, State AHTU and State Nodal Office of Human Trafficking (if case isn't from AHTU) for monitoring purposes in compliance with G.O.M No. 165 dated 25/06/2011 issued by Home Department, Govt. Of A.P.
- vi. If victims have been returned to their home state, to record victim's statements u/s 161 CrPC via video conferencing, facilitated by DLSA
- vii. If victims are being threatened, to proceed under the Witness Protection Scheme 2018 issued by the Ministry of Home Affairs, Govt. of India and in judgment passed by Hon'ble Supreme Court of India dated 5th December 2018 in WP (Cri) No. 156 of 2016.
- viii. Notify case details to the Inter-state task force, if formed.

The District Legal Services Authority be directed to:

1. Initiate process for interim compensation to be provided to the victim in accordance to G.O.M No. 9 dated 07/03/2015 issued by the Telangana State Legal Services Authority u/s 357A CrPC.
2. Assign a panel advocate to represent the victims in the case and a Para Legal Volunteer for follow up of rehabilitation. This is in accordance with The Legal Services Authorities Act, 1987 and The NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015.
3. To coordinate with the respective DLSA of the district where the victim currently resides, in cases of inter-state, inter-

district trafficking. In case of a child victim, such order shall be simultaneously forwarded to the respective Child Welfare Committee for necessary information and action.

4. To facilitate the recording of victim's statement via video conferencing in compliance with Memo No. 2323/ W.P. A 2/2011 dated 02/04/2014 issued by Department of Women Development and Child Welfare, Govt. of A.P.

Directions for Temporary Protective Shelter for the adult victim:

- i. File an application before the Learned Magistrate to direct for temporary protective custody of the victim, in accordance with Section 17 (2) of the ITPA. The Magistrate may order for temporary protective custody for not more than 21 days after giving the victim an opportunity to be heard and order for a home inquiry to be conducted by Probation Officer to determine the correctness of age, character and antecedents of the person, and the suitability of his/her parents, guardian for taking charge before releasing the victims.
- ii. Direct the DM to implement the following G.O. issued by the Department of Women Development, Child Welfare and Disabled Welfare, Govt. of A.P for sustainable livelihood and rehabilitation of trafficked victims:
 1. G.O.M No. 14 dated 23/05/2008 for 70% reservation of seats for trafficked victims for diploma course in Smt. Durgabai Deshmukh Women Technical Training Institute, Hyderabad
 2. G.O.M No. 47 dated 31/08/2010 for 'Reservation of Child Victims in Govt. run residential institutions'.
 3. Direction be passed to DM if FIR contains charges under the SC & ST Act then a to issue compensation as per the Notification G.S.R 316(E) dated 31/03/1996 issued by Ministry of Welfare in accordance with Sec 23(1) of the SC & ST Act.
- iii. Direct the Department of Women Development and Child Welfare, Government of Telangana to issue Rs. 20,000/- as relief amount to the women and child victims of trafficking in this case immediately within 48 hours of receipt of this order. This is in compliance of

G.O.M No. 28 dated 15/10/2012 issued by the Department of Women Development and Child Welfare, Govt. of Andhra Pradesh.

- iv. Direct the Protective Home to comply with the Minimum Standards of Care provided for in G.O.M. No. 16, dated 24th April 2010 issued by the Department of Women Development, Child Welfare and Disabled Welfare, Government of A.P.

Therefore, it is humbly prayed that the above-mentioned directions be passed to the respective authority.

Place:

Name:

APPLICATION FILED IN LABOUR TRAFFICKING CASE ON FIRST REMAND HEARING

In the Learned Court of Judicial Magistrate First Class

Case No. _____

State of Telangana Vs _____

May it please your Honour:

1. That on _____, the AHTU on a complaint filed by _____ conducted a rescue operation at _____ and rescued _____ and arrested _____ for allegedly trafficking the victims for exploiting them for forced labour/child labour/bonded labour. That the FIR No. was filed u/s _____ against _____.
2. That the State has prayed for _____ custody of the accused.
3. To ensure convergence in the said case to ensure victims are rehabilitated and provided legal aid, the following directions be passed in the case:

The I.O be directed to:

- a) Forward the case documents to the DM, the Chair of the District Level Committee on Human Trafficking formed vide G.O.M No. 1, 'Policy for Combatting Trafficking of Women and Children for CSE' issued by the Department of Women Development and Child Welfare, Government of Andhra Pradesh on 03/01/2003 to enable the Committee to monitor the rehabilitation and case progress of the victims.
- b) Forward the case documents to DLSA for interim compensation u/s 357A CrPC and for assigning a Panel Advocate and Para Legal Volunteer
- c) Initiate proceedings under the Prevention of Money Laundering Act, 2002 if applicable
- d) Notify the District AHTU, State AHTU and State Nodal Office of Human Trafficking (if case isn't from AHTU) for monitoring purposes

in compliance with G.O.M No. 165 dated 25/06/2011 issued by Home Department, Govt. Of A.P.

- e) If victims are returned to their home state, to record victim's statements u/s 161 CrPC via video conferencing facilitated by DLSA.
- f) If victims are being threatened, to proceed under the Witness Protection Scheme 2018 issued by the Ministry of Home Affairs, Gol and in judgment passed by Hon'ble Supreme Court of India dated 5th December 2018 in WP (Cri) No. 156 of 2016.

The District Legal Services Authority be directed to:

1. Initiate process for interim compensation to be provided to the victim in accordance to G.O.M No. 9 dated 07/03/2015 issued by the Telangana State Legal Services Authority u/s 357A CrPC.
2. Assign a panel advocate to represent the victims in the case and a Para Legal Volunteer for follow up of rehabilitation. This is in accordance with The Legal Services Authorities Act, 1987 and The NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015.
3. To coordinate with the respective DLSA of the district where the victim currently resides, in cases of inter-state, inter-district trafficking. In case of a child victim, such order shall be simultaneously forwarded to the respective Child Welfare Committee for necessary information and action.
4. To facilitate recording of victim's statement via video conferencing in compliance with Memo No. 2323/ W.P. A 2/2011 dated 02/04/2014 issued by Department of Women Development and Child Welfare, Govt. of A.P.

The DM be directed to:

1. to immediately conduct inquiry under the Bonded Labour System Abolition Act, 1976 (if a bonded labour case), and Central Sector Scheme for Rehabilitation of Bonded Labourers, 2016, F. No,S-11012/01 I 20L5-BL, issued by Ministry of Labour, Gol on 18th May 2016 and in accordance with SOP for Identification and Rehabilitation of Bonded Labourer and Prosecution of Offender,

F.No. S11012/01/2015-BL issued by MoLE, GoI on 17th August 2017.

2. To issue a Release Certificate to each victim after inquiry if found to be bonded labourer in accordance with the said documents.
3. To provide initial cash assistance under the said Scheme within 24 hours of issuance of the Release Certificate
4. To facilitate safe inter-state/inter-district return of victims, if not done already.
5. In accordance with Section 10 of the said SOP, coordinate with relevant authorities for issuance of the following documents to the victims to ensure holistic rehabilitation: Aadhar Card, Ration Card, Caste Certificates, Voter ID, MNREGA Card, Land Patta, Government health insurance and other relevant documents.
6. In accordance to Section 5(v) of the said Scheme, coordinate with departments to provide the non-cash rehabilitation benefits to be provided to the victims:
 - Allotment of house-site and agricultural land;
 - Land development;
 - Provision of low cost dwelling units;
 - Animal husbandry, dairy, poultry, piggery etc.;
 - Wage employment, enforcement of minimum wages etc
7. Notify the Vigilance Committee so rehabilitation of the victims may be monitored.
8. Coordinate with the source state district for rehabilitation in instance of inter-state/inter-district trafficking.

Direct the Labour Officer/Commissioner to:

- a. Initiate proceedings under the Minimum Wages Act and Payments of Wages Act for recovery of wages and other violations of labour law as per the SOP issued by the Ministry of Labour and Employment, GoI.
- b. Notify District Nodal Officer for child labour in cases of child labour

- c. Ensure all data entered in PENCIL portal so necessary relief may be provided.
- d. Initiate rehabilitation proceedings under NCLP Scheme and in accordance to the SOP
- e. In cases of child labour, direct District Nodal Officer to upload case in PENCIL Portal.
- f. In cases of child labour, provide rehabilitation and economic compensation as per MC Mehta v State of Tamil Nadu and Ors AIR 1997 SCC 699 judgment in which 1) Rupees 20,000 per child are to be paid by the employer to a 'Child Labour Rehabilitation-cum-Welfare Fund' to be used only for the benefit of that child and 2) In addition, the government is to provide employment to an adult family member of the child or contribute INR 5000 per child to this fund. See Section 8.3 of the Standard Operating Procedure for the Enforcement of Child and Adolescent (Prohibition and Regulation) Act, 1986 issued by the Ministry of Labour and Employment, Government of India in September 2017.
- g. Notify the case details to the following Committees formed by Department of Labour Employment Training and Factories (Labour) Department, Government of Telangana for further action and relief for further relief and action:
 - i. District Vigilance Committee formed under Section 13 BLSA and G.O.M 20 dated 04/04/2018 issued by the Department of Labour Employment Training and Factories (Labour) Department, Government of Telangana.
 - ii. State Level Monitoring Committee for Bonded Labour formed vide G.O.M No. 19 dated 04/04/18 Department of Labour Employment Training and Factories (Labour) Department, Government of Telangana for further action and relief.
 - iii. State Level Monitoring Committee for Child Labour formed vide G.O.M No. 25 dated 23/06/17 Department of Labour Employment Training and Factories (Labour) Department, Government of Telangana for further action and relief.
 - iv. State Resource Centre for Child Labour formed vide G.O.M 246 dated 26/05/2018 Department of Labour Employment

Training and Factories (Labour) Department, Government of
Telangana.

Therefore, it is humbly prayed that the above-mentioned directions be passed
to the respective authority.

Place:

Name:

APPLICATION FOR ADDITION OF CHARGES

[Name of Complainant]Complainant

Vs.

[Name of Accused]Accused

APPLICATION FOR ADDITION OF CHARGES

MAY IT PLEASE YOUR HONOUR

It is humbly submitted that:

2. [description of original event and original charges]
3. [storyline of why additional charges are now being sought]
4. [what charges should be added]
5. [what parts of the raid FIR substantiates these additional charges]
6. [the shortcomings of the police in regards to the original charges and witnesses]

THE PROSECUTION HUMBLY REQUESTS THAT THE COURT ADD THE FOLLOWING CHARGES TO THE CHARGE SHEET IN THIS CASE:

- [list the additional charges]

ARGUMENTS FOR ADDITION OF CHARGES

1. Section 216 of the Code of Criminal Procedure (1973) (hereinafter: “CrPC.”) states, “Any Court may alter or add to any charge at any time before judgment is announced.” The only requirement on this authority is that the accused hear

an explanation and recitation of any alterations or additions. However, the court must make the following distinctions when adding charges: (1) whether proceeding to trial immediately will prejudice the accused and (2) if the court finds that proceeding to trial immediately will prejudice the defendant, whether the appropriate remedy for such prejudice is adjournment or retrial.

- a. If the court finds that immediately proceeding to trial does not prejudice the defendant, then CrPC. (1973) § 216(3) permits the court to make the addition and “proceed with the trial as if the altered or added charge had been the original charge.”
- b. On the other hand, if the court finds that immediately proceeding to trial does prejudice the defendant, then CrPC. (1973) § 216(4) permits the court to either adjourn the proceeding or direct a new trial.

2. Proceeding with this case immediately does not prejudice the defendant because:

- a. This trial has not commenced and no witnesses have testified [if applicable].
- b. The addition of charges does not require the recall of any witnesses, because no witnesses have testified yet [if applicable].
- c. The additional charges do not prejudice the defendant because they were foreseeable charges from the beginning. The originally charged offences, like the additional offences, involve crimes against
- d. Therefore, adding charges that are similar to the original charges and that arise out of the same occurrence does not prejudice the defendant.

3. Even if the court finds that immediately proceeding with trial does prejudice the defendant, the appropriate remedy is an adjournment of the proceedings.

- a. First, the Supreme Court denounces the presumption that amending charges results in a new trial. *Ranbir Yadav. v. State of Bihar*, 1995(4) SCC 392. In *Ranbir*, the court added charges and defendants after four material witnesses testified. Even though the prior testimony of the witnesses before the addition of charges and defendants complicated the case, the Supreme Court agreed that recalling the witnesses, rather than retrying the case, was the appropriate remedy. The Supreme Court stated: “It is undoubtedly true that discretion has been given to

the Court to direct a new trial after addition or alteration of any charge, but it does not mean that every such addition or alteration in the charge which has been read over and explained to the accused would lead to inevitable inference that the Court has directed a new trial for them. It, therefore, follows that unless the Court passes a specific order and directs a new trial it cannot be presumed that a new trial has commenced only because an alteration or addition to a charge which has been read over and explained to the accused has been made.” Accordingly, adjournment, as a remedy, is even more appropriate here, because the court is not required to recall any witnesses [if applicable].

- b. Second, the type of prejudice most likely to concern the court involves time for the defense to prepare the case under the new charges. Permitting the defendant more preparation time through an adjournment directly remedies this prejudice. Conversely, retrial complicates the case, accomplishes no more for the defendant than adjournment, and is unjust to the victim in the matter.

4. In rejecting contentions from the defense that changes in the charge sheet vitiate a trial, the Supreme Court emphasized that the charge sheet is not the exclusive representation of the prosecution’s case, saying: “The charge-sheet is hardly a complete or accurate thesis of the prosecution case.” R.K. Dalmia v. Delhi Administration, A.I.R. 1962 SC 1821, para 336.

5. The police did not adequately charge the accused when they disregarded direct statements about the forced prostitution of the complainant. The F.I.R. clearly records the complainant’s direct statements about her involvement in forced prostitution. [if applicable]

6. The exclusion of the additional charges will result in injustice to the complainant victim in this case.

- a. [paragraph describing why it would be unjust]

7. The F.I.R. clearly establishes [facts of the case and the relevant, originally absent charges].

- a. [list facts that the FIR establishes that are relevant]

8. [description any other documentation that supports the addition of charges]

9. Therefore, after reviewing the facts contained in the F.I.R., the addition of charges under [list of additional charges] are appropriate, necessary, and foreseeable additions to the charges in this case.

THEREFORE, IT IS HUMBLY REQUESTED THAT:

1. The Court add the following charges to the charge sheet in this case:
 - [list of additional charges]
2. The Court may read out and explain the additional charges to the Accused
3. Any other relief that this Court deems fit.

Place:

Date:

APPLICATION TO OPPOSE ADJOURNMENT U/S 309 CrPC

Before the Learned Court of _____ -

[case number]

In the case of

State of [State]

Represented by

[Police Station] **Complainant**

VS

[Name of the accused]

Owner, [facility]

[address] **Accused**

Application to Oppose Adjournment under Section 309 of the Code of Criminal Procedure, 1973

MAY IT PLEASE YOUR HONOUR:

It is respectfully stated that:

1. _____

(witness) (role of witness)
is in attendance, is ready to testify today, and has taken their time to humbly be present at the Court today. It is recognized that witnesses come to court at a heavy cost to themselves and the Supreme Court in *State of Uttar Pradesh v. Shambhu Nath Singh* AIR 2001 SC 1403, (2001) 4 SCC

667, para. 9 has stated it is a sad plight to have to reappear multiple times without being examined.

2. The witness was present in court at [time witness promptly appeared].
3. Section 309(1) instructs the Court to continue to examine witnesses in attendance. Section 309(1) states: [emphasis added]

(1) In every inquiry or trial the proceedings shall be held as expeditiously as possible, and in particular when the examination of witnesses has once begun, the same shall be continued from day to day until *all witnesses in attendance have been examined*, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded.

4. Section 309(2) instructs the Court not to adjourn when witnesses are in attendance and unexamined except for special reasons recorded in writing. Section 309(2) states in part: [emphasis added]

(2) If the Court, after taking cognizance of an offence, or commencement of trial, finds it necessary or advisable to postpone the commencement of, or adjourn, any inquiry or trial, it may, from time to time, for reasons to be recorded, postpone or adjourn the same on such terms as it thinks fit, for such time as it considers reasonable, and may be a warrant remand the accused if in custody:

Provided that no Magistrate shall remand an accused person to custody under this section for a term exceeding fifteen days at a time:

Provided further that when witnesses are in attendance, *no adjournment or postponement shall be granted, without examining them*, except for special reasons to be recorded in writing.

5. The Supreme Court addressed the interpretation of section 309 in *Shambhu Nath Singh*, paras. 11, 13 stating that “the court is not given any power to adjourn the case except in the extreme contingency” laid out in sub-section 2 and made it clear that an adjournment requested for the convenience of the advocate is not a valid reason to grant an adjournment when witnesses are present.
6. The Supreme Court declared in *Shambhu Nath Singh*, para. 9 that “we make it abundantly clear that if a witness is present in court he must be examined on that day.”

7. In *Shambhu Nath Singh*, para. 12 the Supreme Court declared courts are to examine witnesses when present and if there exists “special reasons” for not examining those present judicial officials must place those reasons in the order for adjournment.
8. The Supreme Court in the same judgment has required courts, in case of adjournments, to pay out costs to witnesses which are commensurate to the loss suffered by the witness. *Shambhu Nath Singh*, paras. 13 and 14.
9. If the witness is present and the accused is absent, the Supreme Court has also stated that Courts can cancel the bail of the accused, *Shambhu Nath Singh*, paras. 13 and 14.
10. Speedy trials are in the interest of society.
11. The Complainant has made no motion to adjourn the proceedings and does not wish to adjourn before the witnesses present are examined.

THEREFORE, I HUMBLY PRAY THAT THIS LEARNED COURT:

- a. would not grant the accused’s application for adjournment;
- b. would continue with the examination of the witnesses present;
- c. that if the court does grant adjournment it would record in writing the special reason for doing so;
- d. that if the court does grant adjournment it would pay costs commensurate to the loss the witness has suffered including payment for wages lost and travel expenses.
- e. for any other relief that this Court thinks fit.

Date: _____

Place: _____

Advocate_____

APPLICATION FOR VIDEO CONFERENCING**IN THE COURT OF SESSIONS AT****IN****APPLICATION NO. ____ OF****IN****FIR No.**

[Name(s)]

Applicant/Accused

v.

[Name(s)]

Respondent

APPLICATION TO RECORD EVIDENCE OF A MATERIAL WITNESS THROUGH VIDEO CONFERENCING

It is humbly stated that:

1. [Basic facts]
2. Under Section 311, this Hon'ble Court is empowered to summon any material witness during the trial if his or her evidence appears to be vital to the just decision of the case. The Supreme court in *State of Maharashtra v. Praful B. Desai*, A.I.R. 2003 S.C. 2053, para. 13, stated that that courts must bear in mind that the foremost duty of the court is to do justice and an acquittal due to failure to produce *available* evidence is a failing of justice in the same order as an unjust conviction.
3. Section 284 of the Cr. P.C. states that whenever it appears to a Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstance of the case, would be unreasonable, the court may

dispense with such attendance and may issue a commission for the examination of the witness.

4. In the present case, allowing the victim to testify by video conference accomplishes the twin aims of logistical simplicity and the humane treatment of the victim::
 - a) The victim does not have a passport/visa/other travel related documents and it would cause unreasonable amount of delay and expense to prepare these documents. (use in case the victim is from another country)
 - b) Summoning the victim to come to court to testify would cause unreasonable delay in the trial.
 - c) Compelling the victim to return to Mumbai where she was abused and violated by the accused would cause a mental disturbance and would hamper the victim's rehabilitation and reintegration into her hometown.
5. In *State of Maharashtra v. Praful B. Desai*, *Id.* at para. 25, the Supreme Court recognized use of video conference facility to record witness testimony in criminal trials. The Supreme Court explained that evidence recorded through video conferencing is admissible as it satisfies the evidentiary requirements as stated in the definition of evidence in the Indian Evidence Act, hence, video conferencing is not precluded by Section 273 of the Cr. P.C. as read with Section 3 of the IEA. *Id.* at para. 12.
6. Moreover, recording of victim's statement via video conferencing in compliance with Memo No. 2323/ W.P. A 2/2011 dated 02/04/2014 issued by Department of Women Development and Child Welfare, Govt. of A.P.
7. Moreover, the Supreme Court recently held that that the use of video conferencing to record the statement of an Irish prosecutrix residing in Dublin in a Section 376 case was entirely appropriate and necessary to "meet the ends of justice." *Sujoy Mitra vs. State of West Bengal*, 2016 (2) SCJ 432, para. 4-5.
8. Video conferencing as a means of recording evidence was also recognized by the Bombay High Court in *Liverpool and London Steamship Protection and Indemnity Association v. M.V Sea Success I*

and Ors., 2005 (4) ALL MR 17.

9. Therefore, I humbly pray that:

- (a) This Honourable Court may order that the witness _____, be examined through video conferencing and give specific directions to various parties to enable the recording of the evidence.
- (b) For any other relief as this Court may deem fit and proper.

Place:

Date:

Advocate

APPLICATION TO APPOINT LANGUAGE INTERPRETER/TRANSLATOR

IN THE [COURT]

[Case number]

In the case of

State of [State]

Represented by

[Police Station] **Complainant****VS**

[name of the accused]

Owner, [facility]

[address] **Accused****Application to Appoint Translator under CrPC s. 277**

Prosecution Witness No.____ are victims in this case who were rescued on _____ by _____. These victims are from Native State and are currently residing there. They are illiterate. Hence this Learned Court appoint a translator in order to translate the proceedings into [language the victim speaks] so that the Learned Court would be able to understand the evidence given by the victims and so that the victims would be able to understand the questions asked of them.

Section 277 of the CrPC requires that if a witness gives evidence in a language other than the language of the Court, that evidence may be taken down in that language if it is practicable to do so. If it is not practicable, a “true translation” of the evidence must be made into the language of the Court, which must then be signed by the Judge. See CrPC s. 277(b); see also *Selvi J. Jayalalitha v. State Represented by the Superintendent of Police, Dv and Ac, Chennai*, 2011 CRLJ 1567; 2011 (3) KarLJ 187 (Kar HC 2010) (“On perusal of Section 277, it

is clear, if the witness gives evidence in the language of the Court, it shall be taken down in the said language. If the witness gives evidence in any other language, which shall be recorded in the said language, if it is not practicable to do so, a true translation of the evidence in the language of the Court shall be recorded as the examination of witnesses proceeds.”). This translation may occur simultaneously with the witness’s presentation of the evidence.

The State humbly prays that this Honorable Court would be pleased to appoint an appropriate translator in this matter.

Place: [location]

Dated: [date]

Counsel for the Applicant

APPLICATION FOR VICTIM COMPENSATION**IN THE COURT OF -----SITTING AT****SC No:**

State of Telangana represented by

Police Station

- Complainant**v/s.****- Accused****PETITION ON BEHALF OF STATE U/S 357A CRPC FOR VICTIM COMPENSATION**

May it Please Your Honour:

1. That the said case is fixed for closing arguments today i.e.
2. That the victims are PWs _____in the said case.
3. That Section 357(1) of the Cr.P.C. permits courts, when imposing a sentence that does include a fine, to award some or all of the accused's fine to the victim as compensation for "any loss or injury caused by the offence."
4. That Section 357A of the CrPC states the following:

Sec 357A CrPC- Victim compensation scheme-

(1) Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

(2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as

the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).

(3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

5. That in addition to compensation paid by the convicts, considering the impact that human trafficking has on the society as a whole and the right of the victims to be rehabilitated into society, a recommendation should be made by this Learned Court to the Karnataka State Legal Services Authority to pay maximum compensation to the victims in compliance with Section 357A of the Code of Criminal Procedure.
6. **The Supreme Court vide Ankush Shivaji Gaikwad Vs. State of Maharashtra AIR 2013 SC 2454, recently clarified that the trial courts should consider compensation to victims of criminal offences, regardless if the accused is convicted or acquitted.** The Supreme Court upheld the merits of compensation implementation in its recent judgment, stating, in Para 50 as adduced below:

"It appears to us that the provision confers a power coupled with a duty on the Courts to apply its mind to the question of awarding compensation in every criminal case. We say so because in the background and context in which it was introduced, the power to award compensation was intended to reassure the victim that he or she is not forgotten in the criminal justice system. The victim would remain forgotten in the criminal justice system if, despite Legislature having gone so far as to enact specific provisions relating to victim compensation, Courts choose to ignore the provisions altogether and do not even apply their mind to the question of compensation."

This bold statement reinforces that the Courts of India not only have the power to make a conscious decision about victim compensation in every criminal case, but also have a compulsory duty to do so.

7. The Hon'ble Supreme Court in the said judgment in Para 26 further explained the original intent behind Section 357 that the wellbeing of the victim must be prioritized. The judgment delves further into this issue, stating, *"This is a measure of responding appropriately to crime as well as reconciling the victim with the offender. It is, to some extent, a constructive approach to crimes. It is indeed a step forward in our criminal justice system. We,*

therefore, recommend all Courts to exercise this power liberally so as to meet the ends of justice in a better way". Through this victim-centric approach to law, judges and other legal authorities will devote more time, thought, and resources towards the victims' recovery and rehabilitation.

8. That the Telangana State Victim Compensation Scheme 2015 provides for _____ as compensation to trafficked victims. G.O.M No.9

Prayers:

The Petitioner humbly prays that the Learned Court may be pleased to pass a Judgment:

- i. Recommending the victim to be compensated under section 357A of the Code of the Criminal Procedure, 1973.
- ii. Any other relief that the Court deems proper.

AND FOR THIS, YOUR PETITIONER, AS IN DUTY BOUND SHALL EVER PRAY.

RELEVANT POLICIES AND SCHEMES

INDEX

Relevant Policy I

Standard Operating Procedure for Identification and Rehabilitation of Bonded Labourer and Prosecution of Offender, F. No. S-11012/01/2015-BL issued by Ministry of Labour and Employment, Government of India on 17th August, 2017 .

Relevant Policy II

Policy for Combating Trafficking of Women and Children for Commercial Sexual Exploitation' notified vide G.O.M No. 1 dated 3rd March, 2003, issued by the Department of Women Development and Child Welfare, Govt. of A.P.

Relevant Policy III

G.O.M No. 165 dated 25th June, 2011 issued by Home Department, Govt. Of Andhra Pradesh.

Relevant Policy IV

Memo No. 2323/ WP. A2/2011 dated 2nd April 2014 issued by Department of Women, Children, Disabled and Senior Citizens, Govt. of Andhra Pradesh

Relevant Policy V

Telangana Victim Compensation Scheme, 2015 notified vide G.O.M No. 9 dated 7th March 2015 by the Government of Telangana u/s 357A CrPC, 1973.

Relevant Policy VI

NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015

Relevant Policy VII

G.O issued by Addl. DIG CID, A.P Hyderabad, C. No. 21/DIG/WPC/CID 2003 dated 19/04/2003.

Relevant Policy VIII

G.O.M No. 14 dated 23rd May 2008, issued by the Department of Women Development, Child Welfare and Disabled Welfare, Govt. of A.P.

Relevant Policy IX

G.O.M No. 47 dated 31st August 2010, issued by the Department of Women Development, Child Welfare and Disabled Welfare, Govt. of A.P.

Relevant Policy X

Notification G.S.R 316(E) dated 31/03/1996 issued by the Ministry of Welfare, Government of India.

Relevant Policy XI

G.O.M No. 28 dated 15th October 2012, issued by the Department of Women Development and Child Welfare, Govt. of A.P.

Relevant Policy XII

G.O.M. No. 16, dated 24th April 2010 issued by the Department of Women Development, Child Welfare and Disabled Welfare, Government of A.P.

Relevant Policy XIII

Central Sector Scheme for Rehabilitation of Bonded Labourers, 2016, F. No. S-11012/01/20L5-BL, issued by Ministry of Labour and Employment, Government of India on 18th May, 2016.

Relevant Policy XIV

G.O.M. No. 26 dated 23rd May 2018 issued by the Labour Employment Training and Factories (Labour) Department, Government of Telangana.

Relevant Policy XV

Standard Operating Procedure for the Enforcement of Child and Adolescent (Prohibition and Regulation) Act, 1986 issued by the Ministry of Labour and Employment, Government of India in September 2017.

Relevant Policy XVI

G.O.M. No. 20 dated 4th April, 2018 issued by the Labour Employment Training and Factories (Labour) Department, Government of Telangana.

Relevant Policy XVII

G.O.Ms. No. 19 dated 4th April 2018 issued by the Labour Employment Training and Factories (Labour) Department, Government of Telangana.

Relevant Policy XVIII

G.O.Ms. No. 25 dated 23rd June 2017 issued by the Labour Employment Training and Factories (Labour) Department, Government of Telangana.

Relevant Policy XIX

G.O.M. No. 246 dated 26th May 2018 issued by the Labour Employment Training and Factories (Labour) Department, Government of Telangana.

Relevant Policy XX

Office Memorandum No. 14051/14/2011-F. VI dated 1st May 2012, issued by the MHA, Gol.

F.No. S-11012/01/2015-BL (Pt.)
GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT
DIRECTOR GENERAL LABOUR WELFARE


Jaisalmer House, 26, Mansingh Road
NEW DELHI,
Dated the 17th Aug, 2017

Office Memorandum

Sub: Standard Operating Procedure for Identification and Rescue of Bonded Labourer and Prosecution of Offender

The undersigned is directed to forward herewith a brief handout containing Standard Operating Procedures (SOP) for Identification and Rescue of Bonded Labourer and Prosecution of Offenders which has been developed to help implementing agencies in implementation of the BLSA Act and the Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016.

It is requested to kindly ensure that SOP may be made available to all District Magistrates/Collectors/Sub-Divisional Magistrates in the State/Union Territory.



(A.K. Singh)

Under Secretary to the Govt. of India

Chief Secretary (all State Governments)

Administrator (all UT Administrations)

Copy to:

Ministries of Home Affairs, Law & Justice, SJ&E, W&CD, Finance, External Affairs,
Comptroller & Auditor General of India, National Human Rights Commission.

STANDARD OPERATING PROCEDURES

1. Complaint

- 1.1 The DM, SDM or police on receipt of a complaint, whether oral or written, by any person or facts constituting the commission of an offence under the Act, shall reduce it to writing and record, in writing, the time and date of receipt of such a complaint.
- 1.2 The DM, SDM or police shall issue a receipt to the complainant acknowledging that the complaint was recorded.
- 1.3 The DM, SDM or police shall ensure that there is no tip-off or leak of information regarding the rescue, informant or complainant at any stage.

2. Rescue

- 2.1 The DM, SDM or police shall rescue the labourer as soon as possible within 24 hours from the time of complaint received.
- 2.2 The DM, SDM or police shall ensure that the Rescue Team shall be multi-disciplinary and shall be comprised of the following members,
 - a) one representative of the District Magistrate (DM) having jurisdiction not below the rank of Tehsildar to enable such representative to fulfil such duties as provided under BLSA and Central Sector Scheme for Rehabilitation of Bonded Labour – 2016;
 - b) one police officer nominated by the Superintendent of Police;
 - c) the Labour Officer(LO) having jurisdiction to inquire into, enforce and compensate under various labour laws including Minimum Wages;
 - d) adequate number of police officers to secure the premises;
 - e) two or more women officers;
 - f) one police photographer;
 - g) two independent witnesses, at least one of whom should be a woman;
 - h) the complainant;
 - i) members of a civil society organisation or social workers for rescued labourer support including counselling and other roles; and
 - j) any other necessary person.
- 2.3 If the DM, SDM or police has reason to believe that it is necessary to conduct the search and rescue operation without delay for any reason, including danger to the rescued labourer and likelihood of interference with potential evidence, notwithstanding that any member of the rescue team may be unavailable, the DM or SDM shall carry out the search and rescue operation, and intimate any missing member without delay.
- 2.4 The DM or SDM in coordination with the police shall ensure that the rescue location is secured, and separate and protect the labourer from the offender and his associates.

worker to determine whether there are indications of bonded labour. Such brief questions should include questions regarding nature of the advance or other obligation, wage payments and ability of the labourer to leave or work elsewhere.

- 2.6 The DM or SDM shall ensure that the all relevant evidence, such as phone books (directories with the numbers of other traffickers or accomplices), mobile phones, travel tickets and documents, accommodation receipts, bank statements, wage receipts slips and registers, muster rolls, ledger books, bond agreements, notebooks, cash, weapons, locks, ownership documents, lease, license are photographed and seized by the police, and the offender is arrested as per the Code of Criminal Procedure, 1973 (“CRPC”).
- 2.7 The DM or SDM shall ensure that the police prepare a seizure list and rescue memo detailing the identities of the rescued labourer and his contact details, and cause it to be signed by independent and local witnesses.
- 2.8 All police officers and Executive Magistrates shall be competent to make arrest without warrant in accordance with Section 41 and 44 of the Code of Criminal Procedure, 1973 (“CrPC”).
- 2.9 The DM or SDM shall ensure that the labourer are removed from the rescue location, are separated and given adequate protection from the offender and his associates, and are brought to a safe location. The DM or SDM shall also ensure that no bonded labourer is left behind.

3. Inquiry

- 3.1 The DM or SDM shall provide the labourer with immediate assistance, including food, shelter and protection;
- 3.2 The DM or SDM shall ensure that the labour officer initiates proceedings under the Minimum Wages Act, 1948 and the Payment of Wages Act, 1936 where applicable.
- 3.3 In order to issue a release certificate, the DM or SDM shall conduct an inquiry in a free and fair environment, in respect of each labourer separately or with his family, in the absence of the offender and in the presence of a member of a civil society organisation or a social worker as soon as possible but definitely within 24 hours of the rescue. The questions to be asked the labourer should include questions regarding advance or other obligations, wage payments, freedom to travel, seek alternative employment, and sell or purchase goods at market value, and questions regarding other offences against schedule castes or tribes, offenses against children, etc. It shall not be necessary to question the offender or any of his associates. Such an inquiry is not an adversarial inquiry, and the procedures for criminal trials do not apply to such an inquiry.
- 3.4 The DM or SDM shall issue immediately and definitely within 24 hours, a release Certificate to each rescued labourer, including children, found to be bonded labourer even if they are accompanied by families.

3.5 The DM or SDM shall provide each rescued labourer, including children, found to be bonded labourer even if they are accompanied by families, with immediate cash assistance.

3.6 The DM or SDM shall take necessary action for the medical examination of the victim by a registered medical practitioner for the purposes of determination of age, injury or disease incidental to the exploitation and occupational health hazards.

4. First Information Report

4.1 If the DM or SDM prima facie finds that offences under laws other than the BLSA have also been committed, he shall ensure that a complaint is made to the police for the registration of a First Information Report ("FIR"), under all relevant sections and laws for the time being in force, including relevant sections under the BLSA, within 24 hours of the date of rescue.

4.2 A complaint to the police alleging offences under the BLSA and other laws for the time being in force may be made by any person, including but not limited to the DM or SDM, the victim, family of the victim, NGO or any other person. Further, on receipt of such a complaint, Section 154 CrPC to apply.

4.3 Upon a complaint being made to the police, the DM or SDM shall ensure that all relevant documents in his custody, including the Inquiry Form, Release Certificate and Medical Examination Reports, are supplied to the police at the earliest for effective investigation.

4.4 The DM or SDM shall ensure that the police complete all the necessary procedure under the CrPC, the BLSA and herein in relation to the labourer, such as taking of statements under Section 161 CrPC, if applicable, as soon as possible, and before the labourer are repatriated / moved beyond the jurisdiction of the said police.

5. Prosecution of Offences

5.1 The DM or SDM shall communicate any judgement and sentence along with certified copies of the same to the relevant officials of the DA, including the DM, of the rescue location and rehabilitation location.

6. Summary Trial

6.1 The procedure for Summary Trial of Offences under the BLSA is clarified as under:

- (i) Executive Magistrates conferred by the State Government with the powers of a Judicial Magistrate of the first class to try offences under the BLSA under Section 21(1) of the BLSA ("Designated Magistrate") are empowered to try offences under the BLSA summarily [S. 21(2)].
- (ii) The commencement of Summary Trial of offences under the BLSA shall be not later than 24 hours from the date of identification or rescue, whichever is later. In neither case shall the commencement of Summary Trial be delayed for want of registration of an FIR.

- (iii) If at any stage during the Summary Proceedings, it appears to the Designated Magistrate that the accused is also chargeable for offences under some other law for the time being in force, other than the BLSA, the Designated Magistrate shall proceed in accordance with the provisions of Section 322 or 323 CrPC, as the case may be.
- (iv) If upon police report, it appears to the Designated Magistrate that the accused is also chargeable for offences under some other law for the time being in force, other than the BLSA, the Designated Magistrate shall commit the entire case along with the case records to the competent court.

The procedure specified in CrPC shall be followed except as stated otherwise in the BLSA.

- 6.2 The Designated Magistrate should conclude the Summary Trial within three months.

7. Trial Proceedings

- 7.1 The Designated Magistrate shall ensure that the victim, labourer or any witness to the commission of any offence under the BLSA shall be provided with protection during the pendency of the trial.
- 7.2 Any complaints raised by the labourer, victim or witness in relation to harassment by the accused or his associates shall be acted upon urgently and the Designated Magistrate shall make orders for the protection of the labourer, victim or witness, such as cancellation of bail, or other appropriate orders.
- 7.3 In case the accused is absconding from trial, proclamation and attachment of property may be initiated.
- 7.4 Copies of case documents shall be made available on application.

8. Evidence

- 8.1 In all proceedings herein, the Designated Magistrate shall record the substance of evidence and particulars as per Section 262(1) CrPC. Such evidence may include documentary evidence, and when necessary, oral evidence.
- 8.2 The Designated Magistrate must make the record of the case in the appropriate form as per Section 263 CrPC.

9. Judgment and Sentence in Summary Trial

- 9.1 The Designated Magistrate shall record a judgement including a brief statement of the reasons for the finding.
- 9.2 Punishment under this procedure shall be as per S. 9, 16-20 of the BLSA.
- 9.3 Essential elements of a judgment upon Summary Trial under the BLSA shall be the following:
 - (a) Serial number of the case;
 - (b) Date of the commission of the offence;
 - (c) Date of the report or complaint;
 - (d) Name of the complainant (if any);

- (e) Name, parentage and residence of the accused;
 - (f) The offence complained of and the offence (if any) proved;
 - (g) Plea of the accused and his/her examination (if any);
 - (h) The finding with reasoning;
 - (i) Sentence or other final order with reasons (Sec 9, 16-20 of the BLSA);
 - (j) Amount of debt extinguished (if any) (Sec. 6 of BLSA)
 - (k) Extent of mortgage freed (if any) (Sec.7 of BLSA)
 - (l) Date on which proceedings concluded/terminated.
 - (m) Order of committal (if any)
- 9.4 Proceedings shall be in addition to other civil and criminal proceedings, such as but not limited to proceedings under Minimum Wages Act.
- 9.5 In addition, the DM or SDM shall ensure that the rescued labourers are provided with other benefits and are repatriated as stated below:

10. Benefits to Labourer

- 10.1 The DM or SDM shall coordinate with relevant authorities to expedite provision of existing benefits due to the labourer such as benefits under central or state schemes including issuance of the following to the labourer,
- a) Aadhar Card,
 - b) Ration Card,
 - c) Caste Certificate,
 - d) Voter ID,
 - e) MNREGA Card
 - f) Land patta
 - g) Government Health Insurance and
 - h) Any other relevant or required document.
- 10.2 Release Certificates shall be considered as Identity Proof for the labourer.
- 10.3 The DM or SDM shall provide the labourer or their representative with receipt of any application for provision of any benefit due to the labourer including benefits not included under the BLSA, herein or benefits that are specific to bonded labourer.
- 10.4 The DM or SDM shall ensure that the local primary health centre of the rehabilitation location medically screens the labourer.

11. Repatriation

- 11.1 Repatriation shall be subject to the consent of the labourer. The rescuing DM or SDM shall be responsible for repatriation, which must be done at the earliest possible time and in any case, no later than 24 hours from the date of rescue.
- 11.2 The DM or SDM shall coordinate with both rehabilitation and rescue location's police and District Administration ("DA") for quick and safe transfer, protection and rehabilitation, including,
- a) fooding, shelter, transport and protection,

- b) sending a written request to the local police of the rehabilitation location for protection of the rescued labourer against possible harassment and intimidation by the offender or his associates, and
 - c) sending a written request for rehabilitation of the rescued labourer to the relevant officials of the DA, including the DM, of the rehabilitation location, including,
 - name(s), final address(s), contact detail(s) of the labourer(s),
 - name(s) of the offender(s), if available
 - certified copies of the Identification Form(s) and Release Certificate(s),
 - identity card(s) of the labourer(s), and
 - receipt(s) of any rehabilitation given to the labourer(s).
- 11.3 DM or SDM shall ensure that his representative along with the police accompanies the labourer during such repatriation. At all times, the DM or SDM shall ensure that the offender is not allowed to come into contact with the labourer.
- 11.4 The pendency of investigation or trial in relation to commission of offences under the BLSA shall not stand in the way of repatriation of the labourer and / or his family at any stage.
- 11.5 Where a labourer has been repatriated but, in the opinion of the Designated Magistrate, is later required to be summoned for evidence, the Designated Magistrate should ensure that any expenses incurred by the labourer or witness in this regard are met and that such labourer or witness is given adequate protection during and post trial.
- 11.6 For offences under laws other than BLSA, where statements under Section 161 CrPC are required to be recorded, the DM or SDM shall ensure that the same is done at the earliest, prior to repatriation.



GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

WD & CW Dept - Policy for combating trafficking of women and children for commercial sexual exploitation - Orders Issued.

Women Development, Child Welfare & Disabled Welfare (Progs) Dept.

G.O.Ms.No. 1

Dated: 03-01-2003

ORDER:

The problem of trafficking of women and children for the purpose of sexual exploitation has assumed alarming proportions in recent years. Trafficking is prevalent at various levels- local, inter-District, Inter-State and Cross-Border. Commercial exploitation of women and children takes place in various forms including brothel based prostitution, sex tourism entertainment industry and pornography in print and electronic media. There are major obstacles in assessing the exact magnitude of the problem of trafficking. However, various reports have highlighted the fact that a high percent age of victims of trafficking are from the State of Andhra Pradesh alone. Similarly, while there are no precise estimates, the available data indicate that nearly 50% of the victims belong to Scheduled Caste and up to 30% belong to the other Backward Classes.

2. Trafficking is a multi-dimensional problem encompassing a whole range of economical, social and cultural issues, which are varied and highly complex. Most of the victims have been trafficked with promises of Jobs, better career prospects and marriage. Some are inducted forcibly through abduction. Poverty and Deprivation, secondary status accorded to women in society, prejudice against the girl child, weakening of the family structure, changing public attitudes towards sex and morality, the caste structure, urbanization and migration are other factors, which have contributed to the commercial sexual exploitation of women and children. Apart from trafficking, certain traditional forms of prostitution are prevalent, e.g. Jogins, Marthammas, Dommaras, Basavis.
3. Trafficking and commercial sexual exploitation of women and children have resulted not only in violation of rights but also in very adverse physical, psychological and moral consequences for the victims, which are serious, life-long, and also life-threatening. About 60-70% victims suffer from more than one

disease including sexually transmitted diseases such as HIV/AIDS. The rescued victims are invariably penniless, physically ill and psychologically broken.

4. Taking into consideration the above, a comprehensive policy and action plan covering various aspects such as prevention, trafficking, rescue, repatriation, economic empowerment, health care, education, housing, legal reforms and creation of corpus fund is necessary for addressing the problem of trafficking. There is also need for planning and coordination both at the district level and the state level for addressing the deep rooted and underlying causes of trafficking and also taking adequate measures for psychological support, economic empowerment and re-integration so that the victims do not get drawn into the trade again on account of non availability of other options for livelihood.
5. As most of the components of the Action Plan have to be implemented at the District level, Government have decided to constitute District-level Committees with the following composition for taking up activities for prevention, rescue and rehabilitation of victims:

District Collector Chairman

Superintendent of Police Member

District Education Officer Member

District Medical & Health Officer Member

PD, District Rural Development Authority Member

Representatives of the SC/ST/BC

Women Finance Corporations Members

NGOs / prominent Social Workers working to be nominated

in related areas by Dist. Collector

Project Director, Women Development & Child Welfare Agency Member-Convener.

6. Government have also decided that the following activities shall be taken up by the District Level Committees: -

PREVENTION:

Prevention of Trafficking in women and children can be achieved only by addressing the root causes. Poverty and illiteracy have been identified as two primary causes of trafficking. It is, therefore, necessary to ensure that the various Schemes for eradication of poverty are focused at benefitting families in which women and children are vulnerable or are at high risk of being trafficked for sexual

exploitation and commercial purposes.

- The District Committee shall, therefore, among other measures, take the following preventive action:
- -Create a reliable and relevant database with the help of NGOs on the high supply areas, routes, destinations, causes of trafficking, exploitation and the magnitude of the problem.
- Create public awareness and motivate public resistance to trafficking through programmes in educational institutions, Self-Help Groups (SHGs), Women Groups, youth groups using print and visual media extensively.
- Adopt a campaign approach / mode to combat the evils of trafficking and sexual exploitation with the help of Local Bodies, Educational Institutions, NGOs, etc.
- Organize social boycott of the persons indulging in trafficking.
- Prepare Panchayat level and Mandal level Action Plans by establishing similar committees at the Mandal and Panchayat levels.
- Set up Community Vigilant Groups in every Panchayat especially in high-risk areas to monitor, report and take action if necessary against persons involved in trafficking.
- Establish and run care homes in all high supply areas for high-risk groups like street children, neglected children, etc. so as to prevent exploitation of their vulnerability.
- Create a proper convergence of various benefit schemes for women and girl children to empower high-risk groups.

ANTI-TRAFFICKING MEASURES:

The District Committee shall set up an Anti-Trafficking Squad in every District headed by an officer not below the rank of Deputy Superintendent of Police. The Anti-Trafficking Squad shall be supported by the Project Director of Women Development & Child Welfare, Probation Officers, Social Workers and other NGOs who are specially sensitized and trained for rescue and rehabilitation.

The Anti-Trafficking Squad shall:

- Be vigilant at all entry and transit points within its control area and act quickly on any report from the Community Vigilant groups or from any concerned citizen on cases of trafficking.
- Establish Contact Centres at major transit points like Bus Stops/ Railway Stations to monitor migration of women and children.

- Establish Helplines, Help-booths and support centres under the jurisdiction of each Police Station and assist the victims in getting immediate help.
- Conduct rescues with sensitivity, confidentiality and care for the victims.
- Book cases only against the traffickers and not against the victims of trafficking.
- Enforce strictly the law against pornography including possession, production, sale and exhibition of any kind of pornographic material.

RESCUE:

The District Committee shall:

- Immediately arrange for shelter facility for rescued victims,
- Submit proposals for establishment of Transit Homes with facilities for trauma counselling, victim care, vocational guidance, re-integration which will be co-managed with credible NGOs. under Centrally Sponsored Scheme SWADHAR.
- Arrange for foster care of child victims or children of victims of trafficking wherever possible.

ECONOMIC EMPOWERMENT:

The District Committee shall:

- Formulate special schemes, which will converge with existing schemes to economically empower a victim.
- Provide guidance and assistance through Self-Help Groups (SHGs) of victims for micro credit facility and income generating facilities.
- Provide special assistance schemes under Women's SC/ST/BC Finance Corporations for training and employment or self-employment on priority basis.
- Establish livelihood training programmes and training-cum-production centres for victims with collaboration and support of private institutions.
- Establish adequate marketing tie-ups.
- Make it mandatory for NGOs supported by the Government to employ victims who will form 50% of the total staff strength.

HEALTH CARE SERVICES:

The District Committee Shall :

- Provide Health Cards to women and child victims ensuring free medical treatment, adequate drugs and medications in all Government Hospitals.
- Provide care and support for HIV + ve victims of trafficking so as to ensure holistic and non-discriminatory un-biased access to Health Services.
- Establish Homes or support reputed NGOs to establish Homes wherever required for terminally sick victims by utilizing existing infrastructure under various Departments / Agencies.
- Start mental Health Intervention Centres or Counselling services for victims for effective reintegration back to the mainstream society.

EDUCATION AND CHILD CARE:

The District Committee shall:

- Establish Residential Transit Schools with proper counselling facilities in all Mandals so as to prevent second generation trafficking.
- Make it mandatory to admit all Child victims and children' of victims of trafficking in mainstream schooling.
- Admit Child victims or children of victims of trafficking in Residential Schools over and above the sanctioned strength.
- Provide free and compulsory education with support services like Scholarships, Supplementary Nutrition, Tuition so as to prevent Dropouts.
- Establish Vocational Training Centres with adequate marketing links so as to provide livelihood skills for mainstream reintegration.
- Declare the children of trafficked women as Orphans and provide benefits in SC/ST/BC Residential Institutions / Hostels / Homes.

HOUSING AND CIVIC AMENITIES:

The District Committee shall:

- Arrange to provide victims of trafficking with electoral photo identity cards, if they are registered electors of the relevant constituency.
- Provide white ration cards as a separate eligible category as a special case adopting existing income criteria.

- Provide allocation of house sites to rescued persons on priority.

7. LEGAL REFORMS:

Government has also decided that necessary legal reforms shall be introduced for ensuring effective and speedy justice by:

- Working on amendments of criminal procedures to ensure gender and child sensitive application of judicial processes and efficient, tight and stringent prosecution of traffickers including summary disposal of such cases ensuring proper and quick justice.
- Making provisions in the Law for confiscation of assets of exploiters and for compensation to the victims.
- Setting up Night Courts so as to prevent the holding of victims in Police custody at night.
- Enacting a Law for imposing fine on the Traffickers and crediting the amounts to the Rehabilitation Fund for the victims of trafficking.

8. REHABILITATION AND RELIEF FUND:

The Government has also decided to utilize the existing rehabilitation and relief fund for providing relief to victims of trafficking. The Fund shall be utilized for:

- Facilitating the repatriation of victims rescued from brothels and other places of trafficking to their homes.
- Providing immediate and timely relief to the victims of trafficking.
- Meeting expenditure towards travel, clothing and other immediate necessities, urgent medical care and other contingencies for victims of trafficking or their children.
- Supporting and Networking with NGOs who are engaged in rescue and rehabilitation.

9. For reviewing the activities of the District Committees and achieving the required inter-departmental/multi-sectoral coordination a STATE LEVEL COORDINATION COMMITTEE under the Chairmanship of the Chief Secretary to Government is set up with the following composition:

Chief Secretary to Government Chairman Principal Secretary to Government, Home Dept. Member Principal Secretary to Government, Medical, Health & Family Welfare Dept. Member

Principal Secretary to Government, Social Welfare Dept. Member

Secretary to Government, School Education Dept. Member

Secretary to Government, Law Dept. Member

Commissioner, Juvenile Welfare, Correctional Services & Welfare of Street Children Dept., Member

Project Coordinator, A.P. State Aids Control Society Member

Director, Women Development & Child Welfare Dept. Member

Two Non-Governmental Organizations (NGOs) /Social

Workers to be nominated by the Government Members

Principal Secretary to Government, Women Development,

Child Welfare & Disabled Welfare Dept. Member-Convener.

10. The State Level Coordination Committee will meet once in three months to review the situation relating to trafficking and the implementation of measures for rescue, rehabilitation, reintegration and main streaming of the victims of trafficking.

11. All the concerned Departments are requested to take further action and issue detailed guidelines for the proper implementation of the policy. The Collectors and District Magistrates are also requested to constitute the District level Committees and take up vigorous Campaigns against trafficking as well as implement the various measures envisaged for the rehabilitation of the victims of trafficking.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

SATHI NAIR

CHIEF SECRETARY TO GOVERNMENT

To

Special Chief Secretary to Govt., PR & RD Dept.

Principal Secretary to Govt., Home Dept.

Principal Secretary to Govt., Medical, Health & Family Welfare Dept.

Principal Secretary to Govt., Social Welfare Dept.

Secretary to Govt., School Education Dept.

Secretary to Govt., Law Department

Commissioner, Juvenile Welfare, Correctional Services &
Welfare of Street Children,

Project Coordinator, A.P. State Aids Control Society, Hyderabad



GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Setting up of Anti Human Trafficking Units (AHTUS) in four districts of A.P. at Eluru (West Godavari Dist), Guntur (Guntur Dist), Anantapur (Anantapur Dist), Karimnagar (Karimnagar Dist) and at Women Protection Cell, CID, Hyderabad - for preventing and combating crime of trafficking in persons - and to bring traffickers to justice and to rescue victims - Designating Addl. D.G.P., CID as AP State level AHT Nodal Officer to supervise the AHT work across the State and to co-ordinate intra-state and inter-state AHT operations - Orders - Issued

Home (PS & C.A2) Department

G.O.Ms.No. 165

Dated: 25th June 2011

Read the following :-

1. D.O letter of Sri Gopal K.Pillai, Home Secretary, MHA, GOI, North Block, New Delhi vide D.O.Lr.No.15020/ 08/2007-ATC dt.16.6.2010 addressed to Chief Secretary to Govt of AP.
2. Video conference held on 17-03-2011 by Addl. Secretary MHA, New Delhi with all State Nodal Officers across the country to formulate a comprehensive scheme for formation of Anti- Human Trafficking Units by issuance of G.O. to start Anti-Human Trafficking Units.
3. Govt. (Home) Memo No.18875/PSC/A2/2010 dt.30.6.2010 of Spl. Secretary to Govt. Home (PSC) Dept. AP Secretariat, Hyderabad addressed to DGP, AP.
4. Letter of DGP, AP in C.No.5012/C14/WPC/CID/2010 dt.6.8.2010 addressed to Home Department.
5. Govt. (Home) Memo No.18875/PSC/A2/2010 dt.20.11.2010 of the Prl. Secretary to Govt. Home (PSC) Dept. AP Secretariat, Hyderabad addressed to DGP, AP.
6. Letter of DGP, AP in C.No.5012/C14/WPC/CID/2010 dated: 10.04.2011 addressed to Home Department.

ORDER:

The Secretary to Government of India, Ministry of Home Affairs, New Delhi vide reference 1st cited has requested the Chief Secretaries of all State Governments for formulating a comprehensive scheme for strengthening law enforcement in India, by setting up dedicated Anti Human Trafficking Units (with a strength of 1-

Inspector, 2- SIs, 2-HCs, 2- PCs in each Unit) in certain affected police districts to prevent and combat trafficking in persons, comprising of a group of trained sensitive officials of the Police Department, with the assistance of members from Women and Child Welfare Department of the State and also the members of reputed local NGOs as and when required.

2. The Addl. Secretary (CS), MHA, New Delhi vide reference 2nd cited has recommended the State Government to formulate a Comprehensive Scheme through a Government Order to start Anti Human Trafficking Units at five (5) places in Andhra Pradesh for the current year i.e., at Eluru (West Godavari Dist), Guntur (Guntur Dist), Anantapur (Anantapur Dist), Karimnagar (Karimnagar Dist) and at Women Protection Cell, CID, Hyderabad. The Addl. Secretary, MHA also recommended for formulating victim compensation scheme as per Sec. 357-A Cr.P.C.

3. Accordingly, the Director General of Police vide reference 4th and 6th cited has identified five places in A.P for setting up dedicated Anti Human Trafficking Units to apprehend the traffickers of all hues, to rescue victims with the role and responsibilities of AHTUs.

4. The Government, after careful consideration of the proposal of the Director General of Police read in conjunction with the advisory of the Government of India, MHA, have decided to establish Anti Human Trafficking Units at following places of Andhra Pradesh and to designate the Addl. DGP, CID, Hyderabad as AP State level Anti Human Trafficking (AHT) Nodal Officer :

- 1) Eluru (West Godavari Dist)
- 2) Guntur (Guntur Dist)
- 3) Anantapur (Anantapur Dist)
- 4) Karimnagar (Karimnagar Dist)
- 5) Women Protection Cell, CID, Hyderabad.

5. Accordingly the following notification will be published in the next Extraordinary issue of the Andhra Pradesh Gazette:

NOTIFICATION

(I) The Government of Andhra Pradesh hereby notifies establishment of Anti Human Trafficking Units at the following places under the direct control and supervision of the respective Superintendents of Police who will review the progress on a monthly basis and submit report to the State Anti Human Trafficking (AHT) Nodal Officer.

- 1) Eluru (West Godavari Dist)
- 2) Guntur (Guntur Dist)

- 3) Anantapur (Anantapur Dist)
- 4) Karimnagar (Karimnagar Dist)
- 5) Women Protection Cell, CID, Hyderabad under the control and supervision of Superintendent of Police, Women Protection Cell, CID.

(II) And that the Addl. DGP, CID, AP, Hyderabad will be the State level Anti Human Trafficking Nodal Officer. He will supervise the Anti Human Trafficking work across the State, co-ordinate intra-state and inter-state operations to bring traffickers of all hues to justice, to rescue victims and to take up measures for rehabilitation of victims in consultation with WCD and other Departments. The Government also notifies the respective Superintendents of Police of all the Districts in Andhra Pradesh and the Commissioners of Police of all Commissionerates duly designating them as Nodal Officers for Anti Human Trafficking in their respective Units.

(III) The charter of duties to be performed by the Anti Human Trafficking Units (AHTUs) is listed below:

A. Dealing with offences of human trafficking (HT) and providing multi disciplinary approach and ensuring a joint response by all stakeholders.

B. Dealing with HT as an 'organized crime' with 'basket of crimes concept' (involving offences of wrongful restraint, wrongful confinement, selling and buying minors for the purpose of prostitution, begging, bonded labour, gang rape, subjecting women and children to commercial sexual exploitation etc). Ensuring application of all Acts such as Immoral Traffic Prevention Act-1956 (I.T.P.A), Criminal Procedure Code (Cr.P.C), Juvenile Justice (care and protection of children) Act-2000 (J.J Act), Bonded labour system (Abolition Act-1976) and relevant penal provisions of Indian Penal Code-(I.P.C) i.e., Sec.366-A, 366-B, 370, 371, 372, 373, 374, 376(2)(g), 509, 341, 342, 365 IPC etc with the help of Director of Prosecution, AP, Hyderabad.

C. Bringing about 'inter-departmental collaboration' among the police and all other Government agencies and departments, such as women, Children, Disabled & Senior Citizens Dept, Labour, Health, Sarva Siksha Abhayan etc.

D. Conducting rescue operations with the assistance of NGOs, Women & Child Dept. Labour Welfare Dept whenever they receive information about trafficking activities either from police sources, or NGOs or from civil society.

E. Ensuring registration of cases from the perspective of trafficking as a 'continuous crime concept' i.e, from the source to the destination.

F. Providing 'victim witness support' till the end of the trial.

G. Guiding and mentoring NGOs from the prosecution perspective inter alia evidence collection, victim preparation for trial etc.

H. Ensuring 'a victim-centric approach' which ensures the best interest of the victim / survivor and preventing secondary victimization / re-victimization of the victim as well

as ensuring a gender sensitive and child rights sensitive approach in dealing with trafficked victims.

I. Functioning as the 'grass roots unit' for collection and development of an exhaustive database on all law enforcement aspects of the crime, including information on traffickers secret networks and trafficking gangs, which they will convey to the District and State Crime Records Bureau for further transmission to the National Crime Records Bureau. AHTUs will facilitate availability of comprehensive national level data on this criminal activity.

J. The AHTU will attend to all the three aspects of trafficking viz., prevention, protection and prosecution. The AHTU will thus be the 'field level functional unit' to address human trafficking in a holistic manner.

K. The AHTUs will work closely with the District Administration and with Project Directors of Department for Women, Children, Disabled, Senior Citizens. They will ensure access to timely relief to victim as per Government policy GO Ms.No.1 of WD, CW & DW (Progs) Dept dt.03.01.2003, sanction of Interim Relief fund and other relief as per GO Ms.No.28 of Department for Women, Children, Disabled & Senior Citizens dtd: 13.06.2011 to the victims and send monthly returns to AP State Nodal Officer, ADGP, CID.

(IV) The Addl. Director General of Police, CID being the State Level AHT Nodal Officer shall coordinate and review the work of all AHTUs from time to time.

(V) The Director General of Police, Andhra Pradesh shall take measures to setup the five (5) Anti Human Trafficking Units as mentioned above with a strength of one (1) Inspector, two (2) Sub Inspectors, two (2) Head Constables and two (2) Police Constables in each Unit under the supervision and control of the respective Superintendents of Police. The Director General of Police, Andhra Pradesh, Hyderabad may provide the strength in the ranks of Inspectors and Sub-Inspectors of Police from out of the Vacancy Reserved strength sanctioned to the concerned unit. The Director General of Police, Andhra Pradesh, Hyderabad, will arrange for the Head Constables and Police Constables by way of attachment from the concerned district strength. He may also provide infrastructure facilities and take up adequate training of police personnel for effective implementation of the scheme. He shall also formulate an implementable scheme for victim compensation as envisaged in Sec. 357-A Cr.P.C.

(BY ORDER AND IN THE NAME OF GOVERNOR OF ANDHRA PRADESH)

P. GAUTAM KUMAR

Principal Secretary to Government.

To

The Director General of Police, A.P., Hyderabad.

The Addl. Director General of Police, CID, Hyderabad.

The Superintendents of Police West Godavari, Guntur, Anantapur and Karimnagar

The Superintendent of Police, Women Protection Cell, CID, Hyderabad.

The Director of Prosecution (DOP), AP, DGP Office Complex, Hyderabad
 Copy to
 The Addl. Director General of Police, Training,, AP, Hyderabad.
 The Addl. Director General of Police, L & O, AP, Hyderabad.
 The Addl. Director General of Police, Organisation, AP, Hyderabad.
 The Commissioners of Police, Hyderabad City, Cyberabad, Vijayawada and
 Visakhapatnam City and All Superintendents of Police of the Districts in A.P.
 Director, Andhra Pradesh Police Academy, Hyderabad.
 All Regional Inspectors General of Police, AP, Hyderabad and IGP,Guntur Range.
 All Deputy Inspectors General of Police of Ranges, AP, Hyderabad.
 The Inspector General of Police, Protection of Civil Rights Cell, CID, Hyderabad.
 The Commissioner, Women Development & Child Welfare Dept, Hyderabad.
 The Secretary to Law (LA & J) Department, AP, Hyderabad.
 The Director /Commissioner, Juvenile Welfare and Correctional Services Dept, Hyd.
 The Director / Commissioner, Sarvasiksha Abhyan, AP, (Opp: LB Stadium), Hyd.
 The Special Chief Secretary to Government, Department for Women, Children,
 Disabled & Senior Citizens, L-Block, Secretariat, Hyderabad.
 The Principal Secretary, School Education Department, Secretariat, Hyderabad.
 The Principal Accountant General (Audit-I) Hyderabad.
 The Accountant General (Audit-II), Hyderabad.
 Director of Treasuries and Accountants, Hyderabad.
 Pay and Accounts Officer, A.P., Hyderabad.
 Secretary to Government of India, Ministry of Women & Child Welfare Dept, Sastri
 Bhavan, New Delhi.
 Secretary, Ministry of Home Affairs, North Block, New Delhi-1.
 Addl. Secretary (CS), MHA, North Block, New Delhi-1.
 Secretary to Chief Minister, AP, Hyderabad.
 Personal Secretary to Home Minister, AP, Hyderabad.
 Personal Secretary to Women & Child Welfare Department, AP, Hyderabad.
 Secretary, A.P. Public Service Commission, Hyderabad.
 Secretary, Finance (EBS.XII) Department.
 The Commissioner, Information and Public Relations Department, Hyderabad.
 Prajwala, Ankuram, Bhumika, Oxfam, IOM, UNICEF of Hyderabad, Sthree and REDS
 of Kadiri, Anantapur, HELP, Ongole through ADGP, CID, AP, Hyderabad.
 S.F./S.C.

//FORWARDED:: BY ORDER//

Sd/-
SECTION OFFICER

RELEVANT POLICY IV

GOVERNMENT OF ANDHRA PRADESH
DEPT. FOR WOMEN, CHILDREN, DISABLED & SENIOR CITIZENS (WP)

Memo.No.2323/WP.A2/2011

Dated:02-04-2014.

Sub:- Introduction of Video Conference to Record Evidence of Victim of Sex Trafficking - Accepted - In the premises of District Legal Service Authority in each district - Further action - Requested - Reg.

- Ref:- (1) From Dr. Sunitha Krishnan through Email, dt:16-3-2011.
(2) From the Addl.DGP, CID, Hyderabad, C.No.156/C30/CID/2010, dt:27-01-2012.
(3) From the Registrar General, APHC, ROC.No.934/SO/2012, dt:28-09-2013 addressed to the Secretary to Govt., (LA & J), Home (Courts.B) Dept., U.O.Note.No.10102/Courts.B3/2012-2, dt:25-11-2013.

* * *

Copies of references cited are enclosed herewith.

2. With reference to the subject cited, it is to inform that the Hon'ble High Court of Andhra Pradesh has accepted the proposal made by the Government with regard to the facilities to be provided for recording Evidence through Video Conference of Victims of Sex Trafficking which can be arranged in the premises of District Legal Services Authority in each District.

3. Further, the Learned Registrar General, High Court of Andhra Pradesh has also addressed a letter to the Member Secretary, A.P.State Legal Services Authority in this behalf for taking necessary steps for arranging the facility of video conference to the victim of Sex Trafficking in the premises of the District Legal Services Authority in each District.

4. The Commissioner, Women Development & Child Welfare Department, Hyderabad and the Additional Director General of Police, A.P., CID, Hyderabad shall take further necessary action accordingly.

NILAM SAWHNEY,
PRINCIPAL SECRETARY TO GOVERNMENT.

To

- (1) The Commissioner, Women Development & Child Welfare Department, Hyderabad.
(2) The Addl.DGP, A.P., CID, Hyderabad.
(3) The Law (LA & J) Department.

Copy to:-

- (1) Dr. Sunitha Krishnan, General Secretary, Prajwala, Hyd.,
(2) The Home (Courts.B) Department, A.P.Secretariat, Hyderabad.
(3) SF/SC.

// FORWARDED : : BY ORDER //


SECTION OFFICER



**GOVERNMENT OF TELANGANA
ABSTRACT**

The Code of Criminal Procedure, 1973 – The Telangana Victim Compensation Scheme, 2015 under section 357A of the Code – Notification - Orders - Issued.

LAW (LA, LA&J-HOME-COURTS.B) DEPARTMENT

G.O.MS.No. 9

Dated: 07.03.2015

Read the following :-

1. The Andhra Pradesh Re-organisation Act, 2014.
2. From the Inspector General of Police (FAC), Addl. DGP, CID, Telangana, Hyderabad, letters dated, 24.10.2014 and 07.01.2015.

ORDER:

Whereas, according to section 357A of the Code of Criminal Procedure, 1973 inserted by Criminal Procedure Code (Amendment) Act, 2008, every State Government is required to prepare a Scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation, in co-ordination with the Central Government;

And whereas, the Ministry of Home Affairs, Government of India has been requesting the State Governments for preparation of the Scheme as required under section 357A of the Code of Criminal Procedure, 1973 and intimation of the same to them, so as to appraise the same to the Hon'ble Supreme Court of India in compliance with the directions issued by the Hon'ble Supreme Court of India.

And whereas, in pursuance of the Central Act first read above the State of Telangana has come to be formed w.e.f. 02.06.2014;

And whereas, the Inspector General of Police (FAC) in the letters second read above having taken into consideration the number of cases registered within the ten

districts of the Telangana State during the last three years and for the reasons stated therein, submitted the proposals for the Victim Compensation Scheme;

After careful examination, the Government have decided to frame a Scheme namely the Telangana Victim Compensation Scheme as contemplated under section 357A of the Code of Criminal Procedure, 1973 and in compliance with the directions and the orders of the Hon'ble Supreme Court of India;

Accordingly the following notification will be published in an Extra-ordinary Issue of the Telangana State Gazette.

NOTIFICATION

In exercise of the powers conferred by section 357A of the Code of Criminal Procedure, 1973 (Act 2 of 1974), the Governor of Telangana hereby frames the following Scheme for providing funds for the purpose of compensation to the victims or their dependents who have suffered loss or injury as a result of the crime and who require rehabilitation :-

1. Short title, extent and commencement :-

- (1) This Scheme may be called the Telangana Victim Compensation Scheme, 2015.
- (2) It extends to the whole of the State of Telangana.
- (3) It shall come into force with effect from 01.04.2015.

2. Definitions :-

In this Scheme, unless the context otherwise requires,

- (a) "*Applicant*" means a victim or the dependent of a victim who applies for compensation;
- (b) "*Act*" means the Code of Criminal Procedure, 1973 (Central Act 2 of 1974);
- (c) "*Crime*" means illegal act of commission or omission or an offence committed against the human body of the victim;
- (d) "*Dependent*" includes wife, husband, father, mother, unmarried daughter and minor children of victim as determined by the authority empowered to issue dependency certificate or any other authority authorized by the Government in this regard and found fully dependent on the victim by the District Legal Services Authority;

- (e) *"Family"* means parents, children and includes all blood relations living in the same household;
- (f) *"Fund"* means the Victim Compensation Fund constituted under paragraph-3;
- (g) *"Government"* means the State Government of Telangana;
- (h) *"Legal Services Authority"* means the State Legal Services Authority or the District Legal Services Authority in the State;
- (i) *"Schedule"* means Schedule appended to this Scheme;
- (j) *"State"* means the State of Telangana;
- (k) *"Victim"* means a person who has suffered any loss or injury caused by reason of the act or omission on the part of the accused and who requires rehabilitation under this Scheme and includes the guardian or legal heir of such person.

3. Victim Compensation Fund :-

- (1) There shall be constituted a Fund in the State by the Government namely the Victim Compensation Fund, under a separate Head of Account.
- (2) There shall be credited to the Fund,-
 - (a) the separate budget allotment made by the Government every year, for the purpose of the Scheme duly taking into account the expenses incurred during the previous year or the probable expenditure requested by the State Legal Services Authority;
 - (b) all grants, subventions, donations, gifts, contributions made by the State / Central Government, any local authority, Charitable Institutions, Organisations, National or International Philanthropists, or individuals.
 - (c) all other sums received by or on behalf of the Victim Compensation Fund from any other source whatsoever.
- (3) Except or otherwise directed by the Government all the moneys credited to the Victim Compensation Fund shall be invested in any Scheduled Bank.

4. Operation, Audit etc., of the Victim Compensation Fund :-

- (1) The Victim Compensation Fund shall be applied in carrying out the purposes of the Scheme.
- (2) The Victim Compensation Fund shall be operated by the Member Secretary, State Legal Services Authority.

(3) The State Legal Services Authority shall in respect of the Victim Compensation Fund be accountable for its functions, furnishing of periodical returns to the Government.

(4) The accounts etc. of the Victim Compensation Fund shall be got audited every year and a report shall be sent to the Government.

5. Application of the Scheme:-

(1) The crime on account of which the compensation which is to be paid under the Scheme should have occurred within the State of Telangana.

(2) The crime should have been reported by the victim or his dependants to the officer incharge of the Police Station or any senior police officer or Executive Magistrate or Judicial Magistrate of the area within 48 hours of the occurrence of crime:

Provided that the Legal Services Authority, if satisfied, for the reasons to be recorded in writing, may condone any delay in reporting the crime.

(3) The Scheme shall be applicable to family whose income does not exceed Rs.4.50 lakhs per annum.

(4) The employees of State / Central Government, Boards, Corporations and Public Undertakings and Income Tax Payees shall not be eligible under this Scheme.

6. Eligibility for compensation under the Scheme, shall be,-

(a) on a recommendation made by the Court under sub-section (2) of section 357A of the Code;

(b) on a recommendation by the trial Court under sub-section (3) of section 357A of the Act for compensation at the conclusion of the trial, on satisfaction, that the compensation awarded under section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated;

(c) on an application made by the victim or his dependents to the Legal Services Authority for award of compensation under sub-section (4) of section 357A of the Act, where the offender is not traced or identified, and where no trial takes place;

(d) the victim or his dependents shall co-operate with the police and prosecution during the investigation and trial of the case.

7. Procedure for grant of compensation :-

- (1) Whenever a recommendation is made by the Court under sub-section (2); or a recommendation is made by the court under sub-section (3); or an application is made by any victim or his dependent under sub-section(4), of section 357-A of the Act to the District Legal Services Authority, the District Legal Services Authority shall examine the case and verify the contents of the claim with regard to the loss or injury caused to victim and arising out of the reported criminal activity and may call for any other relevant information necessary in order to determine genuineness of the claim. After verifying the claim and by conducting due enquiry, the District Legal Services Authority shall award compensation within two months, in accordance with provisions of this Scheme.
- (2) The District Legal Services Authority shall decide the quantum of compensation to be awarded to the victim or his dependents on the basis of loss caused to the victim, medical expenses to be incurred on treatment minimum sustenance amount required for rehabilitation including such incidental charges as funeral expenses etc. The compensation may vary from case to case depending on facts of each cases.
- (3) While granting compensation under this Scheme an undertaking from the victim or the claimants shall be obtained to the effect that in case of granting subsequent compensation by the Court under sub-section (3) of section 357 of the Act or under any other law, he shall remit the excess amount received as compensation under section 357(A) of the Act.
- (4) Compensation received by the victim from the State in relation to the crime in question, namely, insurance, ex-gratia and/or payment received under this Scheme or G.Os. passed to this effect shall be considered as part of the compensation amount under this Scheme. The victim/claimant who has received compensation amount from collateral sources mentioned above shall be deemed to be compensated under this Scheme and shall not be entitled to separate compensation under this Scheme. If the eligible compensation amount exceeds the payments received by the victim from collateral sources mentioned above, the balance amount only shall be paid out of the Fund.
- (5) The State/District Legal Services Authority shall take into consideration the trauma undergone by a Victim of Commercial Sexual Exploitation and Trafficking (VOCSET) and the aspects of rehabilitation, reintegration and restoration of the VOCSET.
- (6) The cases covered under Motor Vehicles Act, 1988 (59 of 1988) wherein compensation is to be awarded by the Motor Accident Claims Tribunal, and cases covered under existing GOs and G.Os. issued by the Government from time to time shall not be covered under this Scheme.
- (7) The District Legal Services Authority, to alleviate the suffering of the victim, may order for immediate first aid facility or medical benefits to be made available free of cost on the certificate of the police officer now below the rank of the officer-in-

charge of the police station or Magistrate of the area concerned, or any other interim relief, as it may deem fit.

(8) The amount of compensation decided and awarded / granted under this Scheme shall be as per the Schedule and shall be disbursed to the victim or his dependants from the Fund.

(9) The District Legal Services Authority shall, while making payment of amount towards compensation, ensure that all the provisions of this Scheme are strictly complied with.

8. Disbursement of compensation :-

(1) Disbursement of compensation shall be through a Scheduled Bank.

(2) In the case of a victim who is a minor, the amount of compensation awarded shall be deposited in the account of the minor as fixed deposit, to be withdrawn only on attainment of his majority:

Provided that the amount of compensation kept in fixed deposits in exceptional cases may be withdrawn for educational or medical needs of the beneficiary by the competent person as decided by the District Legal Services Authority/Appellate Authorities.

9. Recovery From the wrong-doer :-

(1) The District Legal Services Authority may, if it consider proper, institute proceeding before the competent court of law for recovery of the compensation granted and paid to the victim or his dependants from the person responsible for obtaining an order sanctioning compensation under this Scheme based on false, vexatious, fabricated complaint which is so held by the court, and the compensation paid shall be recovered with 12% interest per annum.

(2) The District Collector shall implement the said order/award and collect the amount as arrears of land revenue and credit the same to the Victim Compensation Fund account of the respective District Legal Services Authority.

10. Dependency Certificate :-

The Tahsildar concerned or the Authority designated as competent authority by the Government in this behalf, from time to time, shall issue dependency certificate within a period of fifteen days from the date of application.

11. Order to be placed on record :-

(1) A Copy of the order of compensation passed under this Scheme shall be placed on record of the concerned Court to enable the court to pass an order of compensation under sub-section (3) of section 357 of the Act in the event of awarding compensation even before disposal of criminal case.

- (2) Copy of order of compensation shall be placed on the record of the concerned court even after passing of final order.
- (3) The State/District Legal Services Authority shall maintain the record as well as the copies of the awards passed, year wise, for the purpose of future verification and auditing.

12. Limitation :-

No claim made by the victim or his dependents under sub-section (4) of section 357-A of the Act shall be entertained after a period of twelve months of the crime:

Provided that the District Legal Services Authority is satisfied, for the reasons to be recorded in writing, may condone the delay in filing the claim.

13. Appeal :-

- (a) Any victim aggrieved of the denial of compensation/ insufficiency of the award by the District Legal Services Authority may file an appeal before the State Legal Services Authority within a period of ninety days from the date of award:

Provided that the State Legal Services Authority, if satisfied, for the reasons to be recorded in writing, may condone the delay in filing the appeal.

- (b) The State Legal Services Authority shall dispose of the appeal within a period of 90 days after the service of notices to the parties.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

A.SANTHOSH REDDY
SECRETARY TO GOVERNMENT
LEGAL AFFAIRS, LEGISLATIVE AFFAIRS AND JUSTICE

To

The Registrar (General), High Court of Judicature at Hyderabad.
The Member Secretary, Telangana State Legal Services Authority.
The Secretary, Home Department, Telangana Secretariat, Hyderabad.
All the Principal Secretaries / Secretaries in the Secretariat.
The Director General of Police, Telangana, Hyderabad.
The Accountant General, Telangana, Hyderabad.
All the District Collectors in the State of Telangana.
All the District Judges, concerned.
The Addl. Director General of Police, CID, Telangana, Hyderabad.
The Deputy Inspector General of Police in State.
The Superintendent of Police, in the State.
The Commissioner of Police, concerned.
The Pay & Account Officer, Telangana, Hyderabad.
The District treasury Officers, concerned.
The Joint Secretary (CS), Ministry of Home Affairs, Government of India, New Delhi.
The Advocate-on-Record, New Delhi.

P.T.O

Copy to:

The Commissioner of Printing Stationery &
Stores Purchase (Ptg.Wing) Department.

P.S to Chief Minister, Government of Telangana, Hyderabad.

P.S to Minister for Home, Government of Telangana, Hyderabad.

P.S to Minister for Law, Government of Telangana, Hyderabad.

P.S to Chief Secretary, Government of Telangana, Hyderabad.

P.S to Secretary Law, Government of Telangana, Hyderabad.

Law (C) Department.

SF/SC

// FORWARDED :: BY ORDER //

SECTION OFFICER

SCHEDULE
[Para 7 (8)]

COMPENSATION TO VICTIMS FOR LOSS OR INJURY

S.No.	Description of Loss or Injury	Maximum limit of compensation		
1.	Loss of life (including dowry deaths)	a.	Age 40 years or below 40 years	Rs. 3 lakhs
		b.	Age above 40 years and up to 60 years	Rs. 2 lakhs
		c.	Age above 60 years	Rs. 1 lakh
2.	Permanent disability (80% or more)	a.	Age 40 years or below 40 years	Rs. 2 lakhs
		b.	Age above 40 years and up to 60 years.	Rs. 1 lakh
		c.	Age above 60 years.	Rs.50,000/-
3.	Partial disability (Upto to 80%)	a.	Age 40 years or below 40 years.	Rs. 1 lakh
		b.	Age above 40 years and up to 60 years.	Rs. 50,000/-
		c.	Age above 60 years.	Rs. 25,000/-
4.	Loss of any limb or part of the body due to acid attacks irrespective of age. Out of Rs.3 lakhs, a sum of Rs.1 lakh shall be paid within 15 days of registration of crime and balance amount shall be paid within two months thereafter, as per the directions of the Hon'ble Apex Court in Laxmi (Minor) Vs. Union of India, dated: July 18, 2013 (W.P.(Crl.) No.129 of 2006).			Rs. 3 lakhs
5.	Rape			Rs.2 lakhs
6.	Loss or injury causing severe mental agony to women and child victims in cases like Human Trafficking, Kidnapping and Molestation etc.			Rs.50,000/-

A.SANTHOSH REDDY
SECRETARY TO GOVERNMENT
LEGAL AFFAIRS, LEGISLATIVE AFFAIRS AND JUSTICE

NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015

BACKGROUND

Under Section 4 (b) of the Legal Services Authorities Act, 1987, the “Central Authority”, i.e. the National Legal Services Authority, has been obligated to “frame the most effective and economical schemes for the purpose of making legal services available under the provisions” of the Act. The Preamble of the Legal Services Authorities Act, 1987, underscores that the legal services authorities are concerned with the weaker sections of the society and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

There can be no doubt that victims of commercial sexual exploitation, whether trafficked or voluntary sex workers are by far a highly marginalised group. Their rights are forgotten; their conditions of life and living are not anybody's concern; what happens to them and their children interest no-one. Yet they are all entitled to benefits of the various schemes of the government by the mere fact of who they are. By their much marginalised existence they are entitled to all benefits that accrue to them as are available to other marginalised sections of the society.

Victims of trafficking for commercial sexual exploitation face a great deal of trauma not just following such trafficking but also after their rescue. They need to be protected against the traffickers who would want them to come back or not pursue their case. There are also livelihood issues and if a viable alternative is not given, chances of being re-trafficked are high.

In the case filed by PRAJWALA, being Writ Petition (C) No.56 of 2004 the NALSA has given a report in the Supreme Court to take the following actions in respect of victims of trafficking for commercial Sexual Exploitation and sex workers:

"The role of the legal services authorities as set out in the preliminary report is reiterated as follows:

- (a) Provide legal assistance to the victims of trafficking and sexual exploitation at the time of rescue and thereafter during trial.
- (b) Facilitate the accessing of the District Legal Services Authorities(DLSAs) for award of victim compensation under Section 357ACr.P.C
- (c) To monitor and act as social auditors of the existing facilities available for rehabilitation of rescued victims of sexual exploitation and trafficking.
- (d) DLSAs can spread awareness in the community through the panel lawyers and para-legal volunteers about the issues of trafficking particularly in vulnerable areas and among vulnerable groups.
- (e) The DLSAs can act as converging nodes to ensure that the government schemes meant for the marginalized actually reach them as such access to the government support does have a positive impact in preventing trafficking and falling prey to traffickers.
- (f) Initiate steps to sensitize the corporate world to support rehabilitation measures for trafficked victims including skill building and employment under the head of CSR.
- (g) SLSAs can also assist in the training and sensitization of stakeholders, like police, lawyers including legal services lawyers, prosecutors, government servants and the judiciary.
- (h) SLSAs may also collaborate with the local educational institutions and civil society organisations and NGOs working in this field."

The NALSA believes that it is necessary to draw up a scheme to give a framework for the legal services authorities at different levels to put into

action the undertaking given to the Supreme Court. To that end the present Scheme has been drawn up. It is expected that the Legal services authorities at all levels would be able to render legal services effectively to these vulnerable people by following the present scheme.

NAME OF THE SCHEME

The Scheme shall be called "**NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015**".

The objective of the Scheme is to provide legal services to address the concerns of victims of trafficking including women of all age groups and at every stage: ie prevention, rescue and rehabilitation.

The thrust of the scheme is to provide economic and social pathways for these marginalised groups so that they are socially included and thus get all social protections available to an ordinary citizen. The interventions of the legal services authorities should be to ensure the protection of the dignity of the victims which is as much their fundamental right to a life as of any other citizen.

In order that the already marginalised voluntary sex workers are not excluded from the assistance of the legal services authorities, they are also considered victims of commercial sexual exploitation, apart from those children and adults who are trafficked for the purpose.

STRATEGY FOR LEGAL SERVICES TO THE VICTIMS

The strategy of the legal services must be guided by a 360 degree approach. Thus, children, young adults of whatever sex, adolescent girls, young women and older women should all be included in the action plan. The legal services authorities must also develop an action plan for prevention, rescue and rehabilitation and not merely for one of these aspects. Further the legal services authorities must document each case and carry out a follow up at least for three years so that reintegration of the victim into the society is complete.

Enabling trafficked women to get their entitlements by completing all due diligence processes

The action plan must be to use the existing welfare schemes of the Government, both Central as well as the State, with a life-cycle approach to strengthen social security, social development and welfare in order to cover prevention of trafficking and rehabilitation of the victims. DLSA can request NGOs/CBOs to use tools such as micro planning and surveys to ascertain the demand for schemes and thereafter set up Help Desks across the district to facilitate registration for the schemes. Simultaneously the victims/community members could be motivated and educated about how to apply for schemes they wish to enroll or register for.

The DLSA, with the support of the concerned department could facilitate the applicant to fulfil the procedures stipulated under each scheme and comply with all the due diligence processes. This would include enabling the applicant to get the supportive documents that are required to be furnished in order to establish eligibility for the benefits under a scheme, such as getting proof of residence, age certificate, nativity certificate, income certificate, etc. Once all the due diligence is over and the scheme sanctioned, DLSA should provide support to the community till the scheme gets delivered or the benefit reaches the beneficiary.

The Available Schemes

- 1. ICDS or Childcare development ---0-6 years, pregnant women and lactating mothers (as care givers)**
- 2. Food security or ration cards**
- 3. Social security or Pension for the elderly women**
- 4. Educational schemes including midday meal, bridge schools, residential schools of Sarva Shiksha Abhiyan, Sabala; scholarships for the primary, secondary and higher education**

from Social Welfare Department for adolescents and specifically girls

- 5. Livelihood- Skill Development, Financial Inclusion, Micro Enterprise -from SC/ST/BC/Minority and Women's Development Corporation and CSR funds from government and public sector undertakings**
- 6. Housing or Subsidy for Construction and Land Pattas from Urban Development, Housing Corporation**
- 7. Universal entitlements-Jan Dhan, Aadhar, Voter Card, SHG membership**
- 8. Legal aid Schemes- Legal Literacy, Para Legal Volunteers, Legal services clinics to ensure free legal aid and protection**

Role of LSAs

The most important role of the SLSAs/DLSAs is to maintain convergence oversight. While the administrative convergence for all the schemes no doubt will be under the District Collector, the protection convergence will have to be overseen by the SLSAs and the DLSAs. To converge social and legal protection for marginalized women SLSAs and DLSAs will provide the oversight on the process of convergence by bringing together the administrative convergence provided by the District Collector and those generated by the structures or community organizations that are facilitating the process on the ground and are rooted in the community and its realities and have played significant roles in preventing HIV, trafficking and violence against women and girls. In this background, the role of the SLSAs/DLSAs would be in:

Bridging the Gap- between all departments and trafficked women, women in sex work and those vulnerable to trafficking and extreme violence

Enhancing Engagement- Scheme Education Drive Organized by DLSA bringing together Community organizations and its members and government-department-district and sub-district administration

Facilitating Participation and Ownership-Led by DLSA in collaboration with community organizations through community meetings and camps

Sensitization- Enabling all departments and institutions to learn about dynamics of community, remove misconceptions

Strengthening Accountability –Through an MIS capturing all processes from identifying entitlement holder to scheme delivery.

Forging Partnerships –At the more micro level the collaborations will be with Community Organizations and NGOs working with sex workers and victims of trafficking and sexual exploitation. They will facilitate the process of reaching out to the many hidden members of the community and shape the process of community mobilization.

At the meso level, the partnership should be with and between district administrative mechanisms such as Department of Women and Child Development (especially Child Protection/Welfare Committees and Anti Human Trafficking Units) and the DLSA. This will highlight initiatives at the ground level with the community or beneficiaries.

The third level of partnership will be at the macro level with the Department of Women and Child which implements many schemes for victims of trafficking and also runs shelter homes for those rescued; Ministry of Home Affairs, Ministry of Social Justice and Empowerment and Rural Livelihood Mission which also has the mandate of prevention of human trafficking and will be vital partner to strengthen protection and safety nets to the beneficiaries.

Action Plan

The first step that the DLSA should take is to reach out to the Non Governmental Organisations and Community Based Organisations (CBOs) working in the field. To do this, the SLSAs must contact the UNICEF or UNODC. State Agencies such as Department of Women and Child, Rural Livelihood Missions . They must also seek the assistance of the National Aids Control Organisation (NACO) and the State and District

Aids Control Societies (SACS & DACS). Thus the SLSAs/DLSAs would be able to obtain information about trafficking as well as sex workers.

The second step would be to catalyse inter departmental convergence both at the State and further down to the district level so that an all inclusive and comprehensive response from all concerned departments and stakeholders emerges and essential inter-sectoral linkages, processes and mechanisms get established.

Trafficking: As regards trafficking, from the Anti Human Trafficking units in the State and with the help of the NGOs/CBOs, the DLSA should map out the vulnerable areas and the vulnerable populations within its jurisdiction. Then preventive strategies can be put into motion. These would be spreading information about schemes and connecting the vulnerable people to such schemes so that they benefit from them. This would also include spreading awareness about the law and about the dangers posed by prospective traffickers. The children and adolescent children could be made aware of the dangers of strangers befriending them and the parents cautioned about the falsity of promises made to them of better education for their children in cities. Young adults could similarly be warned about false promises of jobs and better lives.

The SLSAs/DLSAs should create a team of panel lawyers and social workers to spread awareness about the welfare schemes of the government. The PLVs should be used to ensure that all the due diligence processes including eligibility documents and proofs are collected to enable the vulnerable communities to access the various schemes. The DLSA should use their PLVs and their offices wherever necessary to interact with the Administrative heads such as the District Collector or Chief Secretary to ensure the final realisation of the scheme.

The PLVs attached to or assigned to a police station in compliance of the orders of the Supreme Court of India to handle cases of missing children should be given special training by the SLSAs /DLSAs to sensitise them on children's issues as well as trafficking issues, so that

they are responsive. These PLVs must inform the SLSAs/DLSAs whenever such a case of trafficking is reported or arrest of a sex worker occurs at the police station.

Sex Workers: One method of understanding community needs is to organise meetings between the Member Secretary SLSA or Full Time Secretary DLSA and the community leaders where the community leaders can explain the difficulties they face in accessing social entitlements especially the social security schemes such as widow and old age pension schemes even though they fall under eligible category.

The other method is to organize public hearings where community members would “depose”, or in other words relate their experience with governance at all levels. The “jury” should be made up of DLSA Chairperson and /or Full time secretary , other judicial officers wherever possible, high government functionaries such as DC, Principal secretaries or Chief Secretaries, police officers and protection officers. The SLSAs/DLSAs should also involve senior advocates and panel lawyers in such programmes.

After the deposition the Member Secretary /Secretary as the case maybe or the panel advocate should explain to the community about the legal services available in the Legal Services Authority and encourage them to file complaints and seek free legal aid whenever their rights are infringed or they have a legal problem such inheritance etc. The Legal Services Authority can enable the target groups to redress the violence and harassment they face in their day to day life. In cases of violence from partners or husbands, the DLSA along with Protection Officers can provide legal aid and counselling services.

The DLSAs can accredit Para legal volunteers drawn from the community and train them as per the NALSA module. These PLVs can then act as the front line workers of the Authority as far as the community is concerned. The effort must be to ensure “saturation coverage” by having representation from all the blocks of the district and ultimately the entire State.

Once again, the DLSAs should assess the need for schemes in the community and facilitate the access of the community to the various welfare schemes of the government in the manner as mentioned hereinbefore.

Prevention: While ensuring the implementation of government welfare schemes, the SLSAs/DLSAs should pay attention to the structure already available under the Integrated Child Protection Scheme, particularly the setting up of the Village Level Child Protection Committees (VLCPC). These Committees are made up of Panchayat members, school teachers, students and parents from the community. Special awareness programmes should be organized for the VLCPC to keep a watch on the children in the village. The teachers should be sensitized to keep a watch for children missing from school and report them, so that further enquiries about their well being are promptly made.

A similar awareness and sensitization programme should be organized for the Anganwadi and Health workers for younger children and adolescent girls. Again, the SLSAs/DLSAs must ensure that children remaining absent are followed up and reported immediately.

PLVs drawn from the VLCPCs and Anganwadis as well as teachers should be trained with special emphasis on the issues of trafficking and sexual exploitation. The work of these PLVs must be closely monitored. At the same time these PLVs must be given effective mentors and support so that any incident reported is given full and complete attention by the SLSA/DLSA concerned.

Student Legal Literacy Clubs should be encouraged to write about and talk and discuss about trafficking issues. These clubs could play the role of peer educators about the dangers of growing up and how to keep oneself safe.

The SLSAs/DLSAs should strengthen groups who are working to prevent child marriages and empowerment of women. Many times, child and forced marriages are a prelude to trafficking for sexual exploitation. Apart from spreading awareness student groups should be formed in

vulnerable areas and communities to report on child marriages and initiate preventive action.

While dealing with women already in sex work, the SLSAs/DLSAs should focus on the livelihood alternatives to help these women come out of the profession and prevent their children entering it. Women could be encouraged to save money and channelize the money into entrepreneurship which would ensure their social recognition and assimilation. The SLSAs/DLSAs should help the women to protect themselves from domestic violence and provide legal assistance to follow up court cases. They should help these women access all government schemes as mentioned above.

Strategies of prevention and protection of victims of trafficking implemented by the Rural Livelihood Missions should also be understood and explored so as to replicate some of the successful methods and establish collaborative efforts.

Rescue and Rehabilitation: The protocol for the One Stop Crisis Centre would no doubt be available for the rescued victims of trafficking. Apart from ensuring compliance of the directions of the Supreme Court in Prajwala's case, the SLSAs/DLSAs must also follow up with the rehabilitation of the victim chiefly through access to government schemes to provide a stable alternate livelihood for the victims. The DLSAs should ensure **that panel** lawyers and PLVs help the victims to get their FIR registered and are present during remand proceedings to oppose bail etc. The Panel lawyers should obtain court orders for protection of witnesses wherever necessary and to counsel the victims before deposition and be present during trial including recording of the statement of the victim. The panel lawyers and PLVs should also help the victim to apply to the DLSAs for release of compensation under the Victims Compensation Scheme and also to access other welfare schemes of the Govt. meant for the rehabilitation of such victims.

Management Information Systems: The SLSAs and DLSAs will have to develop a sound MIS so that every activity under this scheme is recorded,

followed up and assessed. Similarly, the assistance of the PLVs and the Panel lawyers given to the victims will have to be recorded and monitored closely by the Secretary DLSA. Where the DLSA has facilitated the rehabilitation, there must be a tracking of the person for at least three years so that the rehabilitation is complete and there is no danger of re-trafficking.

Transgenders: The provisions of this scheme will be applicable to all Transgenders as well.

RELEVANT POLICY VII

Office of the
Addl. Director Genl. of Police,
C.I.D., A.P. Hyderabad.
Dt : 19-4-2003

C.No. 21/DIG/WPC/CID/2003.

CIRCULAR MEMO

Sub: Trafficking of women and children - Certain instructions - Reg

Ref : C.No.21/SP(WPC)/CID/202, Dt : 21-9-2002 of Addl.

DGP, CID, AP, Hyd.

In the meeting of the State Co-ordination Committee on Trafficking of women and children held on 3-2-2003 in the chambers of Chief Secretary, it was pointed out that majority of the cases booked were against the victims / sex worker U/s. (4) of ITP Act and not against the traffickers. Sec. (4) of ITP Act states that any person living on the earning of the prostitution of any other, person is liable for the offence under this section and not the victim who is indulging in prostitution for her own living. Thus the victim women cannot be booked under section (4) of the ITPA. Like-wise it was already pointed out in the memo C.No.21/SP(WPC)/CID/2002, Dt: 21-9-2002 of Addl. DGP, CID, AP, Hyderabad, that cases against women victims of sexual exploitation should not be booked U/s. (8) of ITPA for soliciting and only Pimps / Organisers / Traffickers should be booked. In spite of the instructions issued, cases are being booked against victims U/s. 8 of ITP Act by some unit officers. It should also be borne in mind that during any raids on a brothel house, if a minor girl is found a victim, a case should also be booked under rape ie., 376 IPC against the male customers and traffickers, organizers and pimps.

Hence, all the Supdts. Of Police and Commissioners of Police are instructed not to book repeat not to book the victim women for soliciting. Our endeavour should always be to bring the traffickers and organizers to book. If, in future, any cases are booked against the women for soliciting, the explanation of the concerned officers be called for and action initiated against them. All Ss.P and Cs.P will acknowledge the receipt of this memo.

for ADDL. DIRECTOR GENL. OF POLICE
C.I.D., A.P., HYDERABAD.

TO

All Supdts. Of Police, A.P.,

All Commissioners of Police, A.P. State,

Copy to Principal Secretary, Home Department, Govt. of A.P., Hyderabad for information.



GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Women Development, Child Welfare & Disabled Welfare Department -
Reservation of seats to Orphans and Destitutes in the three year diploma courses at
"Durgabai Desmukh Women Technical Training Institute" Hyderabad - Orders -
Issued.

WOMEN DEV. CHILD WELFARE & DISABLED WELFARE (ICDS. A2) DEPARTMENT

G.O.Ms.No. 14

Dated: 23rd May, 2008

Read the following :-

- 1) G.O. Ms No. 77, WD, CW & DW Dept., Dated : 26-8-1997
- 2) From the Director, WD & CW Hyderabad, Letter No. 7353/A1/2004,
Dated : 15-03-2008.
- 3) From the Commissioner, Technical Education Hyderabad, Letter No.
B1/249/20/1996 Volume-3, dated : 01-05-2008
- 4) Principal WTTTI, Letter No 39/B1/WTTI/2006, Dt: 16-05-2008

-oOo-

ORDER:

The high incidence of destitution arising from domestic violence, increasing incidents of trafficking etc., leading to abject helplessness of these adolescent girls which is further aggravated by poverty, is resulting in the exclusion of socially marginalized adolescent girls thereby eroding the vision of an equitable society. Their marginalization on the one hand and aspirations of many dispensation for them. There is therefore an urgent need to provide access to Technical Education to these young girls to enhance their employability.

2. Government taking into consideration the above, hereby issue the following orders providing a special dispensation for such girls for their effective rehabilitation and reintegration :-

- (i) 70% of the seats in each of the diploma courses in WTTI shall be reserved for complete orphans, destitutes including trafficked victims etc, and other destitutes in that order, in the "Smt. Durgabai Desmukh Women Technical Training Institute", Hyderabad (WTTI)
- (ii) The candidates shall be exempted from appearing for CEEP exam but should have however passed the minimum Tenth (10th) Class
- (iii) The rule of reservation shall be followed to the extent of availability of applicants belonging to the categories concerned. 3% reservation for Physically handicapped shall be maintained
- (iv) The remaining 30% shall be filled by the Technical Education Dept., as per their prescribed procedure
- (v) The fees for the students belonging to BCs, Scs, & Minorities from out of that 70% category shall be got reimbursed by the concerned welfare departments. In respect OCs & complete orphans whose caste status is not known, the fees shall be reimbursed by the Women Development & Child Welfare Department.
- (vi) The head institutions concerned that is Children home, State home / Service home etc, shall be personally responsible to verify the background of the applicant and shall issue a certificate in the format as enclosed Annexure - I He / She shall satisfy himself / herself before issuing the certificate. Any wrong certification without verification of facts shall entail stringent action and prosecution of the concerned staff.
- (vii) The applications of the eligible girls shall be forwarded by the Head of the institution concerned to the Project Director, Women Development & Child Welfare who shall cause verification and submit the same to Director. Women Development & Child Welfare Department
- (viii) A committee headed by Director, Women Development & Child Welfare, the Principal WTTI and one of the RDDs nominated by the Govt. shall screen the applications received and finalize the list of eligible candidates for admissions. The list of eligible candidates shall be placed on the website / on the notice board of the Project Directors and the institutions concerned for receiving representation if any. The representations, shall be disposed of by the committee, if required by causing verification and the final selection list declared by the Director, Women Development & Child Welfare Department. The Director,

Women Development & Child Welfare shall in consultation with the Director, Technical Education / Principal WTTI draw up a schedule every year accordingly.

3. This order is issued with the concurrence of the Higher Education Department
(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

M. CHAYA RATAN

PRINCIPAL SECRETARY TO GOVERNMENT

To

The Director, Women Development & Child Welfare, Hyderabad

The Commissioner, Technical Education Andhra Pradesh Hyderabad

The Accountant General, Andhra Pradesh Hyderabad

The Education (TE.I) Department, Hyderabad

The Pay and Accounts Officer, Hyderabad

The Education (Technical Education) Department

The General Administration (AR&T) Department

The Finance and Planning (BG) Department

The Principal, Smt. Durgabai Deshmukh Government Women's Technical Training Institute, Hyderabad through Director, Women Development & Child Welfare, Hyderabad.

Copy to:-

P.S. to Chief Secretary

P.S. to Joint Secretary to Chief Minister.

P.S. to Minister (WD, CW & DW)

All section in Women Development & Child Welfare Dept.

The Commissioner, Information and Public Relation, Hyderabad.

SF/SC.

//FORWARDED BY ORDER//

SECTION OFFICER

(PTO for Annexures..)

ANNEXURE - I
APPLICATION FORM
 (G.O. MS No.14, Dated : 23.05.2008)

Passport size
Photo to be
attested Head
of the
Institution

1. Name of Student :
2. Date of Birth :
3. Particulars of parents :

Name	Occupation	Annual income
i. Father :		
ii. Mother :		

4. Name and designation of Guardian :
5. Permanent Address, (H.No, Road, Village / Mandal / District etc.) :
6. Birth Place (Enclose certified copy of birth certificate issued by competent authority) :
- a) Whether applicant belong to SC/ST/BC/Minority/PH :
- b) Category of the girl child orphan, destitute, differently abled, others (Certified copy of disability certificate to be enclosed) :
7. Particulars of Applicant since birth :

Period	Place of Stay / Name of the Institution where resided	Classes Studied	Name of the School & Address

- a) Signature of Applicant :
- b) Place :
- c) Date :

Undertaking of Head of Institution

I hereby certify that the above information furnished is correct. In case any information is found to be incorrect at any date, I understand I am liable for necessary action / prosecution etc.

- a) Name :
- b) Signature :
- c) Designation :
- d) Status :

GOVERNMENT OF ANDHRA PRADESH ABSTRACT

Reservation for Orphan/destitute children in Residential Institutions of Tribal Welfare, Social Welfare, B.C. Welfare, Minorities Welfare and A.P. Residential Educational Institutional Society – Orders-Issued.

WOMEN DEVELOPMENT, CHILD WELFARE & DISABLED WELFARE (JJ) DEPARTMENT

G.O.Ms.No.47,

Dated:31-08-2010.

Read :

G.O.Ms.No.34, WD, CW & DW (DW) Department, Dated: 27.09-2008.

* * * *

ORDER:-

In the G.O. read above, orders were issued for extension of the benefits of scholarships and reimbursement of fees etc., on par with Scheduled Caste students to orphans whose caste status is not known, duly treating them as casteless.

2. Government taking into consideration, various representations received for extending the benefit of reservation to orphans and destitutes in the Residential Educational Institutions, as was also discussed in the first general body meeting of the "A.P. Society for Protection and Empowerment of Women and Children" held on 11-08-2010, hereby issue the following orders:

- i. Upto 3% of the seats are earmarked for orphans/ destitutes in the age appropriate class in Residential schools, Residential Junior Colleges, and Residential Degree Colleges run by Welfare Departments and Education Department. In case of excess applications, if any such student cannot be adjusted within a particular district, they may be given out of turn admission increasing the strength not exceeding 2 (two) in a class.
- ii. The children who will qualify to be treated as Orphans or destitutes shall be:-
 - a. Orphans i.e., children who do not have both parents or whose parents may have deserted them and such children who do not have any other guardian to take proper care of them.
 - b. Child who has one parent and who is not in a position to look after the child and the child has been grossly neglected or such parent is mentally ill /severely disabled or terminally ill with HIV/AIDS.
 - c. Child victims of trafficking who are rejected by their families or have unsafe families (parents or family involved in trafficking themselves).
- iii. The orphan/destitute children who belong to Muslim community, if they so desire, shall be given preference for admission in the institutions run by minorities welfare department.

(P.T.O.)

- iv. With regard to Orphans or destitutes from Government Institutions such as children homes, juvenile homes etc, the Head of the Institution concerned will give an application and certificate in the proforma enclosed (Annexure-I).
- v. (a) Head of the NGO institution who wish to admit the orphan/destitute children of their institutions, in the Residential institution concerned, must similarly make an application in the prescribed proforma (Annexure-I), to the Child Development Project Officer concerned.
 - (b) The Child Development Project Officer, Tahsildar and Mandal Parishad Development Officer shall enquire and issue Certificate of eligibility in the proforma annexed to this order (Annexure-II). They shall issue the certificate only if either of the conditions as at 2 (II) above are fulfilled. Each of them shall be responsible for ensuring that the certificate is issued after proper verification, only in favour of eligible children from such NGO institutions.
 - (c) All such applications received from NGO institutions, shall be either rejected or certificate issued as case may be, within 20 days of receipt of application.
- vi. All NGOs and Government institutions established for providing shelter to "children in need of care & protection" should obtain license under Section 3 r/w Section 10 of "The Women & Children Institutions (Licensing) Act, 1956" from the Department of Women Development & Child Welfare.
- vii. False claims by the head of the NGO Institution/Govt. Institution/Officers concerned shall entail disciplinary action / cancellation of license and prosecution.
- viii. a) All applications with appropriate enclosures, including certification by the designated officers as at 2 (v) above, shall be verified and admission accorded by the Principal of the Institution to whom such applications are made. The admission or refusal with grounds for refusal as case may be shall be given by the Principal within 15 days of receipt of application.
 - b) The Principal or the head of the institution concerned shall enter the details of all such children, who are admitted or whose admission is rejected at the specially provided window **"ORPHAN CHILD PROTECTION"** at website: <http://wcdsc.ap.nic.in>. This information will have restricted viewing by concerned officials only.
- ix. One of the Residential Institutions having the best facilities in every district shall be identified/notified by the District Collector as a vacation institution. All orphan and destitute children who do not have relatives or family members providing a safe and conducive environment shall be accommodated in such institution during all long vacations. The District Collector or the officer entrusted shall co-ordinate and ensure posting of selectively identified staff from the Residential Institutions to the vacation institution during vacations.

(Contd...3)

Counsellors, trainers, coaches etc. from other institutions including Residential institutions could also be drafted during such vacations. All such staff shall be adequately compensated by allowing alternate leave without affecting completion of syllabus under their charge. A child friendly schedule to include sports, games, vocational training, encouraging pursuit of hobbies etc, should be followed during such vacations.

- x. Reputed NGOs having required resources, facilities and skills may be selectively identified and involved for providing requisite facilities.

3. The District Collectors and the Secretaries of the Residential School Societies concerned shall monitor closely and ensure effective implementation and protection of all such children.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**S.V.PRASAD,
CHIEF SECRETARY TO GOVERNMENT.**

To

The Spl. Chief Secretary to Govt., WD, CW & DW Department, A.P. Secretariat, Hyderabad.

The Spl. Chief Secretary to Govt., Tribal Welfare Department, A.P. Secretariat, Hyderabad.

The Pri. Secretary to Govt., Social Welfare Department, A.P. Secretariat, Hyderabad.

The Pri. Secretary to Govt., B.C. Welfare Department, A.P. Secretariat, Hyderabad.

The Pri. Secretary to Govt., Minority Welfare Department, A.P. Secretariat, Hyderabad.

The Pri. Secretary to Govt., Higher Education Department, A.P. Secretariat, Hyderabad.

The Pri. Secretary to Govt., Rural Development Department, A.P. Secretariat, Hyderabad.

The Pri. Secretary to Govt., School Education Department, A.P. Secretariat, Hyderabad.

The State Project Director, Rajiv Vidya Mission (SSA), Hyderabad.

The Commissioner, Disabled Welfare Department, Hyderabad.

The Director, Women Development & Child Welfare Department, Hyderabad.

The Director, Juvenile Welfare, Correctional Services & Welfare of Street Children, Hyd.

The Secretary, A.P. Residential Educational Institutions Society, Hyderabad.

The Secretary, A.P. Social Welfare Residential Education Institutions Society, Hyderabad.

The Secretary, A.P. Tribal Welfare Residential Education Institutions Society, Hyderabad.

The Secretary, A.P. Minority Welfare Residential Education Institutions Society, Hyderabad.

All District Collectors.

All Project Directors through Regional Deputy Directors concerned.

All Mandal Revenue Officers through the Dist. Collectors concerned.

All Mandal Parishad Development Officers

through the Chief Executive Officer, Zilla Parishads concerned.

All Principals of all Residential Schools, Junior Colleges, Degree Colleges

through concerned Secretaries of respective Societies.

All the NGOs who are members of the "A.P. Society for Empowerment and Protection of Women and Children".

Copy to:-

The PS to Pri. Secretary to CM.

The PS to Chief Secretary.

The PS to Minister, Higher Education Department.

The PS to Minister, School Education Department.

The PS to Minister, Tribal Welfare Department.

The PS to Minister, B.C. Welfare Department.

The PS to Minister, Minority Welfare Department.

SF/SC.

// FORWARDED :: BY :: ORDER //

SECTION OFFICER.

ANNEXURE-I

APPLICATION FORM

Passport size
Photo duly
attested by
Parent/
Guardian/
Head of the
Institution

1. Name of Child :
2. Date of Birth :
(as per the certificate by Medical Officer OR Competent Authority)
3. Particulars of Parents/Guardian :-

	Name	Whether surviving	Occupation	Annual income
Father :				
Mother :				
iii. Guardian :				

4. Address (Mention complete address) :

5.	a) Place of Birth (if not known, the place where the child was found may be written)	b) Caste (ST/SC/BC/Minority/Others/ Casteless):

5. Particulars of Applicant since birth till date:-

RESIDENCE PARTICULARS		EDUCATION PARTICULARS		
Place of Stay/ Name and address of the Institutions where resided	Period of Stay	Classes studied	Period from ----to----	Name of the School & address

6. Present status of education :
7. License particulars :

Place :

Date :

Signature of the child/applicant

Name of Guardian

Signature of the Guardian

CERTIFICATE

CERTIFICATE BY THE CONCERNED HEAD OF INSTITUTION

I hereby certify that the information furnished by me is correct. In case the information furnished is found to be incorrect, I understand I am liable for necessary action / prosecution etc.

- a) Name :
- b) Designation :
- c) Signature :

Seal & Address of Institution:

Address of Head of Institution:

ANNEXURE – II

Ref: Application No: _____ dated _____ of Sri/Smt. _____
Principal / Head of Institution _____
Village/Town _____ Mandal _____
District/Address _____ forwarding Kum/
Master _____'s application for admission into
class _____ of Residential School/ Junior College/ Degree
College at _____.

Certificate No.

CERTIFICATE OF ELIGIBILITY

This is to certify that Kum/Master _____ D/o,
S/o _____ aged _____ of Village/Town _____ Mandal
_____ District _____ is inmate of _____
NGO institution vide admission No. _____. He/She was admitted on _____.

This is to certify that the mother/father/both parents of the above child have
expired/abandoned/ whereabouts not known since _____.

Certified by CDPO (WD&CW)

Date : _____ Signature : _____
Place: _____ Name : _____
Place : _____
Office Seal: _____

Certified by MPDO.

Date : _____ Signature : _____
Place: _____ Name : _____
Place: _____
Office Seal: _____

Certified by Tahsildar.

Date : _____ Signature : _____
Place: _____ Name : _____
Place: _____
Office Seal _____

MINISTRY OF WELFARE
New Delhi, the 31st March, 1995

NOTIFICATION

G.S.R. 316 (E). - In exercise of the powers conferred by sub-section (1) of Section 23 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989), the Central Government hereby makes the following rules, namely: -

1. SHORT TITLE AND COMMENCEMENT:

- (1) These rules may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995.
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. DEFINITIONS: In these rules, unless the context otherwise requires: -

- (a) "Act" means the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (33 of 1989);
- (b) "dependent", with its grammatical variations and cognate expressions, includes wife, children, whether married or unmarried, dependent parents, widowed sister, widow and children of pre-deceased son of a victims of atrocity;
- (c) "identified area" means such area where State Government has reason to believe that atrocity may take place or there is an apprehension of reoccurrence of an offence under the Act or an area prone to victim of atrocity;
- (d) "Non Government Organisation" means a voluntary organisation engaged in the welfare activities relating to the Scheduled Castes and the Scheduled Tribes and registered under the Societies Registration Act, 1866 (21 of 1866) or under any law for the registration of documents or such organisation for the time being in force;
- (e) "Schedule" means the Schedule annexed to these rules;
- (f) "Section" means section of the Act;
- (g) "State Government", in relation to a Union Territory, means the Administrator of that Union Territory appointed by the President under Article 239 of the Constitution;
- (h) words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. PRECAUTIONARY AND PREVENTIVE MEASURES:

1. With a view to prevent atrocities on the Scheduled Castes and the Scheduled Tribes, the State Government shall: -

- (i) identify the area where it has reason to believe that atrocity may take place or there is an apprehension of reoccurrence of an offence under the Act ;
- (ii) order the District Magistrate and Superintendent of Police or any other officer to visit the identified area and review the law and order situation ;
- (iii) if deem necessary, in the identified area cancel the arms licenses of the persons, not being member of the Scheduled Castes or the Scheduled Tribes, their near relations, servants or employees and family friends and get such arms deposited in the Government Armoury ;
- (iv) seize all illegal fire arms and prohibit any illegal manufacture of fire arms ;
- (v) with a view to ensure the safety of person and property, if deem necessary, provide arms licenses to the members of the Scheduled Castes and the Scheduled Tribes ;
- (vi) constitute a high power State-level committee, district and divisional level committees or such number of other committees as deem proper and necessary for assisting the Government in implementation of the provisions of the Act ;
- (vii) set-up a vigilance and monitoring committee to suggest effective measures to implement the provisions of the Act ;
- (viii) set-up Awareness Centres and organise Workshops in the identified area or at some other place to educate the persons belonging to the Scheduled Castes and the Scheduled Tribes about their rights and the protection available to them under the provisions of various Central and State enactments or rules, regulations and schemes framed thereunder ;
- (ix) encourage Non-Government Organisations for establishing and maintaining Awareness Centres and organising Workshops and provide them necessary financial and other sort of assistance ;
- (x) deploy special police force in the identified area ;
- (xi) by the end of every quarter, review the law and order situation, functioning of

different committees, performance of Special Public Prosecutors, Investigating Officers and other Officers responsible for implementing the provisions of the Act and the cases registered under the Act.

4. SUPERVISION OF PROSECUTION AND SUBMISSION OF REPORT: -

(1) The State Government on the recommendation of the District Magistrate shall prepare for each District panel of such number of eminent senior advocates who has been in practice for not less than seven years, as it may deem necessary for conducting cases in the Special Courts. Similarly, in consultation with the Director Prosecution incharge of the prosecution, a panel of such number of Public Prosecutors as it may deem necessary for conducting cases in the Special Courts, shall also be specified. Both these panels shall be notified in the Official Gazette of the State and shall remain in force for a period of three years.

(2) The District Magistrate and the Director of prosecution/incharge of the prosecution shall review at least twice in a calendar year, in the month of January and July, the performance of Special Public Prosecutors so specified or appointed and submit a report to the State Government.

(3) If the State Government is satisfied or has reason to believe that a Special Public Prosecutor so appointed or specified has not conducted the case to the best of the ability and with due care and caution, his name may be, for reasons to be recorded in writing, denotified.

(4) The District Magistrate and the officer-in-charge of the prosecution at the District level, shall review the position of cases registered under the Act and submit a monthly report on or before 20th day of each subsequent month to the Director of Prosecution and the State Government. This report shall specify the action taken/proposed to be taken in respect of investigation and prosecution of each case.

(5) Notwithstanding anything contained in sub-rule (1) the District Magistrate or the Sub-Divisional Magistrate may, if deem necessary, or if so desired by the victims of atrocity engage an eminent Senior Advocate for conducting cases in the Special Courts on such payment of fee as he may consider appropriate.

(6) Payment of fee to the Special Public Prosecutor shall be fixed by the State Government on a scale higher than the other panel advocates in the State.

5. INFORMATION TO POLICE OFFICER IN-CHARGE OF A POLICE STATION :

(1) Every information relating to the commission of an offence under the Act, if given orally to an officer in-charge of a police station shall be reduced to writing by him or under his direction, and be read over to the informant, and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the persons

giving it, and the substance thereof shall be entered in a book to be maintained by that police station.

(2) A copy of the information as so recorded under sub-rule (1) above shall be given forthwith, free of cost, to the informant.

(3) Any person aggrieved by a refusal on the part of an officer incharge of a police station to record the information referred to in sub-rule (1) may send the substance of such information, in writing and by post, to the Superintendent of Police concerned who after investigation either by himself or by a police officer not below the rank of Deputy Superintendent of Police, shall make an order in writing to the officer in-charge of the concerned police station to enter the substance of that information to be entered in the book to be maintained by that the police station.

6. SPOT INSPECTION BY OFFICERS:

(1) Whenever the District Magistrate or the sub-Divisional Magistrate or any other Executive Magistrate or any police officer not below the rank of Deputy Superintendent of Police receives an information from any person or upon his own knowledge that an atrocity has been committed on the members of the Scheduled Castes or the Scheduled Tribes within his jurisdiction, he shall immediately himself visit the place of occurrence to assess the extent of atrocity, loss of life, loss and damage to the property and submit a report forthwith to the State Government.

(2) The District Magistrate or the sub-Divisional Magistrate or any other executive Magistrate and the Superintendent of Police, Deputy Superintendent of Police after inspecting the place or area shall on the spot:-

- (i) draw a list of victims, their family members and dependents entitled for relief;
- (ii) prepare a detailed report of the extent of atrocity loss and damage to the property of the victims;
- (iii) order for intensive police patrolling in the area;
- (iv) take effective and necessary steps to provide protection to the witnesses and other sympathisers of the victims;
- (v) provide immediate relief to the victims;

7. INVESTIGATING OFFICER

(1) An offence committed under the Act shall be investigated by a police officer not below the rank of a Deputy Superintendent of Police. The investigating officer shall be appointed by the State Government/Director General of Police/Superintendent of Police after taking into account his past experience, sense of ability and justice to perceive the

implications of the case and investigate it along with right lines within the shortest possible time.

(2) The investigating officer so appointed under sub-rule (1) shall complete the investigation on top priority within thirty days and submit the report to the Superintendent of Police who in turn will immediately forward the report to the Director General of Police of the State Government.

(3) The Home Secretary and the Social Welfare Secretary to the State Government, Director of Prosecution the officer in-charge of Prosecution and the Director General of Police shall review by the end of every quarter the position of all investigations done by the investigating officer.

8. SETTING UP OF THE SCHEDULED CASTES AND THE SCHEDULED TRIBES PROTECTION CELL

(1) The State Government shall set up Scheduled Castes and the Scheduled Tribes Protection Cell at the State head quarter under the charge of Director of Police/Inspector General police. This Cell shall be responsible for:-

- (i) conducting survey of the identified area;
- (ii) maintaining public order and tranquility in the identified area;
- (iii) recommending to the State Government for deployment of special police force or establishment of special police post in the identified area;
- (iv) making investigations about the probable causes leading to an offence under the Act;
- (v) restoring the feeling of security amongst the members of the Scheduled Castes and the Scheduled Tribes;
- (vi) informing the nodal officer and special officer about the law and order situation in the identified area;
- (vii) making enquiries about the investigation and spot inspections conducted by various officers;
- (viii) making enquiries about the action taken by the Superintendent of Police in the cases where an officer in -charge of the police station has refused to enter and information in a book to be maintained by that police station under sub-rule (3) of rule 5;
- (ix) making enquiries about the willful negligence by a public servant;

- (x) reviewing the position of cases registered under the Act; and
- (xi) submitting a monthly report on or before 20th day of each subsequent month to the State Government nodal officer about the action taken/proposed to be taken in respect of the above.

9. NOMINATION OF NODAL OFFICER

The State Government shall nominate a nodal officer of the level of a Secretary to the State Government preferably belonging to the Scheduled Castes or the Scheduled Tribes, for co-ordinating the functioning of the District Magistrates and Superintendent of Police or the offices authorised by them investigating officers and other officers responsible for implementing the provisions of the Act. By the end of the every quarter, the nodal officer shall review:-

- (i) the reports received by the State Government under sub-rule (2) and (4) of rule 4, rule 6, clause (xi) of rule 8.
- (ii) the position of cases registered under the Act;
- (iii) law and order situation in the identified area;
- (iv) various kinds of measures adopted for providing immediate relief in cash or kind or both to the victims of atrocity or his or her dependent;
- (v) adequacy of immediate facilities like rationing, clothing, shelter, legal aid, travelling allowance, daily allowance, and transport facilities provided to the victims of atrocity or his/her dependants;
- (vi) performance of non-Governmental organisations, the Scheduled Castes and the Scheduled Tribes Protection Cell, various committees and the public servants responsible for implementing the provisions of the Act.

10. APPOINTMENT OF A SPECIAL OFFICER

In the identified area a Special Officer not below the rank of a Additional District Magistrate, Superintendent of Police or other officers responsible for implementing the provisions of the Act, various committees and the Scheduled Castes and the Scheduled Tribes Protection Cell. The Special Officer shall be responsible for:

- (i) providing immediate relief and other facilities to the victims of atrocity and initiate necessary measures to prevent or avoid re-occurrence of atrocity ;
- (ii) setting up an awareness centre and organising workshop in the identified area or at the district head quarters to educate the persons belonging to the

Scheduled Castes and Scheduled Tribes about their rights and the protection available to them under the provisions of various Central and State enactments or rules and schemes etc. framed therein ;

- (iii) co-ordinating with the non Governmental organisations and providing necessary facilities and financial and other type of assistance to non-Governmental Organisation for maintaining centres or organising workshops ;

11. TRAVELLING ALLOWANCE, DAILY ALLOWANCE, MAINTENANCE EXPENSES AND TRANSPORT FACILITIES TO THE VICTIM OF ATROCITY, HIS OR HER DEPENDENT AND WITNESSES

(1) Every victim of atrocity or his/her dependent and witnesses shall be paid to and fro rail fare by second class in express/mail/passenger train or actual bus or taxi fare from his /her place of residence or actual bus or taxi fare from his/her place of residence or place of stay to the place of investigation or hearing of trial of an offence under the Act.

(2) The District Magistrate or the sub-Divisional Magistrate or any other Executive Magistrate shall make necessary arrangements for providing transport facilities or reimbursement of full payment thereof to the victims of atrocity and witnesses for visiting the investigating officer, Superintendent of Police, Deputy Superintendent of Police, District Magistrate or any other Executive Magistrate.

(3) Every women witness, the victim of atrocity or her dependent being a woman or a minor, a person more than sixty years of age and a person having 40 percent or more disability shall be entitled to be accompanied by an attendant of her/his choice. The attendant shall also be paid travelling and maintenance expenses as applicable to the witness or the victim of atrocity when called upon during hearing, investigation and trial of an offence under the Act.

(4) The witness, the victims of atrocity or his/her dependent and the attendant shall be paid daily maintenance expenses, for the days he/she is away from the place of his /her residence or stay during investigation, hearing and trial of an offence, of such rates but not less than the minimum wages, as may be fixed by the State Government for the agricultural labourers.

(5) In addition to daily maintenance expenses the witness, the victim of atrocity (or his/her dependant) and the attendant shall also be paid diet expenses at such rates as may be fixed by the State Government from time to time.

(6) The payment of travelling allowances, daily allowance, maintenance expenses and reimbursement of transport facilities shall be made immediately or not later than three days by the District Magistrate or the Sub-divisional Magistrate or any other Executive Magistrate to the victims that dependants attendant and witnesses for the days they visit the investigating officer or in-charge police station or hospital authorities or

Superintendent of Police/Deputy Superintendent of Police or District Magistrate or any other officer concerned or the Special Court.

(7) When an offence has been committed under Section 3 of the Act, the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate shall reimburse the payment of medicines, special medical consultation, blood transfusion, replacement of essential clothing, meals and fruits provided to the victim (s) of atrocity.

12. MEASURES TO BE TAKEN BY THE DISTRICT ADMINISTRATION: -

(1) The District Magistrate and the Superintendent of Police shall visit the place or area where the atrocity has been committed to assess the loss of life and damage to the property and draw a list of victim their family members and dependents entitled for relief.

(2) Superintendent of Police shall ensure that the First information Report is registered in the book of the concerned police station and effective measures for apprehending the accused are taken.

(3) The Superintendent of Police, after spot inspection, shall immediately appoint an investigation officer and deploy such police force in the area and take such other preventive measures as he may deem proper and necessary.

(4) The District Magistrate or the Sub Divisional Magistrate or any other Executive Magistrate shall make arrangements for providing immediate relief in cash or in kind or both to the victims of atrocity, their family members and dependents according to the scale as in the **schedule** annexed to these Rules (**Annexure-1**). Such immediate relief shall also include food, water, clothing, shelter, medical aid, transport facilities and other essential items necessary for human beings.

(5) The relief provided to the victim of the atrocity or his/her dependent under sub-rule (4) in respect of death, or injury or damage to property shall be in addition to any other right to claim compensation in respect thereof under any other law for the time being in force.

(6) The relief and rehabilitation facilities mentioned in sub-rule (4) above shall be provided by the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate in accordance with the scales provided in the Schedule annexed to these rules.

(7) A report of the relief and rehabilitation facilities provided to the victims shall also be forwarded to the Special Court by the District Magistrate or the Sub-Divisional Magistrate or the Executive Magistrate or Superintendent of Police. In case the Special Court is satisfied that the payment of relief was not made to the victim or his/her dependent in time or the amount of relief or compensation was not sufficient or only a part of payment of relief or compensation was made, it may order for making in full or part the payment of relief or any other kind of assistance.

13. SELECTION OF OFFICERS AND OTHER STAFF MEMBERS FOR COMPLETING THE WORK RELATING TO ATROCITY:

- (1) The State Government shall ensure that the administrative officers and other staff members to be appointed in an area prone to atrocity shall have the right aptitude and understanding of the problems of the Scheduled Castes and the Scheduled Tribes.
- (2) It shall also be ensured by the State Government that person from the Scheduled Castes and the Scheduled Tribes are adequately represented in the administration and in the police force at all levels, particularly at the level of police posts and police station.

14. SPECIFIC RESPONSIBILITY OF THE STATE GOVERNMENT

The State Government shall make necessary provisions in its annual budget for providing relief and rehabilitation facilities to the victims of atrocity. It shall review at least twice in a calendar year, in the month of January and July the performance of the Special Public Prosecutor specific or appointed under Section 15 of the Act, various reports received, investigation made and preventing steps taken by the District magistrate, Sub-Divisional Magistrate and Superintendent of Police, relief and rehabilitation facilities provided to the victims and the reports in respect of lapses on behalf of the concerned officers.

15. CONTINGENCY PLAN BY THE STATE GOVERNMENT

(1) The State Government shall prepare a model contingency plan for implementing the provisions of the Act and notify the same in the Official Gazette of the State Government. It should specify the role and responsibility of various departments and their officers at different levels, the role and responsibility of various departments and their officers at different levels, the role and responsibility of Rural/Urban, Local Bodies and Non-Government Organisations. Inter alia this plan shall contain a package of relief measures including the following:

- (a) scheme to provide immediate relief in cash or in kind or both ;
- (b) allotment of agricultural land and house sites ;
- (c) the rehabilitation packages ;
- (d) scheme for employment in Government or Government undertaking to the dependant or one of the family members of the victim ;
- (e) pension scheme for widows, dependant children of the deceased, handicapped or old age victims of atrocity.

- (f) mandatory compensation for the victims ;
- (g) Scheme for strengthening the socio-economic condition of the victim ;
- (h) provisions for providing brick/stone masonry house to the victims;
- (i) such other elements as health care, supply of essential commodities, electrification, adequate drinking water facility burial/cremation ground and link roads to the Scheduled Castes and the Scheduled Tribes habitats.

(2) The State Government shall forward a copy of the contingency plan or a summary thereof and a copy of the scheme, as soon as may be, to the Central Government in the Ministry of Welfare and to all the District Magistrates, Sub-Divisional Magistrates, Inspectors General of Police and Superintendents of Police.

16. CONSTITUTION OF STATE-LEVEL VIGILANCE AND MONITORING COMMITTEE

(1) The State Government shall constitute a high power vigilance and monitoring committee of not more than 25 members consisting of the following:

- (i) Chief Minister/Administrator-Chairman (in case of a State under President's Rule Governor-Chairman).
- (ii) Home Minister, Finance Minister and Welfare Minister- Members (in case of a State under the President's Rule Advisors-Members).
- (iii) all elected Members of Parliament and State Legislative Assembly and Legislative Council from the State belonging to the Scheduled Castes and Scheduled Tribes-Members.
- (iv) Chief Secretary, the Home Secretary, the Director General of Police, Director/Deputy Director National Commission for Scheduled Castes and the Scheduled Tribes-Members.
- (v) The Secretary in-charge of the Welfare and Development of the Scheduled Castes and the Scheduled Tribes-Convenor

(2) The high power vigilance and monitoring committee shall meet at least twice in a calendar year, in the month of January and July to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers/agencies responsible for implementing, the provisions of the Act and various reports received by the State Government.

17. CONSTITUTION OF DISTRICT LEVEL VIGILANCE AND MONITORING COMMITTEE

(1) In each district within the State, the District Magistrate shall set up a vigilance and monitoring committee in his district to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers/agencies responsible for implementing the provisions of the Act and various reports received by the District Administration.

(2) The district level vigilance and monitoring committee shall consist of the elected Members of the Parliament and State Legislative Assembly and Legislative Assembly and Legislative Council, Superintendent of Police, three group 'A' officers/Gazetted officers of the State Government belonging to the Scheduled Castes and the Scheduled Tribes, not more than 5 non- official Members belonging to the Scheduled Castes and the Scheduled Tribes and not more than 3 members from the categories other than the Scheduled Castes and the Scheduled Tribes having association with Non-Government Organisations. The District Magistrate and District Social Welfare Officer shall be Chairman and Member Secretary respectively.

(3) The district level committee shall meet at least once in three months.

18. MATERIAL FOR ANNUAL REPORT

The State Government shall every, before the 31st March, forward the report to the Central Government about the measures taken for implementing provisions of the Act and various schemes plans framed by it during the previous calendar year.

[File No. 11012/1/89-PCR (Desk)]

NORMS FOR RELIEF AMOUNT

U/s 12(4) of SCs and STs (POA) Rules,1995

- | | | |
|-----|--|--|
| 1. | Drink or eat inedible or obnoxious substance (Section 3 (1) (I)) | Rs. 25,000 or more depending upon the nature and gravity of the offence to each victim and also commensurate with the indignity, insult, injury and defamation suffered by the victim |
| | Causing injury insult or annoyance [Section 3(1)(ii)] | payment to be made as follows: |
| 3. | Derogatory act [Sec.3(1)(iii)] | 25% when the chargesheet is sent to the court. |
| | | 75% when accused are convicted by the lower court. |
| 4. | Wrongful occupation or cultivation of land, etc. [Section 3(1)(iv)] | At least Rs.25,000/- or more depending upon the nature and gravity of the offence. The land/premises/water supply shall be restored where necessary at Govt. cost. Full payment to be made when charge-sheet is sent to the Court. |
| 5. | Relating to land, premises and water [section 3(1)(v)] | |
| 6. | Begar or forced or bonded labour [Section 3(1)(vi)] | Atleast Rs.25,000/- to each victim. Payment of 25% at FIR stage and 75% on conviction in the lower court. |
| 7. | Relating to right to franchise [Section 391)(vii)] | Upto Rs.20,000/- to each victim depending upon the nature and gravity of the offence. |
| 8. | False, malicious or vexatious legal proceedings [Section 3(1)(viii)] | Rs.25,000/- or reimbursement of actual legal expenses and damages or whichever is less after conclusion of the trial of the accused. |
| 9. | False and frivolous information [Section 391)(ix)] | |
| 10. | Insult, intimidation and humiliation [Section 3(1)(x)] | Upto Rs.25,000/- to each victim depending upon the nature of the offence. Payment of 25% when chargesheet is sent to the court and rest on conviction. |
| 11. | Outraging the modesty of a woman [Section391)(xi)] | Rs.50,000/- to each victim of the offence. 50% of the amount may be paid after medical |

12. Sexual exploitation of a woman [Section 3(1)(xii)] examination and remaining at the conclusion of the trial.
13. Fouling of water (section 3(1)(xiii)) Upto Rs.1,00,000/- or full cost of restoration of normal facility, including clearing when the water is fouled. Payment may be made at the stage as deemed fit by District Administration.
14. Denial of customary rights of passage [Section 3(1)(xiv)] Upto Rs.1,00,000/- or full cost of restoration of right of passage and full compensation of the loss suffered if any. Payment of 50% when chargesheet is sent to the court and 50% on conviction in lower court.
15. Making one desert place of residence [Section 3(1)(xv)] Restoration of the site/right to stay and compensation of Rs.25,000/- to each victim and reconstruction of the house of Govt. cost, if destroyed. To be paid in full when charge sheet is sent to the lower court.
16. Giving false evidence Section 3D(2)(I) and (ii)] At least Rs.1,00,000/- of full compensation of the loss or harm sustained. 50% to be paid when charge sheet is sent to Court and 50% on conviction by the lower court.
17. Committing offences under the Indian Penal Code punishable with imprisonment for a term of 10 years or more Section 3(2) Atleast Rs.50,000/- depending upon the nature and gravity of the offence to each victim and/or his dependents. The amount would vary if specifically otherwise provided in the Schedule.
18. Victimization at the hands of public servant [Section 3(2)(vii)] Full compensation on account of damages or loss or harm sustained. 50% to be paid when charge-sheet is sent to the Court and 50% on conviction by lower court.
19. Disability, the definitions of physical & mental disabilities are contained in the Ministry of Welfare, GOI notification No.4-2/83-HW.III dated 6-8-1986 as amended from time to time. A copy of the notification is at Annexure II. 100% incapacitation.
Non-earning Member of a family. Where incapacitation is At least Rs.1,00,000 to each victim of offence. 50% on FIR and 25% at chargesheet

	less than 100%	and 25% on conviction by the lower court.
	Earning member of a family.	Atleast Rs.2,00,000/- to each victim of offence. 50% to be paid on FIR/Medical examination stage. 25% when charge-sheet sent to court and 25% at conviction in lower court.
		The rates as laid down in a (I) and (ii) above shall be reduced in the same propotion, the stages of payments also being the same. However, not less than Rs.15, 000/- to non-earning member and not less than Rs.30, 000/- to an earning member of a family.
20.	Murder/Death Non-earning member of a family.	At least Rs.1,00,000/- to each case. Payment of 75% after postmortem and 25% on conviction by the lower court.
	Earning member of a family.	At least Rs.2,00,000/- to each case. Payment of 75% after postmortem and 25% on conviction by the lower court.
21.	Victim of murder, death massacre, rape, mass rape and gang rape, permanent incapacitation and dacoity.	In addition to relief amounts paid under above items, relief may be arranged within three months of date of atrocity as follows:- Pension to each widow and/or other dependents of deceased SC and ST @ Rs.1,000/- per months, or employment to one member of the family of the deceased, or provision of agricultural land and house, if necessary by outright purchase. Full cost of the education and maintenance of the children of the victims. Children may be admitted to Ashram Schools/residential schools. Provision of utensils, rice, wheat, dals, pulses etc. for a period of three months.
22.	Complete destruction/burnt houses.	Brick/stone masonry house to be constructed or provided at Government cost where it has been burnt or destroyed.

**No.4-2/83-HW.III
GOVERNMENT OF INDIA
MINISTRY OF WELFARE
New Delhi, the 6th August, 1986**

Subject: Uniform Definitions of the Physically Handicapped

1. At present, different definitions for various categories of handicapped are adopted in various schemes/programmes of the Central and State Governments. In order to have a standard set of definitions, authorized certification authorities and standard tests for purpose of objective certification, Government of India, Ministry of Welfare set up three committees under the Chairmanship of Director General of Health services-one each in the area of visual handicaps, speech and hearing disorders and locomotor disabilities and a separate Committee for mental handicaps.

2. After having considered the reports of these committees and with the concurrence of the State Governments/UTs and the concerned Ministries/Departments the undersigned is directed to convey the approval of the President to notify the definitions of the following categories of physically handicapped:-

1. Visually handicaps
2. Locomotor handicaps
3. Speech and hearing handicaps
4. Mental handicaps.

Report of the Committee as indicated in the Annexure*

3. Each category of handicapped persons has been divided into four groups viz. mild moderate, severe and profound/total. It has been decided that various concessions/benefits would in future be available only to the moderate, severe and profound/total groups: and not to the mild groups. The minimum degree of disability should be 40 percent in order to be eligible for any concession/benefits.

4. It has been decided that the authorized certifying authority will be a medical board at the district level. The board will consist of the Chief Medical Officer Sub-Divisional Medical Officer in the District and another expert in the specified field viz. ophthalmic surgeon in case of visual handicaps, either an ENT Surgeon or an audiologist in case of speech and hearing handicaps an orthopaedic surgeon or a specialist in physical medicine and rehabilitation in case of locomotor handicaps, a psychiatrist or a clinical psychologist or a teacher in special education in case of mental handicaps.

5. Specified tests as indicated in Annexure should be conducted by the medical board and recorded before a certificate is given.

6. The certificate would be valid for a period of three years.
7. The State Governments/UTs Admn. may constitute the medical boards indicated in para 4 above immediately.

M.C. NARSIMHAN,
Jt. Secretary to the Government of India

ORDER

Ordered that the above notification be published in the Gazette of India for general information. A copy of the Gazette notification may be sent to all Ministries/Department of the Central Government all State Governments/UT Admn. President Sectt., P.M.s Office, Lok Sabha, Rajya Sabha Sectt. For information and necessary action.

M.C. NARSIMHAN,
Jt. Secretary to the Government of India



ABSTRACT

Provision of immediate relief to trafficked victims - Enhancement of immediate relief from Rs.10,000/- to Rs.20,000/- to the Children/Women who are rescued from trafficking - Orders - Issued.

DEPT. FOR WOMEN, CHILDREN, DISABLED & SENIOR CITIZENS (WP).

G.O.Ms.No. 28

Dated:15-10-2012.

Read the following:-

1. G.O.Ms.No.47, WDCW&DW(Prog) Dept., dt.12-7-1999.
2. G.O.Ms.No.1, WDCW&DW(Prog) Dept., dt.3-1-2003.
3. G.O.Ms.No.28, WDCW&DW(Prog) Dept., dt.4-7-2003.
4. G.O.Ms.No.13, WDCW&DW(WP) Dept., dt.21-4-2006.
5. From the Director, WD & CW, Hyderabad, Lr.No.4205/ATC/2006, dt:05-05-2012.

ORDER:-

In the G.O. 1st read above, a Relief and Rehabilitation fund was set up for providing relief to women who become unfortunate victims of atrocities, like rape, molestation, kidnapping, abduction of women and girls, dowry deaths, etc.

2. In the G.O. 2nd and 3rd read above, Government have issued orders on the policy for combating trafficking of women and children for commercial sexual exploitation and Government have also decided to utilize the existing rehabilitation and relief fund for providing relief to victims of trafficking. The Government have also ordered that an amount of Rs.5,000/- or actuals, whichever is lower, be paid either by the Director, Women Development & Child Welfare or the District Collectors to the children/women who are rescued from trafficking as immediate relief for the purpose of travel, clothing, medicine and other immediate necessities for the women and children rescued from trafficking.

3. In the G.O. 4th read above, Govt. have issued orders enhancing the immediate relief to women and children who are rescued from trafficking from Rs.5,000/- to Rs.10,000/-.

4. In the 8th meeting of the State Level Coordination Committee on Policy for Combating Trafficking of Women and Children for commercial sexual exploitation headed by the Chief Secretary, held on 07-12-2011, it was decided to increase the immediate relief to women and children rescued from trafficking from Rs.10,000/- to Rs.20,000/- and to draw the amount without budget control to provide immediate relief to trafficked victims as a similar provision was provided for SC atrocity victims. The Director, WD & CW Dept vide his letter dt.05-05-2012 has also requested the Government to issue necessary instructions in this regard.

5. After careful examination of the matter, Government hereby order that the immediate relief to women and children who are rescued from trafficking be enhanced from Rs.10,000/- to Rs.20,000/- (Rupees Twenty Thousand Only) and draw the amount without budget control.

P.T.O.

: : 2 : :

6. The procedure laid down in the G.O. 3rd read above for claiming relief and filing FIR remain unchanged and holds good.

7. This order issues with the concurrence of Finance Department vide their U.O.No.20707/144/Exp.WD/12, dt.23-8-2012.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

PUSHPA SUBRAHMANYAM,
PRINCIPAL SECRETARY TO GOVERNMENT (I/c).

To

The Home Department.

The Commissioner, WD & CW Department, Hyderabad.

The Director General of Police, Hyderabad.

The Additional Director General of Police (CID), Hyderabad.

All District Collectors of Andhra Pradesh.

All Superintendents of Police of Andhra Pradesh.

The Accountant General, A.P., Hyderabad,

Copy to:-

The Pay and Accounts Officer, A.P., Hyderabad

The Director of Treasuries and Accounts, Hyderabad

The Special Secretary to Chief Minister.

Finance (Expr. WD, CW & DW) Department.

The Commissioner, Information and Public Relations Department,
Hyderabad.

The P.S. to Minister (S.E.) Department

The File/SF/SC.

/ / FORWARDED : : BY ORDER / /

SECTION OFFICER



GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

WD, CW & DW Deptt. - Adoption of Minimum Standards of Care by Institutions & Service providers providing protective and rehabilitative facilities to victims of commercial sexual exploitation / sex trafficking - Orders - Issued.

WOMEN DEV. CHILD WELFARE & DISABLED WELFARE (WP) DEPARTMENT

G.O.Ms.No. 16

Dated: 24th April, 2010

Read the following :-

1. G.O.Ms.No. 661, EM & SW (H1) Deptt., Dt : 28.08.74
2. G.O.Ms.No. 1, WD CW & DW (Prog) Dept., Dt : 31-01-2003.

ORDER:

Government of Andhra Pradesh acknowledges that human trafficking particularly for commercial sexual exploitation is among the worst forms of human rights violation, destroying the lives of thousands of women and children. All available reports and testimonies of trafficked survivors reveal that a victim when trafficked is subjected to in human torture, threat and intimidation leaving deep psychological scars. Lack of holistic care and support for rescued victims, can have serious repercussions for the society, as these victims could be further re-trafficked and the crime of trafficking can go on unabated.

2. Government of Andhra Pradesh is firmly committed to combat trafficking and provide all care and support required for a victim so that she can eventually be re-integrated into the mainstream society to lead dignified and independent life. PRAJWALA - a voluntary organization committed to the cause of anti-human trafficking has furnished "Minimum Standards of Care", in consultation with all stake holders including Government officials concerned, NGOs, victims of trafficking etc.,
3. The Government after due consideration, with a view to ensure holistic care and support for all rescued victims of commercial sexual exploitation / sex

trafficking, hereby direct that the minimum standards of care as detailed in Annexure shall be adopted and adhered to by all institutions and service providers providing protective and rehabilitative facilities to victims of sex trafficking/commercial sexual exploitation. Any non-adherence, deviation or violation of the minimum standards of care shall entail cancellation of license/registration/recognition/grant-in-aid as the case may be, apart from other appropriate action.

4. Further, no institution providing such shelter shall be considered for license/registration/recognition or grant-in-aid unless the Minimum Standards of Care as prescribed are provided and fully adhered to by the institution/service provider.

5. Finally, all such institutions and service providers shall also adopt and put in place the computerized tracking system with effect from 01-06-2010 as per the software to be made available to them by the Director, W.D. & C.W. Dept.

6. This order issues with the concurrence of Finance Department vide their UO Note. 3253/69/Expr. WD/2010, Dated : 19-03-2010.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

M. CHAYA RATAN

PRINCIPAL SECRETARY TO GOVERNMENT.

To

The Additional Director General of Police - CID.

The Director, Women Development & Child Welfare Department.

All District Collectors.

All Superintendents of Police.

All Regional Deputy Directors of Women Development & Child Welfare Department.

All Swadhar homes & Service providers concerned through Director, Women Development & Child Welfare.

Copy to :

The Principal Secretary to Government Home Department, A.P. Secretariat, Hyderabad.

The P.S. to Chief Secretary, A.P. Secretariat, Hyderabad.

The P.S. to Chief Minister Government of Andhra Pradesh, Hyd.

The Commissioner Information & Public Relation.

All District Medical & Health Officers through Commissioner, Family Welfare Vidiya Vidhan Parishat, Hyderabad.

All Project Directors DRDA / Indra Kranti Padam through CEO. IKP.

All District Legal Service Authorities through A.P. State Legal Service Authority.
All District Aids and Leprosy through Project Director, Aids Control
All Child Welfare Committees through Director Juvenile Welfare, Correctional
Services & Welfare of Street Children.
The Managing Director of Housing, A.P. Hyderabad.
All District Supply Officers through Commissioner Civil Supplies Department, Hyd.
The Principal Secretary to Government Housing.
The Commissioner Family Welfare, A.P. Hyderabad.
The Director, Medical & Health Services, Hyderabad.
The Principal Secretary to Government Civil Supplies Department.
The Principal Secretary to Government Education Department.
The Principal Secretary to Government Rajiv Vidya Mission.
The Principal Secretary to Government Higher Education Department.
S.F./S.C.

// Forwarded :: by Order //

SECTION OFFICER

ANNEXURE

MINIMUM STANDARDS OF CARE In Homes for Victims of Trafficking

Introduction

Anti trafficking measures comprises of prevention, protection and prosecution. It has been seen throughout the country that protection measures is the most important link to effective prevention and successful prosecution. But it is matter of serious concern that protection measures in the form of shelters have not fulfilled their objectives and poor rehabilitation measures have ended up in re-trafficking of victims.

With the aim to improve the conditions of shelter homes minimum standards of care is introduced. These standards for shelters for victims of commercial sexual exploitation / survivors of sex trafficking are those non-negotiable care components that should be integrated in any home managed either by the government or the civil society to ensure facilities for rehabilitation is in place as a matter of right of the victim. These standards will ensure that the safety, dignity and the well being of each victim are provided for.

The minimum standards of care will be reviewed every two years for relevance and changed according to the contemporary information available about care and protection of victims of trafficking.

The guiding principles of these standards are:

Rights Based : All standards will ensure that the basic human rights of the victim is upheld and respected. Additionally the following rights will be a integral part of each care process:

- Right to dignity
- Right non to be re-traumatized and re-victimized
- Right to informed choices and confidentiality
- Right to self-determination and participation

Individualized and Comprehensive : The care components should be inclusive and be able to address the needs of each individual through a continuum of care opportunities for all life domains of survivors.

Equitable : The program should ensure that all services are accessible to all victims. The services are designed in a manner that facilitates people who may be

facing more vulnerability or impact to have an equal access to services.

Gender sensitive : The program should be child friendly and focused on the psychological recovery of the victim. The programs will recognize the gender based vulnerabilities and risks, will be developmentally appropriate and ensure that the recovery of the victim is paramount.

Accountable : All the programs will be accountable and will be subject to mandatory external standardized care process audits.

STANDARDS OF CARE

Standard I : Location

1. Any home/shelter meant for victims of commercial sexual exploitation should be located in a residential area and should be maintained and integrated in the local scenario. The name board of the home should not reveal either the purpose or the kind of benefit it provides. The home meant for 50 residents should not be less than 5500 sq. ft, which includes, different types of spaces required.
2. The location of the home should minimize risk to the residents and should have a favorable ambience (not close to a red light area, wine shop, slums or shanties and the homes should be far away from auto stands, bus stations, railway stations, road side stalls) with adequate privacy for the residents.
3. The home/shelter should be well connected with other amenities such as water, electricity, sanitation, approach road, etc. Care should be taken to ensure that the physical infra-structure allows no undesirable outside contact.

Standard II : Security

1. The home should have 24 hrs security arrangements. Without appearing custodial in nature the home should ensure adequate security to the residents. The security persons should be free of any addictions and they need to be trained.
2. All inflammatory or hazardous substances such as kerosene, petrol, pesticide, phenol, medicines, acid, bleaching power, soaps, rat killers, especially sedatives etc., should be kept securely, out of the residents. Field security plan should be in place (fire exit marketing). There should be a regular fire drill. Basements should not be used for residential purposes. Stock register of all the above mentioned hazardous substances should be maintained and regular stock taking (monthly) should be monitored.

3. For residents who are suffering from psychological disturbances any task with sharp/hazardous instruments/substances such as knives,, screw drivers, ropes and wires should be avoided to extent possible and if unavoidable to be done under proper supervision.
4. All doors (bathroom, toilets, kitchen, storage, bedrooms) should have provision for opening from outside in cases of emergency.
5. No visitors for residents should be allowed in the home without requisite vetting and permission. The home should have a visitors policy which should include arrangements to screen and interact with visitors away from residential area within the campus. The best interest of the resident should be the guiding principle. All visits should be documented in a well maintained visitors book that will record all details such name, designation, organization/institution, address etc Proper check of staff at entry and exit should be done and CCTV cameras may be installed in visitor's room.
6. No resident should have access to mobile phones and any phone call made should be under supervision.

Standard III : Legal Custody and Arrangements for Leave from home

1. Legal custody of residents must be under the supervision of the Child Welfare Committee (if minors) or the Service providing Organization or any other competent authority dealing with the issues of women and/or children of the area as the case maybe.
2. A social worker must accompany the residents (who are at risk to coercion and exploitation) whenever she leaves the place of safety. The home should have protocol for different circumstances when the resident may leave the home unaccompanied by staff. Such protocol should be evolved by a risk assessment and risk reduction information.

Standard IV : Confidentiality

1. The resident should not be exposed to the medial and complete confidentiality should be maintained about the facial and other personal identity of the resident. This is valid at all stages from rescue to prosecution and social reintegration and thereafter. All case records especially medical records should be maintained with utmost confidentiality.
2. No information about a resident will be given to any outsider without the permission of the authorized person and the informed consent of the resident.

Standard V : Basic Infrastructure Facilities :

1. The home should be well ventilated, with adequate space (approximately @50-60 sft per resident, toilets and bathrooms at a proportion of 1:5.)
2. The home should have well ventilated kitchen, a common hall, counseling room, medical room, dining hall, bedrooms, quarantine room, storage facility and staff quarters and no basements should be used for residential purposes.
3. The home should have open space for recreation, washing/drying arrangements which ensures privacy.
4. The residents of the home should have access to public facilities such as garden, playground and recreational facility etc.
5. Each resident should be provided with individual cot, bedding, 2 bed sheets, 1 blanket and pillow, mosquito nets per year.
6. Universal care processes should be established which enables the home to provide for the special care needs of HIV positives, disabled, pregnant and lactating mothers and severely sick residents without any stigmatization or isolation.

Standard VI : Staff recruitment /Training :

1. Staff should be recruited only after adequate screening about their past record and assessment of their skills and attitude. Special care should be taken to ascertain any indications of past criminal record or association, psychological disorders, addictions (alcohol, tobacco, gutkha, drugs etc).
2. All staff irrespective of the post should be given induction training and adequately sensitized on aspects of trafficking, needs of trafficked residents, trauma care, first aid and counseling.
3. Standardized training module has to be developed with regular updates.
4. One head of the home with a postgraduate degree, Two Trained counselors one with MSW and other with MA psychology with special training on trauma care should be recruited on a fulltime basis, and where one counselor is to be a resident and other may be a non-resident for better functioning. The home may also choose to use primary level peer counselors who are present in the home all the time and supported by secondary level professional counselors as mentioned above.

5. The home should have the following human resources for better operations for a average of 50 residents with.
 - a. 1 fulltime resident Warden/Superintendent who should be at least a graduate.
 - b. 2 resident Cooks
 - c. 4 caretakers with a minimum SSC education
 - d. 1 Accountant cum Documentation personnel
 - e. 2 Security personnel with a reading and writing skills
 - f. Part time life skill trainer
 - g. A Panel of Medical practitioners (both government and private) should be identified to attend to the needs of the residents at any time of requirement and appropriate budget should be extended for medical kits, transport and honorarium.
 - h. For legal assistance it should be converged with existing free legal aid service. If such services are not easily available a budget may be provide for legal support and assistance till such a time mainstream services can be accessed.

Standard VII : Home Management

1. The residents should be directly involved in the day to day management of the home. All residents should be part of the general body in running the home. On democratic lines committees should be chosen from the general body which will support in the management of the home on different aspects.
2. The committee should be reconstituted every 3 months and every resident in the home should be given a chance to be an active committee member.
3. All process of the committee meetings, staff meetings, general body should be well documented.

Standard VIII : Induction of the residents :

1. As soon as a resident enters a home she should be received with a welcome kit which will consists of two pairs of cloths, towel, toiletry (tooth brush, tooth paste, soap, sanitary napkins, powder, shampoo sached, hair oil, comb etc)
2. In the first on hour the new resident should be allowed to take bath and fresh in

up. A light snack with water should be provided as the initial formalities are completed.

3. Older residents trained, as barefoot counselors should be given the task of receiving a new resident and introducing her to the other residents. As a part of the reception a tour of the home should be given.
4. If the resident is brought during the night she should be allowed to rest and personal profile and other documentation formalities should be taken only the next day after the resident is feeling rested.
5. Develop and establish moral support with the newcomer.

Standard IX : Induction and Orientation

1. The preliminary assessment report of the new resident should be recorded on the prescribed format. The profile of the resident will be updated periodically. A photograph of the victim should be taken at the earliest suitable time.
2. As a part of the personal profile care must be taken to establish the true identity of the resident such as her real name, whereabouts of family members, community members, relatives, next of kin, address etc. Updating can be done in a phased manner and computerized.
3. The resident should be provided all information regarding the procedures, rules and facilities in the home. She should be also informed about her legal and civic rights. A grievance/ redress mechanism should be created.
4. The resident should be informed about all the benefits she is entitled from the government such as immediate relief of Rs. 10,000/- and all other rehabilitation package such as livelihood skill, livelihood options, education for her children etc as per the GOMS No. 1 dated 3-01-2003.
5. The resident should also be informed and counseled about the routine medical tests and examinations she will be asked to undergo and also the tests for which she has to provide informed consent. The resident's consent for HIV test is necessary. The resident should be told why the test is being taken and the importance.
6. Only after the resident is well oriented (may take a minimum of two weeks) an undertaking should be taken by the resident on her choice to rehabilitate/reintegrate.

Standard X : Recording and Documentation

1. As soon as the resident is admitted her personal profile should be recorded in a specified format (annexed). The said profile should be updated regularly.

The profile to be recorded only when the resident is mentally prepared for the same. The persons responsible for recording/documenting the profile should be trained mainly on communication and documentation. He/She needs to be patient with the residents and ensure authenticity.

2. There should be separate files maintained for each resident which should include a profile consisting of personal details, informed consent and referral records with a medical file consisting of medical reports, treatment plan and prescriptions. Confidentiality to be well maintained especially in the case of residents being HIV positive.
3. Separate registers should be maintained for attendance, visitors, incoming/outgoing and restoration/reintegration.
4. There should be a victim care plan which should take into consideration the educational background and interests/talents/skills of the victim (to be recorded in a prescribed format for all residents and kept in the personal profile). Individual care plans should be made based on this and appropriate training to be imparted taking into consideration the emerging areas of human resource requirements. This care plan should be updated from time to time for each resident even after repatriation and follow up.

Standard XI : Tracking Systems

1. Homes should maintain all relevant details on the resident after the rescue process (FIR copy, remand dairy). A complete record of the resident's contact information (names of relatives, address, phone number etc.) should be maintained in the resident's confidential file. Authenticity of the resident's information should be ensured. A recent/latest passport size photo of the resident should also be kept in the confidential folder. Profiles of the close associates to be secured & maintained. All relevant information should be comprehensive and form a part of the initial assessments.

Standard XII : Health and Medical Support

1. Immediately after a resident is admitted she should be provide immediate medical support (check up, treatment for immediate ailment etc). Pediatric support should be given for children accompanied and a check up by a

gynecologist if the woman is pregnant.

2. Medical Tests for HIV/AIDS should be done only after the resident gives her informed consent.
3. Each home should have facilities for health check-ups by a registered medical practitioner, gynecologist, pediatrician, referral to external medical experts, hospitals, and facilities for hospitalization, on an as-needed basis.
4. Home should have trained caretakers to provide appropriate care and support for HIV positive residents for early management of opportunistic symptoms. All staff in the Home must be trained in HIV care and support.
5. Home should have referral networks with mental health professionals (psychologist, psychiatrist, psycho-therapist etc) and mental health institutions for immediate and timely support for psychologically disturbed residents.
6. Home should have referral network with de-addiction centers for those residents who have a problem of substance abuse/alcohol addiction.
7. Each home should have a first aid box with basic medicines and equipments such as thermometer and updated medical record of each resident. It should be replenished on a regular basis and medicines should be checked regularly for their expiry date.
8. Home should have arrangement for caretakers who will escort residents during hospitalization and also facilities for transportation of a sick resident.
9. Home should maintain proper registration of births and deaths.
10. Home should have a corpus fund for health related emergencies such as special health conditions, funeral rites.
11. At each Home, safe drinking water, sufficient number of bathrooms and toilets, fans and proper ventilation, mosquito nets and proper drainage systems should be in place to ensure the health of all residents.
12. Residents should be provided a nutritious diet. Care should be taken to cater to special needs of residents who are HIV Positive, lactating mothers as per the diet chart. The menu for the week should be a part of the home committee decisions.

Standard XIII : Counseling and Therapeutic Support

1. There should be both professional and peer counselors-preferably female in a home who would provide immediate trauma care and long term counseling for

the residents.

2. The ambience of the home should be therapeutic in terms of non-judgmental attitude of the staff, along with avenues for relaxation, recreation and spiritual growth and activities for executing responsibilities and to gain confidence and control. Illustrated activities include indoor & outdoor sports, physical exercise, cultural activities, workshops, study material, magazines, music, meditation, yoga, gardening etc.
3. There should be both individual and group counseling for the residents. Peer counseling including group discussions should also be promoted.
4. Residents showing symptoms of psychiatric disorders should be immediately referred to professional psychiatrist.

Standard XIV : Life Skills

1. There should be daily classes for residents on life skills such as grooming, socialization, communication, conflict management, stress management and leadership. Both formal and informal processes, including mentoring and exposure visits should be used.
2. Innovative and creative tools of teaching life skills should be used such as art/craft etc which will restore a sense of well being and dignity.

Standard IV : Education

1. Residents who have no formal education should be helped to obtain education through Akshara Jyothi, Vidya program or any other adult education program.
2. Residents who have basic literacy and have an aptitude for further education should be helped to enroll in NFE programs including open school/university for continuum of educational process.
3. Take all measure to mainstream minor residents in normal schools on priority basis.
4. Children of residents should be admitted to either residential hostels or in schools. If in private schools, join through sponsorship preferably from Government. If in Government School the Government should take care of all the expenses for education.

Any decision to send the resident from the shelter to any outside place should be taken only after security concerns are satisfactory.

Standard XVI : Diet & Nutrition

1. Home committee should prepare weekly diet chart for the home in consultation with the Superintendent/Warden. Care should be taken to ensure the needs of the residents are incorporated as much as possible.
2. Special diet chart should be prepared for lactating mothers, infants, and pregnant residents, residents with special conditions such as HIV/AIDS, diabetes etc and sick/bedridden residents.

Standard XVII : Livelihood Training

1. Residents should be admitted to livelihood training within two months after admission to shelter/home.
2. In collaboration with reputed technical training institutes (Mahila Pranganam, SETWIN, ITI, Community Polytechnic) viable, sustainable and job oriented trades should be taught to the residents. The residents must be allowed to appear for certificate exams or diploma by government or reputed certified agencies such Intermediate Board, State Board for Technical Education for better employability.
3. It should be ensured that all livelihood training should lead to job placement after the stay in the home.
4. Corporate tie up should be explored for developing livelihood training which increases the employability of the resident.

Standard XVIII : Livelihood Option/Economic Empowerment

Economic Rehabilitation Plan for each resident should be developed Formation of SHG must be encouraged to access micro-credit finance, start placement services for open employment, support for starting small businesses etc.

Standard XIX : Legal Aid / Assistance

1. The home should have a part time professional legal advisor (reputed advocate) who could provide legal aid/assistance to the residents.
2. Tie up should be made with enforcement agencies to recover all properties of the victim from the place of exploitation.
3. The residents should be provide all assistance if she is a witness in a case and if need be additional protection as a part of victim witness protection. Care must be taken to take complete consent of the resident for her to become a witness.

4. The legal advisor should provide the residents preparation for trial (through mock trial or any other role play/discussion method).

Legal assistance shall be provided unconditionally, that is it shall not be conditional upon the victim/survivor's willingness to serve as a witness. Use existing legal aid/assistance structures fully, and in case of non-availability of Govt. legal aid cell, services of an advocate may be used.

Standard XX : Civic Benefits

1. A requisition on behalf of the resident in the prescribed format should be submitted to the District Collector through the Project Director, Women Development Child Welfare for allocation of housing, ration card, voters ID and other civic benefits entitled as rehabilitation package for the resident. Care should be taken that these benefits reach the resident within a stipulated period of 6 months after being rescued. It should be further ensured that these benefits do not stigmatize the resident but instead mainstream the benefits with the family/community. It should also provide benefits for the second generation taking care to see that it reaches the male child also.

Standard XXI : Restoration and Repatriation

1. Any formalities for the restoration/repatriation process should begin only after getting the informed consent of the resident.
2. Restoration/repatriation plan for a resident should be undertaken only after a complete home investigation (format enclosed) is done. The home investigation should include and assessment of the family (are they involved in trafficking), family and community's willingness to accept the girl and the family's environment.
3. Before a resident is restored/repatriated a detailed discussion should be held with the resident and the restoration team on what explanation should be given to the family on her absence from her village/slum/community. The resident's version should be adopted as the final version.
4. Proper record and documentation (photos, undertaking from parent/guardian) should be maintained for all restoration undertaken.
5. No rescued victim shall be sent back to the family without adequate assessment and without ensuring social acceptance and family support. State will ensure that repatriation is carried out depending on how safe and nurturing the family environment is for the victim. If and when the victim chooses to return to an

abusive family situation, the state would need to intervene and repatriate the victim to an institution which can protect and care for the individual. Repatriation will be done after the stay in a shelter.

6. States shall work out the details of the repatriation procedures and structure and mainstream them in order to facilitate the smooth and efficient repatriation of the victims and their dependent minors.
7. The members of the professional and (preferably) voluntary sector organizations who have had some helping interaction with the victim shall be represented in the process of repatriation.
8. No rescued victim shall be sent back to the family without fully ensuring that the victim shall not be re-trafficked.
9. The victim being repatriated should be counseled and prepared to return to the country origin after providing her with adequate medical and psycho-social care as well as after empowering her through basic life - skills so that she can be reintegrated in main steam life.
10. Adequate financial assistance should be provided for meeting the needs of rescued victims during travel while repatriating them to their families or institutions in source areas,
11. Adequate provision for dearness allowance for police escort or any other authorized escort during such travel should be made by the government.
12. It should be ensured that the legal formalities should be completed for the residents before being restored or repatriated.

Standard XXII : Follow Up

1. For the first six months after the restoration is done monthly follow-up should be done. Thereafter the follow up could be done once a quarter for the next one year.

Follow up program should ensure the following :

- Protection against re-trafficking and against commercial sexual exploitation
- Protection against Stigma and Discrimination.
- Protection against any other exploitation.
- Optional link with a variety of professional support systems.

- Confidentiality
 - Reorientation.
 - Restoration/ensuring/exercising of full citizen ship rights.
 - Livelihood option.
 - mental health
 - Restoration/ensuring/exercising of rights over parental ancestral and community property and entitlements.
 - Survivor friendly.
2. Monthly follow - up should be provided for the first six-months and thereafter whenever required, to ensure that the victim receives adequate support and does not get re-trafficked. Adequate follow-up of the victim supervised by the Child Welfare Committee or any other competent authority dealing with women / children along with the close cooperation of other recognized organizations should be mandatory for a period of three years after the victim has been repatriated.

XXIII : Social Reintegration

1. Those residents whose families do not accept them and for those whose families are not conducive space for restoration (for example parent's involved in trafficking) special efforts should be made to support the resident to stand on their feet and slowly in a phased manner supported to live in the society independently.
2. It should be ensured that no rescued victim is sent back to the family without ensuring social acceptance and family support to the victim in order to prevent re-trafficking and further commercial sexual exploitation.
3. Collaborations with appropriate government or non-governmental organizations should be made to provide employment services/ entrepreneurship development training, which will include skills, knowledge, and resources, marketing skills and micro-credit at the district where the resident is reintegrated.
4. The Home shall conduct outreach / support activities, or shall oversee the delegation of those activities to other organizations or individuals in accordance with the Reintegration Plan. Outreach support activities shall be

conducted only with the consent of the victims.

5. In trafficking cases where the entry of the victim in the Rescue Home is very late (e.g. the Home is meant for residents / victims up to the age of 18 and the victim enters at the age of 17) there is a need to extend the protective cover of residential services for a longer period. Some protective cover for the rescued person shall continue even after reintegration through Drop-in Centers, and After-Care Homes.

Standard XXIV : Accountability

1. All homes run for the purposes of trafficked victims should be directly accountable to the Department of Women Development Child Welfare. The minimum standards prescribed should be adopted irrespective of whether it is government funded or private funded.

All home should have certification of implementing standards.

Standard XXV : Monitoring

1. The convener of the Anti Trafficking District Co-ordination Committee (Assisted by the Empowered Committee including NGO, Government & Civil Society) Who is also the Project Director, Women Development Children Welfare with the support of other members should monitor the homes every two months. The monitoring and review report should be submitted to the Secretary, Women Development Child Welfare through the Director, Women Development Child Welfare.
2. Within the home there should be staff meeting fortnightly to implement the minimum standards. There should also be monthly meetings with the residents to review minimum standards.
3. Feedback on the minimum standards should be used to improve on the management of the home. Once in a month management meeting on the improvement of the standards.
4. Monitoring should be participatory (Survivors, NGO and Govt. Officials) with the aim to strengthen the standards.
5. Half yearly self audits and external social audit should be done annually apart from ensuring total transparency in matters relating to receipt of funds, expenditure.

//Forwarded :: by Order //

SECTION OFFICER

RELEVANT POLICY XIII

F. No.S-11012/01/2015-BL
Government of India
Ministry of Labour & Employment

Jaisalmer House,
26 Man Singh Road,
New Delhi-110011.

May 18, 2016

OFFICE MEMORANDUM

Sub: Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

The Centrally Sponsored Scheme for Rehabilitation of Bonded Labourers 1978 was last revised in May 2000. In an evaluation of the performance of the scheme and consultation with stakeholders, it was realised that the scheme was not effective in elimination of Bonded Labour System and a revamp was necessary in the larger public interest. A draft scheme was accordingly prepared by the Ministry and circulated to all State Governments, NHRC, various concerned Ministries of Government of India and the same was also published in the official website of the Ministry for eliciting comments and suggestions from the public and other concerned citizens. Based on the suggestions and inputs received from all quarters including the Social Partners, Central Government has approved the revamped Scheme w.e.f. 17.05.2016. Copy of the revamped Scheme is appended hereto.

2. The revamped scheme shall henceforth be known as a Central Sector Scheme which does not entail State share in the cash component of the rehabilitation package. The non-cash component of the erstwhile CSP scheme will continue as it is, with minor modifications to suit the changing needs of the time.

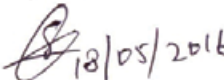
3. I am directed to convey the approval of Central Government of the said scheme for implementation by the State Governments/UT Administrations through their District Magistrates/Collectors/Sub-Divisional Magistrates.

Encl.: As above.

Chief Secretary (all State Governments)
Administrator (all UT Administrations)
District Magistrate/Collector (All)

Copy to:

Principal Secretary to the Prime Minister
Ministries of Home Affairs, Law & Justice, SJ&E, W&CD, Finance, External Affairs,
Comptroller & Auditor General of India
National Human Rights Commission


(J.S. Sidhu)

Deputy Secretary to the Government of India

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Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

1. INTRODUCTION

1.1 Bonded Labour System in India is characterized by a long-term relationship between employer and employee, which is usually solidified through a loan or social obligation, and is embedded intricately in India's socio-economic culture marked by class/caste relations. Bonded labour contracts are not purely economic; in India, they are reinforced by custom or coercion in many sectors. The Constitution of India which was adopted by the Constituent Assembly on 26th November 1949 as the Magna Carta of Civil liberties, enshrines under dedicated Article 23, a specific provision declaring traffic in human beings, *begar* and similar forms of forced labour to be punishable offence.

1.2 The Government of India has ratified the ILO Convention C029 on 30th November 1954 which *inter alia* defines forced labour as "all work or service which is exacted from any person under the menace of penalty and for which the said person has not offered himself voluntarily"

1.3 The traditional form of bondage or forced labour in India are known as Adiyamar, Baramasia, Basahya, Bethu, Bhagela, Cherumar, Garru-Galu, Hali, Hari, Harwai, Holya, Jana, Jeetha, Kamiya, Khundit-Mundit, Kuthia, Lakhari, Munjhi, Mat, Munish system, Nit-Majoor, Paleru, Padiyal, Pannayilal, Sagri, Sanji, Sanjawat, Sewak, Sewakia, Seri, Vetti. However, with the passage of time, new dimensions of bondage have crept in under different names. The system is much more intricate than mere economic or labour relations; it reflects the stratified social structure where one or more social groups work without consideration of minimum wages or other right-based labour standards just for the sake of honouring social custom or for fear of possible reprisal in case of non-conformity, which more often than not are characterised by physical violence, ostracisation, etc.

1.4 Emerging forms of forced labour and traffic in human beings, especially of children and other disadvantaged sections of society, require a holistic approach for law enforcement as well as comprehensive rehabilitation mechanism for social, psychological, educational and economic rehabilitation.

2. EVOLUTION OF THE SCHEME

2.1 The issue of 'bonded labour' came to the list of national priority when it was included in the old 20-Point Programme in 1975. The Bonded Labour System (Abolition) Ordinance was promulgated on 25th October, 1975. This was later on replaced by the Bonded Labour System (Abolition) Act, 1976 (hereinafter referred to as the Act). This Act provides for the abolition of the system of bonded labour with simultaneous liquidation of their debts. Since the subject is included in the Concurrent List, the Union Government stepped in to assist the State Governments in their task of rehabilitation of released bonded labourers. Accordingly, Ministry of

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

Page 1 of 17



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Labour & Employment launched a Centrally Sponsored Scheme for rehabilitation of bonded labourers in May, 1978.

2.2 Originally the Scheme provided for rehabilitation assistance up to a ceiling limit of Rs. 4000/- per bonded labour to be equally shared by Central Government and State Governments on (50:50) basis. This amount was raised to Rs.6250/- w.e.f 1.2.86; and to Rs.10,000/- w.e.f. 1.4.95. Out of this, Rs.1000/- was to be given as subsistence allowance to meet travel expenses etc. to the state of origin, in case the released bonded labour was to be repatriated to his or her native place/ State or for their subsistence until they are rehabilitated. With effect from 1.4.1999, only Rehabilitation assistance was enhanced to Rs. 20,000/-. The scheme was last revised in May 2000 wherein survey component, awareness generation activities and evaluation studies were included as additional items in the existing scheme.

3. OVERVIEW OF PERFORMANCE OF THE SCHEME AND NEED FOR REVISION

3.1 From the year 1978 to 2014-15, the Central Government has released ₹81.826 crores towards its share of rehabilitation assistance in respect of 280213 released bonded labourers in the entire country. The State Governments have contributed equal amount i.e. ₹81.826 crores thus taking the total amount to about ₹ 164 crores. The annual average expenditure has thus remained at the level of ₹2.21 crore. It has become a regular feature to surrender money under this scheme in the absence of adequate proposals from the States and operation of the scheme remained restricted to only 18 states.

3.2 Evaluation studies and other field level inputs indicate certain shortcomings in the existing scheme which *inter alia* includes: (i) Lack of regular monitoring; (ii) No mechanism to monitor court cases and convictions; (iii) Inadequate and unattractive rehabilitation package; (iv) Lack of flexibility of the scheme to address the needs of special category beneficiaries such as children including orphans, differently abled, trans-genders, people rescued from organised and forced begging rings and women and children rescued from trafficking and sexual exploitation including prostitution; (v) Lack of institutionalized mechanism to keep an account of the other major benefits listed in the existing scheme such as agricultural land, dwelling unit, skill training, education etc.; and (vi) Ineffectiveness of awareness generation camps. Hence, there was a strong need to update the scheme for making it more effective.

4. CONSULTATION WITH STAKEHOLDERS & REVISION

4.1 Accordingly, Ministry of Labour & Employment conducted an in-depth study of all the operational limitations as listed above. Important stakeholders such as National Human Rights Commission, International Labour Organization, NGOs and activists working for bonded labours, UNESCO and other intellectuals were consulted for charting out the broad contours of the revised scheme. The draft scheme with approval of the competent authority was circulated for Inter-Ministerial and stakeholder consultation and copy of the same was also made available on the Ministry's website for eliciting views of the public. The draft was also circulated to all

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

Page 2 of 17



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State Governments and Union Territories. The draft scheme duly incorporating the views of stakeholders was considered by the Standing Finance Committee (SFC) for consideration and approval. The SFC memorandum was appraised by the Ministry including the IFD by circulation and approved by the Hon'ble LEM as per norms of delegation of financial powers.

4.2 The revised scheme incorporates all relevant inputs and comments of stakeholders and addresses all the operational issues of the existing scheme in a holistic manner. Hereafter, Ministry of Labour & Employment and State Governments will follow the below mentioned guidelines for administration of the Bonded Labour Rehabilitation Scheme:

5. REVISED SCHEME AND GUIDELINES

(i) The revised Scheme shall be a Central Sector Scheme and shall come into effect from 17th May, 2016. The State Governments shall not be required to pay any matching contribution for the purpose of cash rehabilitation assistance.

(ii) The Rehabilitation package shall be Rs.1,00,000/- per adult male beneficiary. Beneficiary shall have the option to either deposit it in an annuity scheme or receive cash grant. The District Administration will assess the cash requirement of the beneficiary and exercise its best judgement in the matter and put the money under annuity scheme with the consent of the said adult male.

(iii) For special category beneficiaries such as children including orphans or those rescued from organised and forced begging rings or other forms of forced child labour, and women, the amount of rehabilitation assistance shall be ₹2 lakhs out of which at least ₹1,25,000/- shall be deposited in an annuity scheme in the name of each beneficiary and the balance amount shall be transferred to the beneficiary account through ECS.

(iv) In cases of bonded or forced labour involving extreme cases of deprivation or marginalization such as trans-genders, or women or children rescued from ostensible sexual exploitation such as brothels, massage parlours, placement agencies etc., or trafficking, or in cases of differently abled persons, or in situations where the District Magistrate deems fit, the rehabilitation assistance shall be ₹3 lakhs, out of which at least ₹2 lakhs shall be deposited in an annuity scheme in the name of each beneficiary and ₹1 lakh shall be transferred to the beneficiary account through ECS.

(v) The above benefits would be additional to other land and housing elements, etc. of the original scheme as mentioned below:

- (1) Allotment of house-site and agricultural land;
- (2) Land development;
- (3) Provision of low cost dwelling units;
- (4) Animal husbandry, dairy, poultry, piggery etc.;
- (5) Wage employment, enforcement of minimum wages etc.;

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

Page 3 of 17



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- (6) Collection and processing of minor forest products;
- (7) Supply of essential commodities under targeted public distribution system; and
- (8) Education for children.

(vi) In cases where, on the conclusion of the summary trial, the District Magistrate(DM)/Sub-Divisional Magistrate (SDM) concludes that the alleged bonded labourer is, in fact, not in a condition of bondage, but requires socio-economic assistance, the DM/SDM, may provide state assistance under any other scheme administered by them.

(vii) In cases where, the DM/SDM find that immediate assistance is necessary for care and protection of the rescued persons during the pendency of the summary trial, such assistance including fooding, lodging, medical assistance, legal aid, provisions for victim's or witness' protection, etc., shall be provided under any other law or scheme forthwith, notwithstanding the entitlements prescribed under this scheme.

(viii) State Governments/UTAs shall be required to concentrate their efforts on the following activities:

(a) The District Administration in a convergence approach shall undertake measures for providing safe and secure environment for the capacity building of child bonded labourers in coordination with all relevant Government departments. Accordingly, facilities for, ensuring their proper education, psycho social counselling short stay home till education upto class 12th, skill development shall be an integral component of the rehabilitation package.

(b) For addressing the special needs of female freed bonded labourers, State Government shall also provide financial and other assistance for marriage, apart from other capacity building measures mentioned at sub para (a).

(c) For addressing the needs of the disabled persons, special care should be made available by the State as per national policy for disabled people apart from other capacity building measures mentioned at sub para (a) and (b).

(d) For adult bonded labour who do not come under any of the above categories, employable skill development training shall be a compulsory element of rehabilitation.

(ix) The benefits prescribed hereinbefore shall be, in addition to, other cash or non-cash benefits which a beneficiary under this scheme is entitled to, by or under any other scheme or law applicable for the time being in force.

(x) The amount of assistance for survey of bonded labourers shall be ₹4.50 lakh per district. This amount can be utilised to finance the NGO efforts for identification of bonded labour as per State Government norms. Central Government will

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

Page 4 of 17



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reimburse this amount upon satisfactory performance in each identification project. The component of assistance shall be as per the following table:

S.No.	Cost involved in survey	Funds Permissible
1.	Cost of printing of questionnaire (average 2000 questionnaires @ ₹5 each)	₹10,000
2.	Costing of imparting training to investigators/field staff for collecting information (payment to 10 investigator/field staff @ ₹500/- per day to each for 5 days (₹5000 x 5)	₹25,000
3.	Cost of collecting primary data from field (payment to 10 investigators/field staff @ ₹500/- per day to each for 2 months (₹5000 x 60 days)	₹3,00,000
4.	Cost of editing, tabulation and analysis of primary data (payment to 2 Research Assistant @ ₹20000/- per month to each for 2 months (₹40000 x 2 months)	₹80,000
5.	Cost of computerisation of data/information	₹35,000
	Total	₹4,50,000

(xi) The expenditure on awareness generation shall be reimbursed on case by case basis subject to maximum limit of ₹10 lakh per State per annum, as per the following components:

S.No.	Cost components	Funds Permissible
1.	Cost of campaigning and telecast of various audio visual inputs through AIR, Doordarshan, Song and Drama Division, etc.	₹7 lakh
2.	Campaigns through local newspapers	₹1 lakh
3.	Cost of performance by folk cultural troupes including cost of travelling	₹2 lakh
	Total	₹10 lakh

(xii) The existing norms of grants of ₹1 lakh for evaluatory studies shall be maintained as such.

S.No.	Cost components	Funds Permissible
1.	Formulation and printing of questionnaire for collecting information from various Departments & who are providing grants/loans for the purpose of effective	₹8,000.00

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

Page 5 of 17



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	rehabilitation of bonded labourers including cost of mailing of questionnaire	
2.	Analysis of data by 2 Research Assistants-cum-computer operator (payment @ ₹9,000/- per month for 2 months) (18,000 x 2 months)	₹36,000.00
3.	Writing of reports by one Research Officer (payment @ ₹18000/- per month for 2 months) (18,000 x 2 months)	₹36,000.00
4.	Printing and binding of the report (20 original copies)	₹10,000.00
5.	Misc. expenses including travelling expenses	₹10,000.00
	Total	₹1,00,000.00

(xiii) A Bonded Labour Rehabilitation Fund shall be created at the District level by each State with a permanent corpus of at least Rs.10 lakhs at the disposal of the District Magistrate which should be renewable. This fund will be utilised for extending immediate help to the released bonded labourers. The entire penalties recovered from the perpetrators of the bonded labour upon conviction, may be deposited in this special fund.

(xiv) Immediate assistance of at least ₹5,000/- shall be provided by the District Administration to the rescued person out of the District Bonded Labour Rehabilitation Fund at the disposal of the District Magistrate. Where the DM is satisfied that a particular rescued person requires more than Rs.5,000, he or she may disburse such higher amount as deemed fit, but limited to the maximum entitlement prescribed under this scheme. Any such advance amount shall be deducted from the Central cash assistance amount.

6. SUBMISSION OF PROPOSAL TO THE CENTRAL GOVERNMENT

6.1 The District Magistrate shall submit claims to the District NCLP (National Child Labour Project) Society, set up under the revised guidelines of the NCLP Scheme 2016, in the prescribed proforma, along with documents as specified in the check list (Annexure I and II).

6.2 Each such proposal shall have (i) details of cash and non-cash assistance and rehabilitation facilities provided by the State Government (Annexure-III); and (ii) the quantum of penalty/imprisonment awarded to the accused in the Summary Trial as provided under the Act.

6.3 In cases where the Summary Trial under Sec 21 of the Act has not been concluded as per Rules, but the DM/SDM has arrived at a prima facie finding and proof of bondage, then the proposal for cash assistance shall not be stopped for want of details of conviction. However, final disbursement of case assistance shall be made upon proof of bondage and other legal consequences as per judicial process.

6.4 Upon receipt of claims, the District NCLP Society will then scrutinise all documents and submit its proposals, from time to time, to the Central Government, i.e. Ministry of Labour and Employment (MoLE). The claims shall be furnished under the Major Head 2230/2552 as the case may be.

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

Page 6 of 17



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7. Release of Funds

7.1 As per modalities of release of funds approved by the Ministry of Finance, admissible reimbursement under the revised scheme, will be released by MoLE, directly to the District NCLP (National Child Labour Project) Society, and the District Project Society in turn will release the fund including the interest, to the implementing agencies which shall include the district administration, for the purpose of the Bonded Labourer Rehabilitation Scheme forthwith.

7.2 The account of District NCLP Society in respect of the BLR Scheme shall be subject to the same audit norms as applicable to the NCLP scheme. Any future alterations in release of fund and accounting procedures by Central government for the NCLP scheme shall be equally applicable *mutatis mutandis* to the BLR Scheme.

7.3 Wherever the District NCLP society does not exist, the Ministry shall immediately, but not later than 30 calendar days reckoned from the date of notification of this scheme, notify a new NCLP society under the NCLP scheme.

8. Implementation and Monitoring

8.1 The implementation and monitoring of the BLR scheme shall be carried out by the Central Monitoring Committee, prescribed under the NCLP scheme, but with JS/DG(LW) as member-convenor for the purpose of BLR Scheme.

8.2 At the State level, the same implementation machinery for NCLP scheme shall also be responsible for implementation of the revised BLR Scheme.

8.3 At the district and sub-divisional level the same implementation machinery for NCLP scheme shall also be responsible for implementation of the revised BLR Scheme assisted by the Vigilance Committees, as prescribed under the Act and Rules.



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Ministry of Labour & Employment
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi

Central Sector Scheme for Rehabilitation of Bonded Labourer -2016**Revised performa for details of Bonded Labour****I. IDENTIFICATION PARTICULARS**

- i. Name :
- ii. Father/Mother's Name :
- iii. Gender: Male/ Female/ Other
- iv. Age :
- v. Whether special/ other category* : Y/N
- vi. Whether physically disabled : Y/N
- vii. If yes, details thereof :
- viii. Village :
- ix. Taluk :
- x. Block :
- xi. District :
- xii. State :
- xiii. Aadhar and UWIN (NSS) No. (if available) :
**Special/ Other category as specified at para 5 (iii) and 5 (iv) of this Scheme*

II. PARTICULARS OF FAMILY MEMBERS:

Sl. No.	Name	Relation to Respondent	Age	Sex	Education	Occupation	Remarks

III. PARTICULARS OF OCCUPATION:

- i. Nature of Occupation
- ii. Duration of the Occupation
- iii. Whether free to work elsewhere or to quit the job with present employer : Y/N
- iv. If no, specify the reasons

IV. WORKING CONDITIONS:

- i. Wages agreed upon by the Employer
- ii. Wages paid in kind (per day/week/month/year)
- iii. Wages paid in cash (per day/week/month/year)
- iv. Any other non-cash/kind benefit received from the employer
- v. Details of the Punishment for absence or slackness in work
- vi. Daily hours of work

V. NATURE OF BONDAGE [in lieu of advance/ debt]

- i. Amount of loan/Advance received (cash/kind):

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

Page 8 of 17



जे. एस. सिधु / J. S. SIDHU
 उप सचिव / Deputy Secretary
 श्रम एवं रोजगार मंत्रालय
 Ministry of Labour & Employment
 भारत सरकार / Govt. of India
 नई दिल्ली / New Delhi

- ii. Rate of Interest:
- iii. Purpose of borrowings:
- iv. Who has taken the loan and his relation with the Respondent:
- v. Mode of repayment:
- vi. Number of year working for the loan taken
- vii. When will the loan get repaid along with interest
- viii. Is any other member of the family also bonded: Yes /No

If yes, please indicate his/her:

Name	Age	Duration of Work	Loan Taken	Interest, if any	Hours of work	Wages paid

VI. PARTICULARS OF ASSETS [of the Bonded Labour]:

- i. Land owned :
- ii. Milch animals/bullocks/sheep/goat/poultry :
- iii. Does he/she live in own homestead or in employer's land :
- iv. House owned or rented :
- v. Education Level :

VII. PARTICULARS OF EMPLOYERS

- i. Name & Address :
- ii. Father/Mother's Name :
- iii. Occupation :
- iv. No. of bonded labourers under the same employer :
- v. Aadhar No. :
- vi. Any instance of beating/commission of atrocity/violence by the employer as reported to the Vigilance Committee (please specify) :

VIII. RELEASE AND REHABILITATION

- i. Whether the respondent is aware of the provision of the BLS(Abolition) Act :
- ii. Whether the respondent is aware of the scheme for rehabilitation of bonded labour :
- iii. Whether the respondent was released in the past under the BLS (Abolition) Act and Rules:
- iv. Whether the respondent has received the benefit under the BLS (Abolition) Act and Rules:

VERIFICATION

It is certified that the facts stated in the above questionnaire are true to the information provided by the respondent which has been read over and explained to him in his mother tongue.

Date :

Place :

Signature of the Surveyor
(Name)

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

Page 9 of 17



जे. एस. सिधु / J. S. SIDHU
उप सचिव / Deputy Secretary
कम एवं रोजगार मंत्रालय
Ministry of Labour & Employment
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi

Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

Proposal for Release of Central Assistance for Rehabilitation of Bonded Labourers:

- i. Number of the labourers required to be rehabilitated :
(Release certificate should be attached for every bonded labour rehabilitated)
- ii. Category wise break-up of Beneficiaries as General, OBC, SCs and STs and Special Categories wise break-up of beneficiaries as adult male, women, transgenders, differently abled persons, minor boys, minor girls, persons released from special categories in the below mentioned table:

S.No.	Gender	Special Category	Number
1.	Male	Adult	
		Boys below 18	
		Total	
2.	Female	Adult	
		Girls below 18	
		Total	
3.	Special/ Other Category as specified in para 5 (iii) and 5(iv)	Adult male	
		Adult female	
		Children below 18	
		Differently-abled persons	
		Trans-gender	
		Total	

* "Person with disability" means a person suffering from not less than forty per cent of any disability as certified by a medical authority, medical authority is Hospital funded by Central or State Government. The medical certificate issued by medical authority should be provided with the proposal.

- iii. Total amount of Central Assistance Required:

S. No.	Category	Total Number	Prescribed limit as per the bonded labour scheme (in Rs.) (in 000')	Total Amount
1	Adult male member		100	
2	Adult Female/ Minor boys and Girls		200	
3	Special/ Other		300	

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

Page 10 of 17



जे. एस. सिधु / J. S. SIDHU
उप सचिव / Deputy Secretary
काम एवं रोजगार मंत्रालय
Ministry of Labour & Employment
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi

	category as specified at para 5 (iii) and 5 (iv) of this Scheme			
	Total			
	Balance available at Bonded Labour Rehabilitation Fund*			

* Bonded Labour Rehabilitation Fund will be used to provide immediate financial assistance to the rehabilitate bonded labour with at least Rs.10.00 lakh as a corpus for this fund.

- iv. Name of the District (s) where these bonded labourers (category wise) have been identified :

S.No.	Name of the District (s)	Name of the State	Number of bonded labour		
			Identified	Released	Rehabilitated
1					
2,3...					
Total					

- v. Mode of identification :

- vi. Whether the rehabilitation scheme has been formulated and approved by the competent authority? :

(copy of the scheme must be attached)

- vi. The detailed statement of assistance provided by State Government/UT (abstract with detailed names of bonded labour to be provided):

- vii. Whether any utilization certificate for Central Assistance released in the preceding years are pending : Yes/No

If yes indicate the details of pending utilization certificates :

Name of the State/UT						
Sl. No.	Component for Central Assistance received	Name of the District (s)	Year in which funds released	Amount of Central Assistance (Rs.)	Amount for which Utilization certificates is submitted (Rs.)	Reasons for non-submission of utilization certificates
1						
2,3, so on						
Total	Name of the State/UT					

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.5-11012/01/2015-BL)

Page 11 of 17



जे. एस. सिधु / J. S. SIDHU
उप सचिव / Deputy Secretary
मन एवं रोजगार मंत्रालय
Ministry of Labour & Employment
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi

Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

Format for Release Certificate BL Case NO.....
(Order of the JMFC/JMSC under Section 12 of the Bonded Labour System
(Abolition) Act, 1976)

A Colour passport
signed photograph
of the bonded
labour released
should be passed in
this box

1. Name :
2. Father/Mother's Name :
3. Age :
4. Whether special category* : Y/N
5. If yes, details thereof :
6. Whether physically disabled# : Y/N
7. If yes, details thereof :
8. Address where bonded labour is identified :
9. Male/Female/trans-gender:
10. Aadhar/UWIN(NSS) No. (if available) :
11. Jan Dhan A/c No with IFSC code:
12. Address of Bonded Labour
13. Name of the Captor/Bonder :
14. Aadhar Card no. of Captor/Bonder :
15. Address of Captor/Bonder :
16. Date of conviction & Release Order :
17. Quantum of Punishment under Chapter VI:
18. Amount of Debt Extinguished u/s 6:
19. Extent and nature of property freed u/s 7:

** Special/ Other category as specified at para 5 (iii) and 5 (iv) of this Scheme*

"Person with disability" means a person suffering from not less than forty per cent of any disability as certified by a medical authority, medical authority is Hospital funded by Central or State Government.

Given under my hand and seal on date _____

Signature

Name

District Magistrate/ Sub- Divisional Magistrate

District....., State.....,

Seal

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

Page 12 of 17

जे. एस. सिधु / J. S. SIDHU
उप सचिव / Deputy Secretary
श्रम एवं रोजगार मंत्रालय
Ministry of Labour & Employment
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi

Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016
Proposal for Release of Central Assistance for Conducting Survey of Bonded Labourers:


- i. Name of District (s) where survey will be conducted :
- ii. Duration of Survey with timelines for its completion :
- iii. Whether any survey was conducted in the past, in the district (s) : (Y/N)
 - (a) if yes indicate year and month of the survey:
 - (b) if no, the reasons :
- iv. Name of the agency (ies) which conducted survey in the past:
- v. Name of the agency (ies) which will be conducting survey:
- vi. Item wise breakup of the cost of the proposed survey per sensitive district :

S. no.	Item	Cost involved
1	Cost of printing of questionnaire (average 2000 @ ₹5 each = ₹10,000)	
2	Costing of imparting training to investigators/field staff for information (payment to 10 investigator/field staff @ ₹500/- per day to each for 5 days (₹5000 x 5 = ₹25000))	
3	Cost of collecting primary data from field (payment to 10 investigators / field staff @ ₹500/- per day to each for 2 months (₹5000 x 60 days = ₹3,00,000))	
4	Cost of editing, tabulation and analysis of primary data (payment to 2 Research Assistant @ ₹20000/- per month to each for 2 months (₹40000 x 2 months = ₹80,000))	
5	Costing of imparting training to investigators/field staff (₹35,000)	
	Total	

- vii. Whether previous survey, if conducted any, have been done within one year of releasing Central assistance: (Y/N)
- viii. If yes, then details of findings, recommendations to be provided
- ix. Whether reports of the survey conducted in the past have been sent to Ministry of Labour & Employment, Government of India: (Y/N)
 - (a) If yes, details thereof
 - (b) If no, reasons thereof
- x. Whether any utilization certificate for Central Assistance released in the preceding years are pending : Yes/No
 - (a) If yes indicate the details of pending utilization certificates :

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

Page 13 of 17


 जे. एस. सिधु / J. S. SIDHU
 उप सचिव / Deputy Secretary
 कर्म एवं रोजगार मंत्रालय
 Ministry of Labour & Employment
 भारत सरकार / Govt. of India
 नई दिल्ली / New Delhi

Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

Proposal for Availing Central Assistance for Awareness Generation Activities:


- i. List of activities proposed to be undertaken for awareness generation:
- ii. Name of the agencies which will undertake awareness generation activities. Whether it is Government or Private:
- iii. Item-wise break-up of the cost involving in awareness generation activities.

S. no.	Item	Cost involved (in ₹)
1	Cost of Campaigning and telecast of various audio visual inputs through AIR, Doordarshan, Song and Drama Division, etc. (max. fund permissible is ₹7 lakh)	
2	Campaigns through local newspapers (max. fund permissible is ₹1 lakh)	
3	Cost of performance by folk cultural troupes including cost of travelling (max. fund permissible is ₹2 lakh)	
	Total	

- iv. Whether awareness generation activities have been done within 6 months of releasing Central assistance in preceding years. (Y/N)
- v. Whether reports of the awareness generation activities conducted in the past have been sent to Ministry of Labour & Employment, Government of India: (Y/N)
 - (c) If yes, details thereof
 - (d) If no, reasons thereof
- vi. Whether any utilization certificate for Central Assistance released in the preceding years are pending : Yes/No
 - (b) If yes indicate the details of pending utilization certificates :

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

Page 14 of 17


 जे. एस. सिधु / J. S. SIDHU
 उप सचिव / Deputy Secretary
 श्रम एवं रोजगार मंत्रालय
 Ministry of Labour & Employment
 भारत सरकार / Govt. of India
 नई दिल्ली / New Delhi

Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

Proposal for Availing Central Assistance for Evaluation Studies:

- i. List of activities proposed to be undertaken for Evaluation Studies;
- ii. Name of the agencies which will undertake the evaluation. Whether it is Government or Private;
- iii. Item-wise break-up of the cost involving in evaluation studies:

S.No.	Cost components	Cost involved
1.	Formulation and printing of questionnaire for collecting information from various Departments & who are providing grants/loans for the purpose of effective rehabilitation of bonded labourers including cost of mailing of questionnaire (Rs.8,000)	
2.	Analysis of data by 2 Research Assistants-cum-computer operator (payment @ ₹9,000/- per month for 2 months) (18,000 x 2 months= Rs.36,000)	
3.	Writing of reports by one Research Officer (payment @ ₹18000/- per month for 2 months) (18,000 x 2 months= Rs.36,00)	
4.	Printing and binding of the report (20 original copies) (Rs. 10,000)	
5.	Misc. expenses including travelling expenses (Rs.10,000)	
	Total	

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

Page 15 of 17



जे. एस. सिधु / J. S. SIDHU
उप सचिव / Deputy Secretary
श्रम एवं रोजगार मंत्रालय
Ministry of Labour & Employment
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi

Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

Form of Utilisation Certificate

Form 19-A of GFR

Sl. No.	Letter No. and Date (attach copy)	Amount
1.		
2,3,...		
	Total	

Certified that out of Rs. of grant-in-aid sanctioned during the year _____ in favour of _____ Under the Ministry of Labour and Employment letter no _____ dated the _____ given in the margin, a sum of Rs. _____ has been utilized for the purpose of Central Sector Scheme for Rehabilitation of Bonded Labour for which it was sanctioned and the balance of Rs. _____ remaining unutilized at the end of the year has been surrendered to the Ministry of Labour and Employment, Government of India vide letter no. _____ dated the _____/will be adjusted towards the grants-in-aid payable during the next year _____.

2. Certified that I have satisfied myself that the conditions on which the grants-in-aids were sanctioned have been duly fulfilled/are being fulfilled and that I have exercised the following checks to see that the money was actually utilized for the purpose for which it was sanctioned.

Kinds of Checks exercised.*

- 1.
- 2.

Signature of the Chairperson of District NCLP Society

Designation.....

State Govt./UT Administration

Date

Seal

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

Page 16 of 17



जे. एस. सिन्हा / J. S. SIDHU
उप सचिव / Deputy Secretary
श्रम एवं रोजगार मंत्रालय
Ministry of Labour & Employment
नारत सचकर / Govt. of India
नई दिल्ली / New Delhi

Annexure-III

Central Sector Scheme for Rehabilitation of Bonded Labourer - 2016

Detailed Abstract of Assistance provided by State/District Administration to Released Bonded Labourers											
Ministry of Labour and Employment sanctioned letter No. _____ dated _____ Amount of _____											
S. No.	Name of the freed Bonded Labour	No. and Date of BL case as per release Certificate	Quantum of punishment to the Convict/ Accused	Benefits provided by State Government (in kind) and its monetary value and cash component in case of educational assistance							Immediate Cash Assistance provided out of District BLR Fund
				House/ site	Agri. land	Land Development	AH/Dairy/ Poultry etc.	Minor forest products	Ration	Edu. Asst.	
1											
2											
3											
Total											

Signature of the Chairperson of District NCLP Society

Designation.....


State Govt./UT Administration

Date _____

Seal

CSS for Rehabilitation of Bonded Labourer-2016 w.e.f. 17.05.2016 - (File No.S-11012/01/2015-BL)

Page 17 of 17

 **जे. एस. सिधु / J. S. SIDHU**
उप सचिव / Deputy Secretary
श्रम एवं रोजगार मंत्रालय
Ministry of Labour & Employment
भारत सरकार / Govt. of India
नई दिल्ली / New Delhi

F.No. S-11012/01/2015-BL (Pt.)
GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT
Director General Labour Welfare

Jaisalmer House, 26, Mansingh Road
NEW DELHI,

Dated June 23, 2017

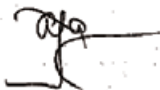
To

The Chief Secretary (all State Governments)
 The Administrator (all UT Administrations)
 The District Magistrate/The Collector (All)

Subject: - Modifications In the Central Sector Scheme for the Rehabilitation of Bonded Labour, 2016 – regarding.

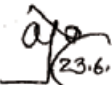
On the basis of feedbacks received from various stakeholders and with the approval of the Competent Authority, certain modifications have been made in the Central Sector Scheme for the Rehabilitation of Bonded Labour, 2016, as mentioned below:

Sl. No.	Gist of existing provisions	Amended provisions
1.	Central Government will reimburse the expenditure made by the States on Survey, Awareness Generation and Evaluatory Studies up to the financial limits prescribed in the Scheme [Para 5(x, xl, xli) of the 2016 Scheme].	Central Government will give 50% of the amount required for conducting Survey, Awareness Generation and Evaluatory Studies in advance. A State may conduct survey once in every three years per sensitive district. A State may conduct five Evaluatory Studies per year.
2.	District Magistrate will submit financial claim to the district NCLP Society which in turn will submit the demand to the Central Government. The Central Government will release funds to the District NCLP Society for onward release to the District Administration. [Para 6 & 7 of the 2016 Scheme]	The fund release architecture in operation prior to 2016 Scheme will be followed and the existing NCLP route has been done away with in view of the fact that many of the districts of a State do not have NCLP Society. The District Administration will send the financial demand to the State's concerned Ministry/ Department dealing with the BLR scheme and the State Ministry/ Department will send the proposal to the Central Government. Routing of proposals and release of fund



		through the State's Ministry/Department will be helpful both for the Centre and the State in monitoring the implementation of the Scheme.
3.	Immediate assistance of Rs. 20,000/- (increased from 5 thousand to 20 thousand w.e.f. 17.01.2017) to be provided by the District Administration to the rescued person out of the District Bonded Labour Rehabilitation Fund linked to conviction of the accused. [Para 5(xiv)]	Immediate assistance upto Rs. 20,000/- may be provided to the rescued bonded labour by the District Administration irrespective of the status of conviction proceedings.
4(i).	The Format for Release Certificate appended to the 2016 Scheme does not capture the caste category of the rescued bonded labourer	The entry at S. No. 1 of the Format for Release Certificate shall be substituted with the following expression: "1. Name and Caste Category of the rescued bonded labourer:" (It is necessary as the budget has separate provision for SC and ST)
4(ii)	The Release Certificate requires date of conviction and release order (<i>meaning thereby that a Release Certificate is to be issued after the conviction proceeding has concluded</i>).	So as to enable issuance of Release Certificate at the time of release of rescued bonded laborer prior to conclusion of conviction proceedings, it has been decided to do away with replace the existing entries at S. no. 16 to 19 in the Format for Release Certificate .

2. It is requested to ensure that the modification in the 2016 Scheme as mentioned above are circulated among all concerned.


(23.6.17)

(A.K. Singh)

Under Secretary to the Govt. of India
E-mail: ajay.kumar67@nic.in

Copy for information to:

- (i) Principal Secretary to the Prime Minister
- (ii) Ministries of Home Affairs, Law & Justice, Social Justice & Empowerment, Women & Child Development, Finance, External Affairs
- (iii) National Human Rights Commission
- (iv) Comptroller & Auditor General of India

GOVERNMENT OF TELANGANA ABSTRACT

Labour, Employment, Training and Factories Department – the Bonded Labour System (Abolition) Act, 1976 – Creation of the Bonded Labour Rehabilitation Fund at the District level with a permanent corpus of at least Rs.10 Lakhs at the disposal of the District Magistrate in all (31) Districts of the Telangana State as per the provision 5 (xiii) of the Central Sector Scheme of Rehabilitation of Bonded Labour, 2016 – Orders – Issued.

LABOUR EMPLOYMENT TRAINING & FACTORIES (LABOUR) DEPARTMENT

G.O.Ms.No. 26

Dated: 23-05-2018

Read the following:-

1. From the Deputy Secretary to the Government of India, Ministry of Labour & Employment, New Delhi, O.M.F.No.S-11012/01/2015-BL, Dated: 18.05.2016.
2. From the Deputy Secretary to the Government of India, Ministry of Labour & Employment, New Delhi, Lr.No.M-13011/10/2016-BL, Dated: 08.02.2017.
3. From the Commissioner of Labour, Telangana, Hyderabad, Lr.No.J4/6793/2017-1, Dated: 20.11.2017.

ORDER:

In the letter 1st read above, the Deputy Secretary to the Government of India, Ministry of Labour & Employment, New Delhi has communicated the Central Sector Scheme for Rehabilitation of Bonded Labour, 2016 and requested all the State Governments / UT Administrations to implement the said Scheme through their District Magistrates / Collectors / Sub-Divisional Magistrates.

2. In the letter 2nd read above, the Deputy Secretary to the Government of India, Ministry of Labour & Employment, New Delhi has requested all the State Governments / UT Administrations to provide corpus fund to all Districts of the State where NCLP Societies have been established as per the provision 5 (xiii) of the Central Sector Scheme of Rehabilitation of Bonded Labour, 2016.

3. In the letter 3rd read above, the Commissioner of Labour, Telangana, Hyderabad has furnished proposals to create "Bonded Labour Rehabilitation Fund" at District Level with a permanent corpus of Rs.10 Lakhs at the disposal of District Magistrate in all (31) Districts of the Telangana State as per the provision 5 (xiii) of the Central Sector Scheme of Rehabilitation of Bonded Labour, 2016 and also to provide Budget for an amount of Rs.3.10 Crores to the Labour Department as State plan scheme under the "Head of Account- GH25 State Sector Schemes" for the financial year 2017-18 which will help the Labour Department seeking funds under Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016 to cover vulnerable groups such as Bonded Labourer, Transgenders, Children including Orphans, Women rescued from ostensible sexual exploitation such as brothels, massage parlours, placement agencies trafficking etc.

4. Government, after careful examination of the matter hereby creates the Bonded Labour Rehabilitation Fund at the District level with a permanent corpus of Rs.10 Lakhs at the disposal of the District Magistrate in all (31) Districts of the Telangana State as per the provision 5 (xiii) of the Central Sector Scheme of Rehabilitation of Bonded Labour, 2016.

Contd.....2

:: 2 ::

5. All the Collectors / District Magistrates and the Commissioner of Labour, Telangana, Hyderabad shall take further action in the matter accordingly.
6. This order issues with the concurrence of the Finance (EBS.X) Department vide their U.O.No.046/56/A2/EBS.X/2018, dated: 21.05.2018.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. SHASHANK GOEL,
PRINCIPAL SECRETARY TO GOVERNMENT

To
All the Collectors / District Magistrates in the State.
The Commissioner of Labour, Telangana, Hyderabad.
Copy to:
The P.S. to Spl. Secretary to Chief Minister.
The P.S. to Minister (Home & Labour).
The Deputy Secretary to the Government of India,
Ministry of Labour & Employment, Jaisalmer House,
26 Man Singh Road, New Delhi-110011.
The Finance (EBS.X) Department.
SC

// FORWARDED :: BY ORDER //

SECTION OFFICER

Towards Child Labour Free India



**Standard Operating Procedure for Enforcement of The Child and
Adolescent Labour (Prohibition and Regulation) Act, 1986**



Government of India
Ministry of Labour and Employment
September 2017



Intended Users:

- Law enforcement officers from central or state governments
 - Parents/ guardians of Child or Adolescent Labourers
 - Parents/ guardians of Child Artists
 - Organisers of children's entertainment programmes
 - Social workers/ community members
 - Employers
 - Outreach workers
 - Labour inspectors
 - District Administration
 - District Nodal Officer at the Labour Department
 - Trade Unions/Employers' Associations
-

Contents

Section 1: Introduction	
1.1 Vision and Objectives	1
1.2 Need of standard operating procedure	2
Section 2: Understanding legal framework - who is child and adolescent labour?	
2.1 Who is a child labour?	3
2.2 What are the exceptions to the legislation?	4
2.3 What is prohibited employment for an adolescent labourer?	6
2.4 What are the conditions which apply if adolescent is permitted to be employed in non-hazardous occupations and processes?	6
Section 3- Prevention of child labour and adolescent labour in hazardous employment	
3.1 Creation of Awareness	9
3.2 Building Capacity of Institutions	10
3.3 Coordination and Convergence among Agencies	11
3.4 Knowledge Management	11
Section 4: Identification and Reporting of child labour and adolescent labour in hazardous employment	
4.1 How to identify a victim?	13
4.2 Who can report?	14
4.3 Where to report a complaint?	14
4.4 What should the complaint contain?	14
4.5 How to register a complaint ?	15
Section 5: Pre-Rescue	
5.1 Constitution of rescue teams	17

5.2	Preparation for rescue	18
Section 6: Rescue		
6.1	Steps to be taken for rescue	20
6.2	Age verification	20
6.3	Immediate aid to the victim	21
Section 7: Post - Rescue		
7.1	Protection of victim	23
7.2	Strengthening prosecution/ investigation	24
Section 8: Rehabilitation		
8.1	Social rehabilitation	26
8.2	Educational rehabilitation	27
8.3	Economic rehabilitation	27
Section 9 : Monitoring		
9.1	Monitoring mechanism of Ministry of Labour and Employment: PENCIL portal	29
9.2	Monitoring mechanisms at the district, state and central level	30
Section 10 : Roles and responsibilities of enforcing agencies and other stake holders at different stages.		
10.1	District Nodal Officer	32
10.2	Police/Special Juvenile Police Officer	34
10.3	District Magistrate	36
10.4	Project Directors of National Child Labour Project Society	38
10.5	State Resource Centre/ State Labour Department	39
10.6	State or District Legal Service Authority	40
10.7	Child Welfare Committee	41
10.8	Department of Education and Schools	42
Annexure: Path of Flow of Complaints on Child Labour and Action Taken on Pencil Portal		43
List of Abbreviation		44

Section 1: Introduction

Child Labour is the system of employing a child to provide labour or service by the child to any person, for any payment or benefit to the child, or any other person exercising control over the said child. . International Labour Organisation (ILO) uses the term 'child labour' to cover all economic activities carried out by persons less than fifteen years of age, regardless of their occupational status (wage earners, own- account workers, unpaid family workers etc) but not household work performed by them in their parents' home, except where such work can be assimilated to an economic activity as for example, when a child must devote his or her entire time to the work so that his or her parents can be employed outside the home, and is, therefore, deprived of the possibility of going to school.

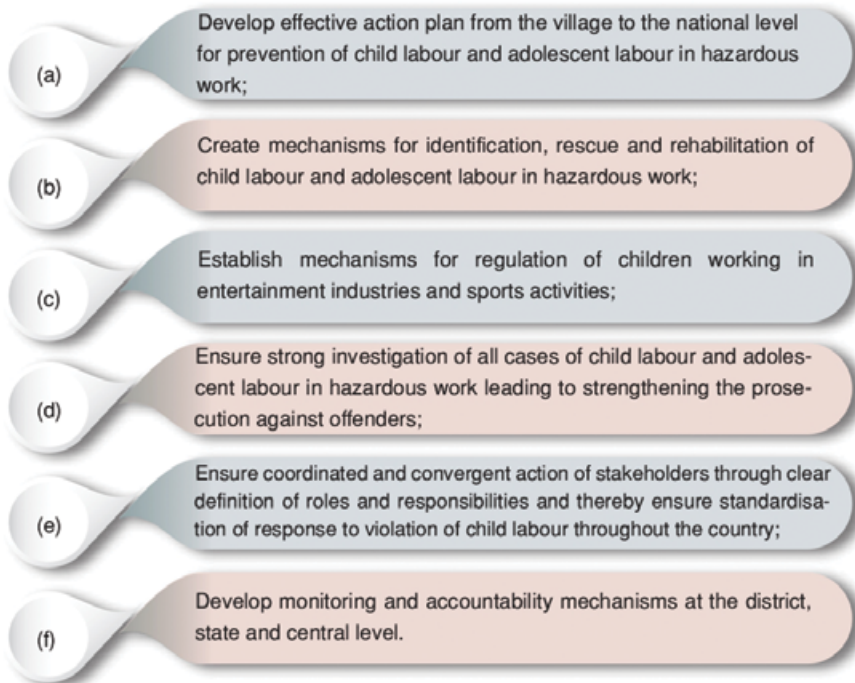
Child labour includes children prematurely leading adult lives, working long hours for low wages under conditions damaging to their health and to their physical and mental development, sometimes separated from their families, frequently deprived of meaningful education and training opportunities that could open up for them a better future.

India has always stood for constitutional, statutory and developmental measures that are required to eliminate child labour in India. Realising the multifaceted nature of this problem, Government has embarked on a holistic and multi-pronged approach to eliminate child labour from the country. On the one hand, it provides for legal action for enforcement purposes and on the other, focuses on general development programmes for the economic empowerment of the families of children as well as project based action in areas of high concentration of child labour.

1.1 Vision and Objectives

Vision: Complete elimination of child labour in all work and adolescent labour in hazardous work, and regulation of adolescent labour.

Objectives: The SOP is conceived as a working tool on law enforcement for practitioners and specialists of governmental, non-governmental and civil society organisations at different stages of intervention. To achieve the stated vision through the SOP, following objectives are laid down:

- 
- (a) Develop effective action plan from the village to the national level for prevention of child labour and adolescent labour in hazardous work;
 - (b) Create mechanisms for identification, rescue and rehabilitation of child labour and adolescent labour in hazardous work;
 - (c) Establish mechanisms for regulation of children working in entertainment industries and sports activities;
 - (d) Ensure strong investigation of all cases of child labour and adolescent labour in hazardous work leading to strengthening the prosecution against offenders;
 - (e) Ensure coordinated and convergent action of stakeholders through clear definition of roles and responsibilities and thereby ensure standardisation of response to violation of child labour throughout the country;
 - (f) Develop monitoring and accountability mechanisms at the district, state and central level.

1.2 Need of Standard Operating Procedure

Effective enforcement and implementation of the provisions of the various legislations, convergence of resources of Government both horizontally and vertically, coordination between various stakeholders and active involvement of the community is the key to attaining the ambitious goal of a child labour free society. It has been observed that in spite of presence of plethora of protective legislations, the stakeholders are not very clear about the action to be taken when a child or adolescent labour is identified. Specific information is required on steps to be taken for rescue of the child/ adolescent and subsequent rehabilitative measures to be taken. Sometime the language of legislation is not understood by common people restricting the enforcement of the provisions. In this backdrop, it is necessary that a simple step by step SoP is provided to ensure enforcement of the provisions of the protective legislation.

Section 2: Understanding Legal Framework- Who is Child and Adolescent Labour?

2.1 WHO IS A CHILD LABOUR?

A child below 14 years if found employed or working in any occupation or processes is a child labour. Employment of children below 14 years in any form in any occupation and process is prohibited and attracts the penalty provisions under Child and Adolescent Labour (Prohibition and Regulation) Act, 1986.



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2.2 What are the Exceptions to the Legislation?

Table of Exceptions			
	Situation	Definition of the situation	Subject to the following conditions
a.	Child helps his family or family enterprise	<p>i. Family- child's</p> <ul style="list-style-type: none"> - Mother - Father - Brother or Sister - Mother's biological brother or sister - Father's biological brother or sister <p>OR</p> <p>ii. Family Enterprise –</p> <ul style="list-style-type: none"> - Work - Profession - Manufacture or - Business <p><i>performed by members of the child's family</i></p> <p>AND</p>	<p>i. The help done is not in a hazardous occupation or process listed in Part A or Part B of the Schedule of the Act</p> <p>ii. Shall not include any activity that is remunerative for the child or his family or the family enterprise</p> <p>iii. Shall not include any activity where he substitutes an adult or adolescent</p> <p>iv. Shall not be in contravention of any law for the time being in force</p> <p><u>'Help' provided by the child, in addition to the above, shall be further subject to,</u></p>
		<p>iii. Help means: Aid or Assist family only in such a manner <u>that is not incidental to</u> –</p> <ul style="list-style-type: none"> - Any occupation, work, profession, 	<p>v. Child's Family must be the occupier of the family enterprise</p> <p>vi. Task must not be performed during school hours or between 7pm and 8 am</p>

		<p>manufacture or business</p> <ul style="list-style-type: none"> - Or for any payment or benefit to the child or any person having control over the child - And which is not detrimental to the growth, education and overall development of the child 	<p>vii. Provided sufficient rest and shall not work continuously for more than 3 hours at a stretch</p> <p>viii. Shall not interfere or affect the child's</p> <ul style="list-style-type: none"> - Right to education - School attendance - Education or related activities such as homework or extra-curricular activities
b.	<p>Working as an artist in an audio-visual entertainment industry, including but not restricted to:</p> <ul style="list-style-type: none"> - Advertisements - Films - Television - Serials - Any other such entertainment or sports activities 	<p>i. <u>Shall not include circuses or street performances for monetary gain</u></p> <p>ii. Shall include other activities where child him/her self is participating in:</p> <ul style="list-style-type: none"> - Sports competition or event or training for such competition or event - Cinema, documentary, shows on television such as quiz, reality show, talent show or radio program - Drama serials - Anchor of a show or event - Other artistic performances that the Central Government 	<p>i. Hours of work: 5 hours a day; not more than three hours without rest.</p> <p>ii. Permission in Form C:</p> <ul style="list-style-type: none"> - Valid for 6 months from date of issue - Shall state provisions made available for <ul style="list-style-type: none"> ▪ One responsible person per maximum of 5 children for each production ▪ Education ▪ Safety ▪ Protection from sexual offence and mechanism for reporting any such offence against a child ▪ Physical and mental health of the child ▪ Nutritional diet ▪ Safe, clean shelter ▪ Child shall not consecutively work for more than 27 days. <p>iii. 20% of the child's earning shall be deposited in a nationalised bank in the</p>

		permits on individual case	name of the child and shall be credited on attaining majority
		iii. Producer of audio visual production house or manager of any commercial event including children must take permission from the District Magistrate in Form C provided with the Central Government Rules	iv. All audio-visual entertainment involving children shall issue a disclaimer at the beginning stating, 'that due permission was obtained for involvement of children, and their protection from abuse, neglect and exploitation was ensured in line with the laws of India'

Further, if a child receiving education in a school remains absent for thirty consecutive working days without intimation to the Principal or Head Master of such school, the Principal or Head Master shall report the same to the District Nodal Officer nominated for curbing child labour in the District.

2.3 What is Prohibited Employment for An Adolescent Labourer?

Any adolescent in the age group of 14 to 18 years is prohibited to work or employed in any occupation or process set forth in Part A of the Schedule of Hazardous Occupations and Processes in the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986.

2.4 What are the Conditions Which Apply if Adolescent is Permitted to be Employed in Non-hazardous Occupations and Processes?

In all occupations or processes other than those set forth in Part A of the Schedule of the Act, the following conditions shall apply:

Element of work	Conditions applicable
Hours of work	<ol style="list-style-type: none"> 1. Cannot work for more hours than prescribed for that establishment or class of establishments 2. No period of work shall be fixed as stated in point 1 above but no adolescent shall work consecutively for over three hours; hence no adolescent shall work for more than 3 hours without rest 3. No period of work shall be more than six hours a day 4. Timing of work cannot be between 7 pm and 8 am 5. They cannot work overtime 6. Cannot work at an establishment on the same day as he has been working in another establishment
Weekly Holiday	<ol style="list-style-type: none"> 1. Every Adolescent shall be allowed one whole day holiday every week 2. The specific day of such holiday shall be evidently displayed in the organisation 3. Such day shall not be altered more than once in every three months
Notice to Inspector	<ol style="list-style-type: none"> 1. Every establishment employing an adolescent has to send the following information to labour inspector within local limits about their establishment: <ul style="list-style-type: none"> - Name and the situation of the establishment - Name of the persons in actual management of the establishment - Address to which related communication to be sent - Nature of the occupation or process carried on in the establishment 2. This should be sent within 30 days from the starting of the employment of the adolescent in the establishment

Regulation regarding age	<ol style="list-style-type: none"> 1. During a labour inspection, the inspector shall in every instance where he is unsure if the employed person is a child below 14 years or an adolescent who is employed in a hazardous occupation shall ask for a certificate of age granted by the prescribed medical authority. 2. In case such record does not exist, the inspector may refer to prescribed medical authority for decision regarding age of concerned child or adolescent
Maintenance of Register	All establishments where adolescents are employed or permitted to work shall maintain a register as prescribed in the Rules.
Health and Safety	The health and safety of the adolescents shall be ensured with respect to points given in Section 13 sub-section (2) of the C & AL (P&R) Act.

Section 3- Prevention of Child Labour and Adolescent Labour in Hazardous Employment

The Child Labour (Prohibition & Regulation) Amendment Act, 2016 and the amended Central Rules look to prohibit child labour and adolescent labour in hazardous employment. An important aspect of such prohibition is prevention of child labour and adolescent labour in hazardous employment. This will require consistent and proactive investigation on the part of law enforcement agencies for early detection of crime and collection of evidence to stop child labour before the crime takes place or when the crime is detected in transit. The prevention strategy for an area has to be developed looking into the community resources, forming networks for intelligence collection, analysis of existing data and consistent collection of information of identified key vulnerability indicators.

Prevention activities to be undertaken may be categorized as follows:

3.1 Creation of Awareness: Specific action has been identified as necessary to create awareness among general public and vulnerable communities for prevention, and ensuring that children have access to free and compulsory education as per section 2A of the Rules. This includes:

- Launching of public awareness campaigns targeted to the general public, consumers, vulnerable communities, employers etc. using folk, traditional media, mass media such as television and / or radio etc.
- Awareness campaigns to encourage reporting by facilitating access to the number of the police, child line and local district nodal office in the labour department.
- Create and display in an easily understandable manner salient provisions of the Act and the Rules in public places.
- Empower and enable the public and community resources like Panchayat, Women's groups, children's groups, schools, teachers etc. to generate intelligence regarding any violation. Awareness among children and adolescents can be undertaken at the school – level or through mid-media activities such street plays, competitive activities and folklore activities etc.

- Aid and assist different training institutes for senior government officials, judicial training institutes, business schools, law schools etc to include information on legal implication of child and adolescent labour.
- Conduct sensitization programs for the employers/ officials of industries or institutions to generate legal awareness and their role in eliminating child labour by district administration.

3.2 Building Capacity of Institutions: Creating prescribed institutional mechanisms and building capacity of institutions to carry out tasks assigned to them is also one of the prerequisites to prevent child labour and adolescent labour in hazardous employment.

- Formation of a District Task Force (DTF) in every district with the District Magistrate as its chairperson, with members as prescribed under Rule 17 C (iii) of the Child and Adolescent Labour (Prohibition and Regulation) Rules, 1988. The task force shall meet once a month and shall identify areas in the district vulnerable to child labour (NCLP survey, survey as per the Bonded Labour Rehabilitation Scheme and/ or information from the local CWC etc maybe used). The task force shall coordinate such activities as necessary at the local level for awareness generation, monitoring and stopping child labour and adolescent labour in hazardous employment.
- The labour department/DM shall appoint a District Nodal Officer (DNO) who shall track the cases of child labour on PENCIL Portal and recommend necessary activities in the monthly DTF meetings for prevention of child labour and adolescent labour in hazardous employment.
- Consistent tracking of complaints of child labour and adolescent labour in hazardous employment through the online portal 'PENCIL'. The District Nodal Officer to fill and bring all the complaints from other sources to 'PENCIL'. Child Tracking System under PENCIL would ensure prevention through checking their re-entry into the labour market and their regularity in school.

3.3 Coordination and Convergence among Agencies: An important step towards prevention is coordination among various child protection agencies at the District, State and Center.

- Coordination with Ministry of Women and Child Development – sharing of information from child helpline, surveys or portals of Mo WCD for identification of child labour.
- Coordination with Department of School Education & Literacy- At the school level reporting of children who have been consistently absent from school for 30 days and ensuring enrolment and retention of all children; and at the State and Central level inclusion of information about child labour in the syllabus and education material is key in ensuring prevention of child labour.
- Consistent coordination and work with other agencies at the district level such as District Child Protection Unit (DCPU), Special Juvenile Police Unit (SJPU), Child Line, District Magistrate/ Sub-District Magistrate , Child Welfare Committee, National Child Labour Project, Village-level Child Protection Committee under ICPS, District-level Vigilance Committee under ITPA Act, 1986, Schools and Panchayat through the District Task Force (DTF).
- Coordination and convergence with local level skill development department can ensure skill training of young persons to protect them from being employed in hazardous labour.

3.4 Knowledge Management: Managing existing knowledge and ensuring availability of sufficient information for data driven planning to prevent child labour is key.

- Information from surveys such as the NCLP survey and the survey under the Central Sector Scheme for Rehabilitation of Bonded Labourers can ensure identification and mapping of vulnerability towards child labour and adolescent labour in hazardous employment.
- Ensuring the above stated information as well as information from CWCs is fed into 'PENCIL' and then analyzed to map vulnerable geographical areas, areas of employment etc to plan prevention programs as well as to identify new forms of hazardous labour for adolescents or hazardous work where children should not help also leads to prevention.

- Analysing information collected from the database of missing children.
- Information received from previously rescued survivors can also help to receive information about potential violations.
- Forming a strong network with stakeholders and law enforcement agencies engaged in transit points and destination areas will ensure data collection and prevention.

An illustrative list of places where awareness generation against child labour and provisions of Child and Adolescent labour (P&R) Act, 1986 may be undertaken. Note that this list is not exhaustive:

- i. Railway coaches and at railway stations
- ii. Major bus stations
- iii. Toll plazas
- iv. Ports and port authorities
- v. Airports
- vi. Public places including shopping centers, markets, cinema halls, hotels, hospitals
- vii. Panchayat offices, police stations, resident welfare association offices, industrial areas
- viii. Schools, educational institutions,
- ix. Court complexes, and offices of all authorities authorised under the Act

Section 4: Identification and Reporting of Child Labour and Adolescent Labour in Hazardous Employment

- Identification is the first step of a process that allows presumed child labour victims to access to proper and safe assistance and protection measures and eventually to be officially identified as victims of child labour.

4.1 How to Identify a Victim?

Information can be obtained from following sources for identification of child labour and adolescent labour employed in hazardous occupations and processes:

Survey	<ul style="list-style-type: none"> ● National Child Labour Project ● Bonded Labour Scheme ● Out of School children- HRD ● Need Assessment of District Child Protection Units and State Child Protection Units
Proactive Investigation	<ul style="list-style-type: none"> ● District Task Force ● Officials of District Labour Department ● District Magistrate ● District Nodal Officer ● Police
Institutional Complaint	<ul style="list-style-type: none"> ● on PENCIL - www.pencil.gov.in ● on Childline- 1098 ● by NCLP Project Society ● by District Nodal Officer ● From NCPCR, SCPCR, NHRC,SHRC, NALSA, SLSA, DLSA, CWC
Complaint from Other Sources	<ul style="list-style-type: none"> ● from employer associations and trade unions ● from NGO's ● from parents and relatives ● from teachers & Principal on absence of 30 days self reported by Victim ● Any person

4.2 Who Can Report?

Any person, member of civil society, institutions or organizations can report through PENCIL Portal of Ministry of Labour and Employment, phone, letter, written complaint, e-mail, helpline, in person, or any other means can report an incident of child labour, or, adolescent labour in hazardous employment.

4.3 Where to Report a Complaint?

Anyone having any information about a child labour, may contact the following agencies.

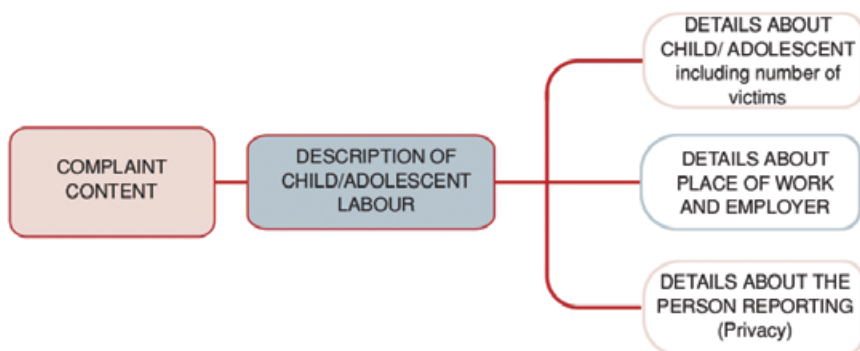
Reporting Agencies					
Complaint Corner at PENCIL Portal	Any Police Station/ SJPU	District Task Force under DM	State Labour Dept./ Labour Insp.	Child Line (1098)	District Nodal Officer

These agencies will verify the complaint, either through direct site visits or through resources identified by the District Task Force within 24 hours of the receipt of the complaint. If the complaint is found to be genuine, all agencies are to report the complaint to the police department who may begin the process for rescue.

The procedure to make a complaint on PENCIL is at Annexure. An updated list of District Nodal Officers along with contact numbers is available at PENCIL Portal

4.4 What Should the Complaint Contain?

The written complaint should contain a description about the place where the child/ adolescent is working, details of place and address of working place, name of employer, suspected child/ adolescent labour, probable age of child/ adolescent, if possible picture of the child/ adolescent.



4.5 How to Register a Complaint?

On receipt of the complaint the police proceeds to identify the relevant laws to include when a complaint is registered, including the following provisions of the Child and Adolescent Labour (Regulation and Prohibition) Act, 1986.

Section 14	Offence	Punishment
(1)	Employing a child or permitting a child to work	Imprisonment for a term that shall not be less than 6 months but which may extend to 2 years or with fine which shall not be less than Rs. 20,000 but which may extend to Rs. 50,000 or with both. <u>(Parents or guardians may not be punished under this section)</u>
(1A)	Employing an adolescent or permitting an adolescent to work in a hazardous occupation or process listed in Part A of the Schedule	Imprisonment for a term that shall not be less than 6 months but which may extend to 2 years or with fine which shall not be less than Rs. 20,000 but which may extend to Rs. 50,000 or with both. <u>(Parents or guardians may not be punished under this section)</u>
(2)	A repeat offence of the above stated sections	Imprisonment for a term which shall not be less than 1 year but which may extend to 3 years.

(2A)	Parents who commit a repeat offence	Fine which may extend to 10000 rupees.
(3)	Violations of any other section of the Act including conditions for adolescents to work	Imprisonment for a month or with fine of 10000 rupees or with both.

Provisions in other Legislations

	IPC Sec 370, 370A, 342, 343, 344, 363A, 374
For a case of child labour the following sections in various laws may also be considered for trafficking, crimes against a child during employment and bonded labour	JJ Act 2015 Sec 74-88, 80-85, 87, 42, 33-34 (in case of children) BLSA 1976 Sec 16-23 SC/ST ACT S. 3(h), 3(2)(v)
If there is a case of sexual exploitation then the following sections may also be considered	POCSO 2012 Sec 3-18 (in case of children) IPC 342, 343, 344, 346, 354A, 354B, 354C, 354D, 366A, 366B, 509

Section 5: Pre- Rescue

For every verified complaint:

- Assess the vulnerability of the situation.
- If there is a risk to life, liberty or safety of the child or if there is a risk of the child being moved conduct immediately; FIR can be filed simultaneously.
- The District Task Force may create a schedule every month for a stand by team of stakeholders who may be called upon for immediate rescue. These may be shared with all stakeholders involved.

5.1 Constitution of Rescue Teams

A comprehensive rescue team consisting of a spectrum of stakeholders shall be constituted for the rescue of child labourer or adolescent labourer in hazardous employment. Given below is a suggestive list of law enforcement agencies, independent witnesses and other persons with valuable skill sets to be included in a rescue team.

- a) Police/ Special Juvenile Police Unit;
- b) District Nodal Officer or Labour Inspectors;
- c) District Magistrate or the Sub- Divisional Magistrate or Nominee of the DM (A case of child labour could also be a case of Bonded Labour);
- d) CWCs/ DCPO/ Members of village level child protection committees;
- e) Representative of District Legal Services Authority;
- f) Women police officer;
- g) NGOs, representative of child helpline services; and
- h) Translators, counsellors etc.

★ Remember: Safety of the victim is of primary importance, hence while the above stated list is a comprehensive list for a rescue team and maybe used by the DTF to develop and maintain a schedule for availability of above stated stakeholders, a rescue maybe conducted on emergency basis by the police personnel.

5.2 Preparation for Rescue:

- a) Logistical Support: The rescue team needs to ensure that adequate logistical support is available with them in terms of
- food
 - water
 - clothes, blankets
 - Medical kit with first aid (provide for all basic toiletry needs such as sanitary napkins etc.)
 - translator, if required
 - Map the nearest hospital and availability of professional medical help in case of emergencies. Have an ambulance on stand by.
 - Inform nearest child care institution, or fit person, fit facility as approved by the district DCPU or CWC of the rescue for immediate shelter. Ensure that this information is at the disposal of DTF for immediate and planned rescue.
- b) Prepare for adequate number of vehicles to transport the all victims and accused separately. This can be supported by the ICPS, the police or the State Resource Center constituted under the NCLP scheme.
- c) Collection of Evidence: Ensure preparation for all evidence to be collected from the place of rescue. Coordinate with the rescue team to ensure that team assigned for evidence collection is aware of the structure of the place of rescue before the rescue. Arrange for a sensitive videographer/ photographer to support evidence collection
- d) Arranging for adequate medical support: Identify the nearest Government hospital and availability of professional medical help in case of emergencies. Have an ambulance on stand-by. Ensure the availability of an authorised medical practitioner to address the immediate as well as long term medical needs of the victim. Identify resources to provide psychological support to the victim of trafficking as soon as possible after rescue.

- e) **Victim Protection Mechanisms:** The members of the rescue team assigned to the victim should ensure that a plan is made for separating the victim from offender as soon as the rescue is conducted to protect the victim and safe guard evidence. If possible, arrange for the victim to be taken to a neutral place for her/ his statement. Care should also be taken that all relevant departments, officers of all relevant departments including police, SDM, Labour Inspector are present at the same time so as to ensure that the victim does not have to give her statement again and again.
- f) **Information to Place for Immediate Care and Protection:** The rescue team should notify the government, or NGO run Short Stay Home/ Child Care Institutions (CCIs), or any fit place, or fit institution, or fit person of the expected number of rescued persons and the expected time of arrival at such place. The Child Welfare Committee should also be duly notified.
- g) **Ensuring Confidentiality for Victim:** The rescue team should ensure confidentiality of the rescue operation and the persons rescued. The police officer shall ensure that the identity of the victim is protected from the public media, unless directed otherwise by a competent law enforcement authority.
- h) **Presence of Witnesses:** At least two witnesses should be present during rescue, at least one of whom is a woman.
- i) **Ensuring Access to Legal Aid:** Arrange for a lawyer/ paralegal assigned by the DLSA/ SLSA to accompany the rescue team and ensure that appropriate legal counsel is given in collecting evidence, registering sections of law for the FIR and immediate legal aid is provided for the victim and her/ his family.



Section 6: Rescue

6.1. Steps to be Taken for Rescue:

★ Remember: Each rescue should be dealt with on a case to case basis. The rescue team should be alert and each action must be guided towards rescuing all victims, ensuring protection of the victims and collecting evidence for investigation.

1. Make a General Diary Entry when leaving the police station that ensures that the information with respect to source/ victim/ location is not compromised.
2. Ensure thorough search of the place so that no child or adolescent is left behind. Look for false doors, roof, hiding out areas etc. Protecting the anonymity of the victim has to be ensured.
3. Explain the situation to the child. Use the help of the translator and the NGO representative or the representative of the DLSA for the same. Remember to use child friendly language.
4. Collect evidence of work done by the victim, food bills, tickets, documents of vehicles/ property owned, computers, phones, any other electronic items, records/ identity cards of each victim, identity cards of the accused etc. Make a seizure memo.
5. Make a site map of the area. Denote what was recovered from which place, where was the accused, where was the victim etc. Take photos/ videos to support this.
6. Develop a disclosure memo.
7. Sec 74 of the JJ Act, 2015, mandates ensuring the anonymity of a rescued child (here a child means a person below the age of 18 years). Contravention of this provision is punishable with imprisonment of 6 months. Ensure anonymity of the rescued child and adolescent.
8. Seal the premises.

6.2 Age Verification

Age Verification in case of dispute between the employer and Labour Inspector regarding age of the child/ children: In case of conflict regarding the age of the victim, the following procedure may be followed for age determination by seeking evidence by obtaining :

- i. the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned Examination Board, Aadhaar card, if available; and in the absence thereof;
- ii. the birth certificate given by a corporation or a municipal authority or a panchayat;
- iii. and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Court.

6.3 Immediate Aid to the Victim

As soon as a victim of child labour is rescued, the following needs should be met:

1. Separate the victims from the offender and if possible, move the victims to another location.
2. Provide food, water and necessary clothing.
3. Make available the access to a bathroom/ toilet facilities.
4. Immediate medical aid using the previously accessed medical kit. If needed move the victim to the identified place for further medical attention.
5. If needed ensure that a translator is made available.
6. Explain to the victim in a sensitive and child friendly manner about the situation at hand and what to expect in the immediate future. This can be done best with the aid of the social worker or psychologist.
7. Assess if the victim has any immediate medical (physical or psychological) needs and provide for if necessary.
8. Provide for legal counseling and legal aid to explain the situation to the victim in a sensitive manner.
9. Make a list of services that need to be immediately made available to the victim and ensure their availability.

- 10 Rescued children should be placed in Child Care Institutions or with fit person or fit facility as per the instruction of Child Welfare Committee. Or in cases where the complaint is given by the parent, the child's custody can be given to the parent after production in front of the CWC.

★ Remember: Children rescued have to be produced in front of the CWC or where that is not possible in front of one member within 24 hours from the time of rescue, excluding the time of travel.



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Section 7: Post Rescue

7.1 Protection of Victim

● The basic needs of the rescued child must be met immediately after rescue and the child should be provided with sufficient information regarding the situation and reassured of her/ his safety, It is the first and one of the most important steps in building trust with the child and adolescent labour.

★ Remember: A victim should never be treated as an offender, kept in a lock up or made to interact with the offender. All interaction with the victim should be in child friendly language. Attention should be paid to ensure that the victim does not meet the accused or her/his representative.

- i. Registration of FIR: The police should ensure that FIR is registered including relevant provisions of all laws. Additional to child labour or adolescent labour in hazardous employment, the child could also be a victim of trafficking, crimes against the child, kidnapping, sexual exploitation etc. Refer to 4.5 of the SOP for relevant sections. In case of trafficking also remember to include economic offences under Maharashtra Control of Organized Crime Act, 1999 and Prevention of Money Laundering Act, 2002.
- ii. Production in front of the CWC: All children must be produced in front of the CWC who shall then order inquiry which may include medical examination, determination of age, intermediary care and protection, tracing parents or if the CWC deems fit sending the child with parents, home verification etc. The social investigation report to be filed within 15 days. At this stage or the end of the inquiry, CWC may recommend inclusion of additional sections in the FIR through the Juvenile Justice Board as per the JJ Act, 2015.
- iii. Counseling of victim: Counseling should be provided to victims by trained counselor, community social worker or NGOs or DLSA so that the victim is well informed. An assessment of mental trauma caused to the victim and support required should be determined and such information provided to the CWC so that they may pass suitable orders for the same. All information s/he possess is obtained for the investigation and her/ his needs are heard at all stages of prosecution and rehabilitation.
- iv. Legal Aid: Legal aid is to be provided to the victim at the police station and at the place of safety wherever necessary by empanelled lawyers of the DLSA/ SLSA and NGOs. Legal Counseling and advice to the parents of the child must be provided.

- v. **Recording of Statement of Victim:** Victim statement should be recorded as per Section 164 Cr.PC by metropolitan/judicial magistrate only after due psycho social counseling but within a 14 days. The period may be extended only after such permission is issued from the CWC or Court for reasons recorded in writing.
- vi. **Victim- Witness Protection:** All victims and /or witnesses are entitled to protection on submitting a request to the police or to the concerned Court by himself/herself or parent/ guardian. This protection can be extended to any other person with custody of the child. The police on its own or the Court on its own motion at any stage may decide to extend this assistance.
- vii. **Orders:** All orders and proceedings relating to victim/ witness protection should be maintained with utmost secrecy and in perpetuity.
- viii. **Victim-Witness Deposition:** The local District Legal Services Authority must consistently follow up on witness depositions to ensure that the witness is able to safely depose. Ensure that the victim/ witness has sufficient travel allowance and safe shelter. Use in camera trial and video conferencing where ever applicable and deemed necessary.

7.2 Strengthening Prosecution/ Investigation:

- i. **Rescued children are granted access to justice and fair treatment through the support of the competent authorities and assisting stakeholders.** The victim has a right to receive compensation for the physical and psychological harm suffered and wages lost through criminal proceedings, civil action and administrative systems. The District Nodal Officer has the responsibility to prepare a Status report on legal action taken and upload on the PENCIL Portal. The police must finish investigation as diligently as possible in a time bound manner. As per section 173 (1A) of CrPC the same must be completed in 3 months and trial must be completed in a year wherever possible in a case where an offence under POCSO is registered. Charge sheet must be filed as soon as possible and public prosecutor briefed to the full extent.
- ii. **Assessment of Appropriate Sections of Law:** All relevant sections as per the facts of the case must be mentioned in the FIR and in the charge sheet based on the evidence collected during investigation. The police may avail the services of the public prosecutor, the empanelled lawyer from DLSA or with the aid of the paralegal designated to the police station for the same.

- iii. **Medical Examination of the Accused:** Medical examination of the accused may be done as required under Section. 53, 53 A and 54 of Cr. PC.
- iv. **Speedy Trial:**
 - As far as possible trial must be completed in a time -bound manner.
 - Summary Trial wherever applicable: Provision of summary trial as per BLSA. Victim friendly court procedures to be followed at all times.
 - Monitor Status of bail: Denial or cancellation of bail for the accused is possible and maybe applied for where further investigation is required or there is evidence for that the accused on bail will hamper with the investigation.
 - Victim Friendly time bound trial: The trial should be conducted in a victim friendly manner and all efforts should be made to ensure that it is time bound.

Section 8: Rehabilitation

Rehabilitation of all child labourers and adolescent labourers who have been rescued may be done through coordinated and convergent action by a series of stakeholders. The District Nodal Officer has the responsibility to prepare an Index card and decide on rehabilitative method.

8.1 Social Rehabilitation:

Home Verification and Repatriation:

All persons below 18 years who have been rescued have to be produced in front of the CWC. The CWC must conduct an inquiry which includes a home verification process and a social investigation report. Based on the same the CWC may pass orders for:

- If home verification is approved: the victim should be sent back to her/his community/home and the CWC may pass an order for repatriation. The CWC can order and provide for the necessary monetary support required for repatriation. For safe repatriation within the state and between States the CWC will inform the concerned authorities in the receiving area, such as the local CWC. The CWC may also order an NGO or the SJPU to accompany the child.
- If home verification is not approved: arrangement should be made for the victim in long term rehabilitation a child in need of institutional support may be send by the CWC to,
 - Children's home
 - Fit facility
 - Fit person
 - Foster Care

till he/she attains 18 years of age, with periodic monitoring of the CWC through the individual care plan.

- The CWC will issue rehabilitation card for each child to monitor the progress made on their individual care plan. CWC to make an individual care plan (with information on health and nutrition needs, special needs, educational, training, emotional, psychological, restoration, follow up, social mainstreaming, life skills, protection from all kinds of exploitation and abuse). This has to be reviewed after three months and modified as per progress.

8.2 Educational Rehabilitation:

Children who are rescued from labour or adolescents who are rescued from hazardous employment shall be linked to suitable education facilities by National Child Labour Project (NCLP) in following steps:

- If the child is between 5- 8 years she/ he will be directly linked to the Sarva Shiksha Abhiyan to access their Right to Education.
- A child between 9- 14 years will attend two year bridge education in the NCLP Special Training Centers and then will be mainstreamed to the schools under Sarva Shiksha Abhiyan program.
- To ensure quality of educational rehabilitation, the index card prepared under PENCIL portal of Ministry of Labour and Employment would be updated regularly by the District Project Society under NCLP.
- An adolescent between 14 – 18 years will be linked to a skill development program run by the Government of India or the particular State Government.
- The data of rescued adolescents would be shared with Ministry of Skill Development through PENCIL Portal.

8.3 Economic Rehabilitation:

- Back wages: All rescued child labourer and adolescent labourers in hazardous employment shall be paid back wages at a rate not less than minimum wages for their period of employment.
- Immediate financial assistance of Rs 20000 under the Central Sector Scheme for Rehabilitation of Bonded Labourer 2016 if the child/ adolescent are a bonded labour. Additional compensation up to Rs. 3,00,000 is available on issuing of release certificate by the District Magistrate.

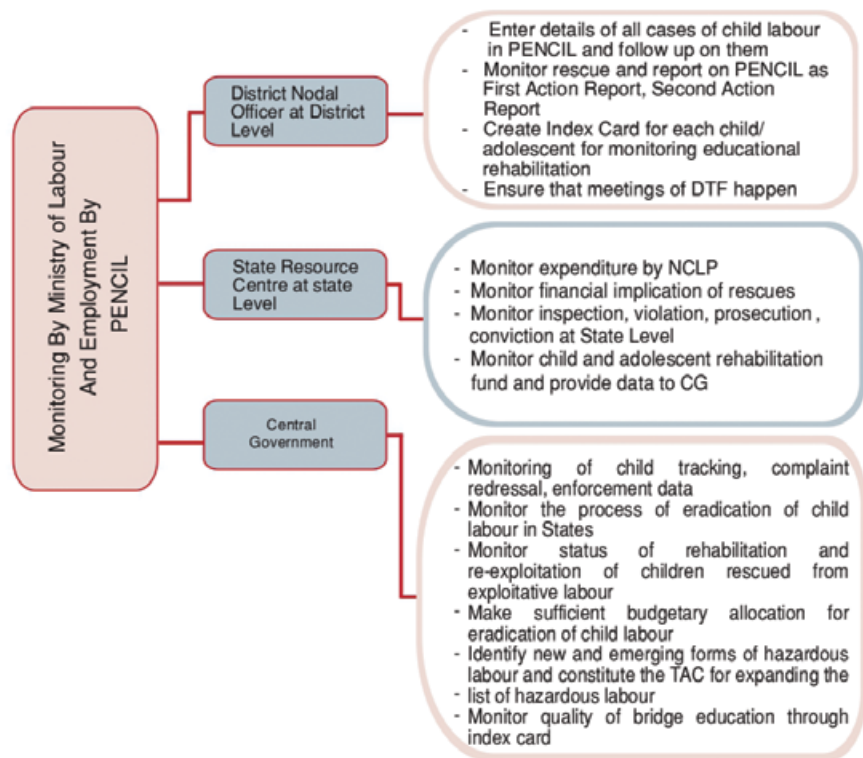
- ❖ As per CrPC Section 357A victim compensation scheme, whenever a recommendation is made by the Court for compensation, the District Legal Services Authority (DLSA) or State Legal Services Authority (SLSA) as the case may be shall decide the quantum of compensation to be awarded under this scheme.
- ❖ Economic Compensation: As per MC Mehta vs. State of Tamil Nadu and Ors. AIR 1997 SCC 699 judgment-
 - Rs 20000 per child are to be paid by the employer to a "Child Labour Rehabilitation-cum-Welfare Fund" to be used only for the benefit of that child.
 - In addition, the Government is to provide employment to an adult family member of the child or contribute Rs 5000 per child to this fund.
- ❖ As per Section 14(B) of C&AL (P&R) Act 1986, a Child and Adolescent Labour Rehabilitation Fund is to be formed by appropriate government in every district or for two or more districts. The amount of Fine and an additional amount of Rs 15000 is to be credited by the Government for each child or adolescent in such fund. The amount deposited and income accrued shall be given to the child as per Child and Adolescent Labour (Prohibition and Regulation) Central Rules.



Section 9: Monitoring

Enforcement of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 and Rules made therein are to be monitored both by an elaborate monitoring mechanism within the Ministry of Labour and Employment as well as by external independent agencies, thereby assuring robust enforcement of the law.

9.1. Monitoring Mechanism of Ministry of Labour and Employment: PENCIL Portal



9.2. Monitoring Mechanisms at the District, State and Central Level:

Commissions formed at the center, state and district level have the mandate to monitor the implementation of child labour

- ❖ National Human Rights Commission along with its counterpart at the state are to look into any violation of human rights not addressed, including child labour and adolescent labour in hazardous industries.
- ❖ The National Commission for Protection of Child Rights and its counterpart at the State levels as well as those at the District Child Protection Unit at the district level have a mandate to monitor the protection systems for children all over the country. While the NCPCR and SCPCR reviews policy implementation, the DCPU regulates and monitors institutions on the field such as the children's homes, community level monitoring committees etc.
- ❖ NALSA, SLISA and DLSA have the mandate to monitor coordination among agencies, and convergent implementation of laws and schemes for the eradication of child labour. They also have the mandate to monitor access to justice of every child.



Section 10: Roles and Responsibilities of Enforcing Agencies and Other Stakeholders at different Stages



“Our Aim - Child Labour Free India”

A. District Nodal Officer

S.No:	Action
PREVENTION	
1.	Ensure monthly meeting of the District Task Force (DTF)
2.	Present progress of prevention activities in the district for monthly meeting
3.	Share details of prevention activities in the district with State Resource Centre through PENCIL
IDENTIFICATION	
1.	Upload all complaints received by other means to the PENCIL portal immediately (e.g: Through telephone calls, emails, child line, from schools on drop outs etc.)
2.	Conduct regular inspections as per Rule 17 D of the Child and Adolescent Labour (Prohibition and Regulation) Rules
3.	Monitor adherence to norms stated in the Act and Rules and reiterated in this SoP for employment of adolescents on non - hazardous work
4.	Verify complaints received through various resources and identify if <ul style="list-style-type: none"> • child is employed or, • adolescent is employed in hazardous work or, • regulation for employment of adolescent is not met
5.	Register verified complaint of child labour, or adolescent labour in hazardous employment with local police station/ SJPU
6.	Take action and upload First Action Report (FAR) on the PENCIL within 48 hours of receipt of all complaint
7.	Coordinate with various agencies through DTF for survey and identification of child labourers in the district and to develop action plans accordingly
8.	Upload action plan and minutes of the DTF meeting to State Resource Centre
PREPARATION BEFORE RESCUE	
1.	Ensure FIR is filed in all complaints registered with the police. If there is a threat to life or liberty of the victim, ensure their immediate rescue in coordination with the police
2.	Facilitate resources needed for each rescue of child labourers are made available including logistical resource, transportation, members of the rescue team, information to children's home etc as per this SoP

3. Coordinate with various stakeholders for rescue

RESCUE

1. Ensure that rescue is conducted on all verified complaints or as per DTF action plan
2. Ensure that during the rescue protection is given to the victims including transportation facilities, separation from accused, translator, counselling, medical attention etc.
3. Collect details of the company, factory etc such as registration, licence number etc for further action
4. Ensure that no victim is left behind

POST RESCUE

1. If FIR was not registered before rescue, ensure registration of FIR
2. Produce rescued child or adolescent before the CWC within 24 hours of rescue
3. Arrange for shelter home, immediate medical care etc wherever necessary

REHABILITATION

1. Facilitate repatriation of the child or adolescent victim as per the order of the CWC, in coordination with the DTF where ever required
2. Create a bank account for each child and adolescent and ensure transfer of interest accrued on the amount collected in the name of the child to such bank account once in every six months. Further ensure transfer of principle amount to such bank account when such child or adolescent reaches 18 years
3. Ensure issuing of index card and inclusion of the child or adolescent victim to the child tracking system
4. Coordinate with the CWC, SSANCLP project, DM's office, Department of Social Justice and Empowerment, District Legal Services Authority etc for social, educational and economic compensation for the victim as elaborated in Section 8 of the SoP
5. Upload the Second Action Report (SAR) on the PENCIL portal within 21 days of receipt of first complaint including details of rescue, rehabilitation and issuing of index card

FOLLOW-UP

1. Ensure that all children rescued as re-integrated to school or skill development program
2. Follow up with individual child on receipt of declared compensations, social rehabilitation schemes etc.
3. Follow up on the progress of each trial
4. Upload the Legal Action Report on the PENCIL portal including status of prosecution

B. Police/ Special Juvenile Police Officer

S.No.	Action
PREVENTION	
1.	Special Juvenile Police Unit to attend the monthly meeting of a District Task Force
2.	SJPU to participate in prevention of child labour activities in your district along with the labour department and DTF
IDENTIFICATION	
1.	Conduct proactive investigation to collect intelligence on cases of child labour, and adolescent labour in hazardous work or violation of any other child protection laws in your area
2.	To identify potential crimes related to child labour, create a database on Traffickers, Pimps, agents, Informants etc.
3.	Analyse information collected from the database of missing children
4.	Forming a strong network with stakeholders and law enforcement agencies engaged in trans points and destination areas
5.	Form action plan along with other members of DTF for elimination of child labour in your district. Monitor the monthly progress of the action plan in coordination with the DNO
6.	Register complaints received from the DNO, Child line and other sources
PRE- RESCUE PLANNING	
1.	Ensure registration of FIR for the complaints related to child labour. <u>If there is a threat to life or liberty of the victim, ensure their immediate rescue in coordination with the DNO</u>
2.	Constitute a comprehensive rescue team, under coordination with DNO.
3.	Ensure resources to overcome language barrier of the victims (reach out to DNO, DCPU or DLSA for a translator), immediate food, clothing, toilet, first aid kit, fire extinguisher, vehicles etc. in coordination with DNO.
4.	Ensure preparation for all evidence to be collected from the place of rescue and engage photographer/videographer.
5.	Ensure secrecy of the rescue operation
RESCUE	
1.	Ensure presence of the owner/manager responsible for running the place
2.	Ensured that the victim is not arrested and that the victim and accused are immediately separated
3.	Ensure thorough search of the place so that no child or adolescent is left behind

4. Collect evidences with proper documentation
5. Identify the relevant laws to include and ensure that an FIR is lodged immediately

POST RESCUE

1. Explain the situation to the victim
2. Ensure that the Legal Services Authority and the paralegal volunteers are immediately involved.
3. Ensure that the victim's statement is recorded as per provisions of Cr.PC after due psychosocial counselling.
4. Produce the child before the CWC within 24 hours and if required, before the DM for ascertaining a case under BLSA, 1976
5. Ensure that the rescued children or adolescents are placed in a CCI or with fit person or fit institution as per the instruction of CWC
6. Provide required protection to the victim(s) and witnesses.

INVESTIGATION

1. Register an FIR and apply sections for continuing offences wherever relevant.
2. Ensure protection for all victims and/or witnesses
3. Ensure that the investigation is carried out in a time-bound manner and charge sheet is filed as soon as possible.
4. Brief and aid the public prosecutor or representing lawyer

C. District Magistrate

S.No:	Action
PREVENTION	
1.	Ensure formation and monthly meeting of the District Task Force (DTF). Coordinate with the DNO for the same
2.	Develop a plan for prevention activities in the district and track its progress in monthly DTF meeting
3.	Authorise child artists and children working in other entertainment. Such permission to have validity only for 6 months and to be authorised based on section 2.2 b of this SoP and other guidelines issued by the Central Government on the same from time to time
4.	Ensure that 20% of the earnings of the child artist is transferred into a bank account in the name of the child, accessible to the child only after s/he turns 18 years
IDENTIFICATION	
1.	Ensure coordination with various agencies through DTF for survey and identification of child labourers, and adolescent labour in hazardous employment in the district
2.	Based on the identification ensure that the DTF develops action plan for elimination of child labour
PREPARATION BEFORE RESCUE	
1.	If there is a threat to life or liberty of the victim as per complaint, ensure their immediate rescue in coordination with the police and DNO
2.	Ensure resources needed for each rescue of child labourers are made available including logistical resource, transportation, members of the rescue team, information to children's home etc as per this SoP
RESCUE	
1.	Ensure that rescue is conducted on all verified complaints or as per DTF action plan
2.	Ensure that during the rescue protection is given to the victims and no victim is left behind

POST RESCUE

1. Monitor registration of FIR for all cases of child labour, or adolescent labour in hazardous employment under all relevant child protection laws
2. Ensure that all rescued child or adolescent before the CWC within 24 hours of rescue
3. Monitor and ensure all cases for -
 - Immediate medical care etc wherever necessary
 - Immediate separation of the victim and accused
 - No child or adolescent is kept in the police station overnight
 - Shelter home, fit person or fit facility is available for immediate care as well as long term care and rehabilitation of children
 - Children who require long term medical care – (both physical and psychological) is provided the same
4. Conduct timely summary trial as well as issue release certificate to access other forms of compensation under the BLSA, 1976
5. Monitor progress of investigation of all cases of child and adolescent labour in hazardous employment through DTF
6. Ensure coordination with labour inspectors for compounding of offences

REHABILITATION

1. Facilitate repatriation of the child or adolescent victim as per the order of the CWC, in coordination with the DTF wherever required
2. Monitor receipt of rehabilitation services with respect to social, educational and economic compensation for the victim including those elaborated Section 8 of the SoP

D. Project Director- National Child Labour Project Society

S.No:	Action
PREVENTION	
1.	Coordinate with the DNO for the progress of the work of the DTF
2.	Develop a plan for child labour and adolescent labour in hazardous employment prevention activities in the district
3.	Conduct capacity building for key community level stakeholders such as teachers, PRIs etc for elimination of child labour and adolescent labour in hazardous employment
IDENTIFICATION	
1.	Conduct NCLP Survey in a timely manner for identification of child labourers
2.	Based on the identification ensure that the DTF develops action plan for elimination of child labour
3.	Register complaint, where complaint has not been registered, with the police for child labourers or adolescent labourers in hazardous employment enlisted in the NCLP program
ASSISTANCE IN RESCUE	
	Provide requisite support to DNO, police to conduct rescue of child labourers or adolescent labourers in hazardous employment
REHABILITATION	
1.	Facilitate repatriation of the child or adolescent victim as per the order of the CWC, in coordination with the DTF where ever required.
2.	Prepare index card for child enrolled in the NCLP bridge schools if it is not prepared by the DNO.
3.	Facilitate enrolment of rescued child victims into the NCLP program or the adolescent victims in the skill development program
4.	Monitor receipt of rehabilitation services with respect to social, educational and economic compensation for the victim including those elaborated Section 8 of the SoP
FOLLOW-UP	
1.	Monitor progress rescued child victims in NCLP program for the following year on the index card
2.	Monitor the receipt of various economic, social and educational national and state level schemes and compensations through the index card

E. State Resource Centre – State Labour Department

S.No:	Action
PREVENTION	
1.	Implement prevention activities at the state level
2.	Monitor prevention activities in each district and utilisation of allocated funds for prevention allocated to NCLP Society and DNO
3.	Upload information of prevention on the PENCIL portal
4.	Build capacity of NCLP staff, labour inspectors and other district level implementation officers for the implementation of this SoP
IDENTIFICATION	
1.	Monitor timely action by DNO on complaints received (DNO to take action within 48 hours of receipt of complaint) and take appropriate action
2.	Monitor child labour survey in the State
3.	Create plan for, and monitor implementation of inspections by labour inspectors on the issue
4.	Monitor Second Action Report (SAR) by DNO
ASSISTANCE IN RESCUE	
	Provide requisite support to DNO, police to conduct rescue of child labourers or adolescent labourers in hazardous employment in the form of funds for logistic support, vehicles etc
REHABILITATION	
1.	Monitor Second Action Report (SAR) by DNO
2.	Ensure creation of Child and Adolescent Labour Fund in every district or a group of districts
3.	Report on the Child and Adolescent Labour Fund formed on the PENCIL portal
FOLLOW-UP	
1.	Monitor progress rescued child victims in NCLP program
2.	Monitor the receipt of various economic, social and educational national and state level schemes and compensations provided under labour laws as well as other applicable central and state laws and schemes
3.	Suggest changes to Central Government towards elimination of child labour based on the data collected at the State level

F. STATE OR DISTRICT LEGAL SERVICES AUTHORITY

S.No.	Action
PREVENTION	
1.	Participate in the monthly DTF meetings and inform other stakeholders of challenges for prosecution of offenders
2.	Aid prevention activities through spreading legal awareness on protection of children as a part of prevention activities
3.	Aid State Resource Centre and NCLP in conducting legal awareness on protection of children as a part of the capacity building initiative including stakeholders of the DTF
ASSISTANCE IN RESCUE	
1.	Ensure that a lawyer or paralegal is a part of the rescue team in all cases of child labour and adolescent labour in hazardous employment
2.	Assist in filing of FIR in cases of child labour and adolescent labour in hazardous employment
3.	Provide legal aid and legal counsel to cases of child labour and adolescent labour in hazardous employment
PROSECUTION	
1.	Provide legal representation to cases of child labour and adolescent labour in hazardous employment
2.	Aid DNO to prepare Legal Action Report (LAR) on progress of the trial

G. Child Welfare Committee

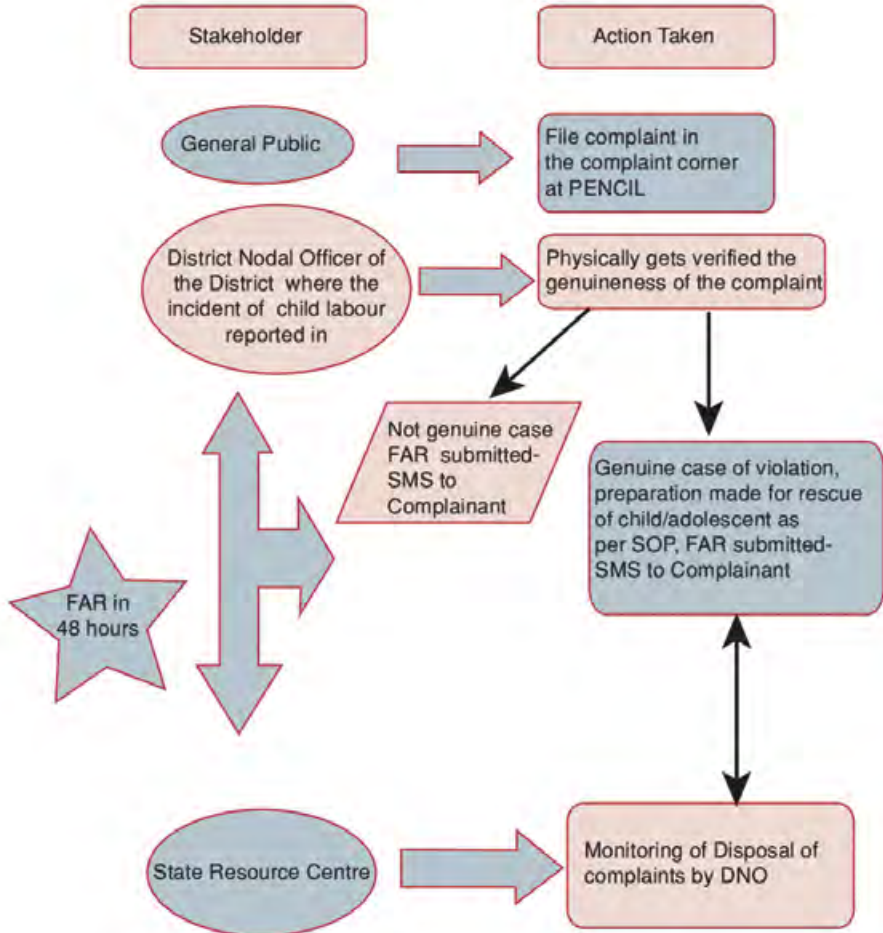
S.No:	Action
RESCUE	
1.	Participate in monthly DTF meetings and aid in implementation of the action plan developed to eliminate child labour and adolescent labour in hazardous employment
2.	Ensure that one member joins the rescue team for child labour and adolescent labour in hazardous employment
3.	Ensure immediate care for child labour and adolescent labour in hazardous employment is produced in front of the committee within 24 hours as per Juvenile Justice (Care and Protection) Act, 2015
REHABILITATION	
	Share information with DNO on rehabilitation provided to all victims of child labour and adolescent labour in hazardous employment

H. Department of Education and Schools

S.No:	Action
PREVENTION	
1.	Ensure 100% enrolment of all children in schools
2.	Include information about child labour and child rights in school curriculum
3.	Train teachers to understand the issue of child labour, adolescent labour and create awareness regarding Child and Adolescent Labour Act and Rules and institutional mechanism for child protection
4.	District Education Officer to participate in monthly DTF meetings and contribute to implementation of action plan against child labour
IDENTIFICATION	
	Teacher to report drop out of children for consecutive 30 days and child artists who are being employed without notifying district administration
REHABILITATION	
	Ensure enrolment or reintegration of child labourers into Sarva Shiksha Abhiyan

Annexure

Path of the flow of Complaint on child Labour and action taken on PENCIL Portal



List of Abbreviations

1. BLSA- The Bonded Labour System (Abolition) Act, 1976
2. C&AL(P&R) Act- Child and Adolescent Labour (Prohibition and Regulation) Act, 1986
3. CCI- Child Care Institutions
4. CWC- Child Welfare Committee
5. DCPO- District Child Protection Officer
6. DCPU- District Child Protection Unit
7. DM – District Magistrate
8. DTF- District Task Force
9. DLSA – District Legal Services Authority
10. IPC- Indian Penal Code
11. ICPS- The Integrated Child Protection Scheme
12. ILO- International Labour Organization
13. ITPA - Immoral Traffic (Prevention) Act
14. JJ Act- Juvenile Justice Act, 2015
15. MOWCD- Ministry of Women and Child Development
16. NALSA- National Legal Services Authority
17. NCLP- National Child Labour Project
18. NCPCR- The National Commission for Protection of Child Rights
19. NGO- Non Governmental Organization,
20. NHRC- National Human Rights Commission
21. POCSO- The Protection of Children from Sexual Offences Act
22. SCPCR- State Commission for Protection of Child Rights
23. SDG- Sustainable Development Goals
24. SHRC- State Human Rights Commission
25. SJPU- Special Juvenile Police Unit
26. SLSA- State Legal Services Authority
27. SMC- School Management Committee
28. TAC- Technical Advisory Committee

GOVERNMENT OF TELANGANA ABSTRACT

Labour, Employment, Training & Factories Department – The Bonded Labour System (Abolition) Act, 1976 – Re-Constitution of the District Level and Sub-Divisional Level Vigilance and Monitoring Committee in all (31) Districts of the Telangana State for identification, release and rehabilitation of Bonded Labourers – Orders – Issued.

LABOUR EMPLOYMENT TRAINING & FACTORIES (LABOUR) DEPARTMENT

G.O.Ms.No.20,

Dated: 04.04.2018.

Read the following:-

1. Government Circular Memorandum No.3695/H2/97-1, Social Welfare (H2) Department, Dated: 09.06.1997.
2. G.O.Ms.No.127, General Administration (AR&T) Department, Dated: 19.05.2017.
3. From the Commissioner of Labour(FAC), Telangana, Hyderabad, Lr.No.J4/6793/2017, Dated: 23.02.2018.
4. G.O.Ms.No.19, LET&F (Lab) Department, Dated: 04.04.2018.

ORDER:

In the Circular Memorandum 1st read above, the Social Welfare Department, Government of Andhra Pradesh issued orders re-constituting the District Level and Sub-Divisional Level Vigilance and Monitoring Committee in Andhra Pradesh.

2. In the G.O. 2nd read above, the General Administration (AR&T) Department issued orders transferring the subject matter "Scheme of Bonded Labour" from Scheduled Caste Development Department to "Labour, Employment, Training and Factories Department.

3. In the letter 3rd read above, the Commissioner of Labour, Telangana, Hyderabad has furnished proposal for re-constitution of the District Level and Sub-Divisional Level Vigilance and Monitoring Committee in all (31) Districts of the Telangana State for identification, release and rehabilitation of Bonded Labourers.

4. In the G.O. 4th read above, the Government have issued orders re-constituting the State Level Monitoring Committee for elimination of the Bonded Labour and for implementation of the Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016 in Telangana State.

5. Government, after careful examination of the matter, has decided to re-constitute the District Level and Sub-Divisional Level Vigilance and Monitoring Committee in all (31) Districts of the Telangana State for identification, release and rehabilitation of Bonded Labourers under Sub-Sections (2) & (3) of Section-13 of the Bonded Labour System (Abolition) Act, 1976 (Central Act, 19 of 1976).

Contd....2

6. Accordingly, the following notification shall be published in an Extra-ordinary Issue of the Telangana Gazette, dated: 07.04.2018.

NOTIFICATION

In exercise of the powers conferred under the provisions of sub-sections (2) & (3) of Section-13 of the Bonded Labour System (Abolition) Act, 1976 (Central Act 19 of 1976), Government of Telangana hereby re-constitutes the District Level and Sub-Divisional Level Vigilance and Monitoring Committee in all (31) Districts of the Telangana State for identification, release and rehabilitation of Bonded Labourers with the following members:

District Vigilance and Monitoring Committee			Sub-Divisional Vigilance and Monitoring Committee		
1	District Magistrate & Collector	Chairman	1	Sub-Divisional Magistrate / Revenue Divisional Officer	Chairman
2	Joint Collector	Convenor	2	Deputy Superintendent of Police / Deputy Commissioner of Police	Member
3	Superintendent of Police / Commissioner of Police	Member	3	Assistant Labour Officer	Convenor
4	Deputy Commissioner of Labour / Assistant Commissioner of Labour	Member	(a) Assistant Social Welfare Officer		Member
			(b) Assistant Tribal Welfare Officer		Member
5	(a) District Social Welfare Officer	Member	5	Three persons belonging to the SCs or STs (to be nominated by the Chairman)	Member
	(b) District Tribal Welfare Officer	Member			
6	One person to represent the financial and credit institutions (Banks) in the District (to be nominated by the District Magistrate)	Member	6	Two Social Workers (to be nominated by the Chairman)	Member
7	Three persons belonging to the SCs / STs (to be nominated by the District Magistrate)	Member	7	Three persons to represent official or non-official agencies in the sub-divisional connected with Rural Development (to be nominated by the District Magistrate)	Member
8	Two Social Workers (to be nominated by the District Magistrate)	Member	8	One person to represent the financial and credit institutions (Banks) in the sub-divisional (to be nominated by the Chairman)	Member
9	Three persons representing official or non-official agencies (Voluntary) in the District connected with Rural Development (to be nominated by the District Collector)	Member	9	One officer in the sub-division specified by the District Magistrate	Member
10	Representatives of District Legal Services Authority (District Level) (to be nominated by the District Magistrate)	Member	10	Representatives of District Legal Services Authority (Sub-Divisional Level) (to be nominated by the Chairman)	Member

Contd.....3

7. The above committees will discharge the following functions:-

- a) Advise the District Magistrate or any officer authorized by him as to the efforts made and action taken, to ensure that the provisions of this Act or of any rule made there under are properly implemented;
- b) Provide for the economic and social rehabilitation of the freed bonded labourers;
- c) Co-ordinate the function of rural banks and co-operative societies with a view to canalising adequate credit to the freed bonded labourers;
- d) Keep an eye on the number of offenses for which cognizance has been taken under this Act;
- e) Make a survey as to whether there is any offence of which cognizance ought to be taken under this Act;
- f) Defend any suit instituted against a freed bonded labourer or a member of his family or any other person dependent on him for the recovery of the whole or part of any bonded debt or any other debt which is claimed by such person to be bonded debt.

Vigilance committee may authorize one of its member to defend a suit against a freed bonded labourer and the members authorized shall be deemed, for the purpose of such suits, to be authorized agent of the freed bonded labourer.

g) Ensure implementation of the provisions of the Act by taking steps to:-

- i) Identify bonded labourers and examine their conditions;
- ii) Re-negotiate wherever possible working conditions of bonded labourers with the employers on the basis of the employer's public undertaking to re-establish legal rights and clear dues provided that safety of the bonded labour can be guaranteed and the employer kept under watch to prevent re-lapse into bondage;
- iii) Receive information about locals who are held in bondage in other States, and report details to the Government for action;
- iv) Facilitate rescue efforts by involving the police, district and labour officials, legal – aid members or lawyers, NGO's both within the area or from other States with respect of labourers originating from the area;
- v) Assist the released bonded labourers in registering an FIR and obtaining the "release certificate" and where necessary follow up on the same;
- vi) Serve as reception and rehabilitation committee in respect of released bonded labourers originating from the area;
- vii) Ensuring that the immediate need for food, health, clothing, transportation and interim housing arrangement are taken care of;
- viii) Provide counseling and psychological support in trauma conditions through trained personnel and also assist the family unit to re-integrate in society;
- ix) Ensure that subsistence grant of Rs.20,000 per bonded labour, as required by the law, is paid immediately.

Contd.....4

- x) Ensure that the provisions of the Bonded Labour System (Abolition) Act, 1976 relating to extinguishment of bonded debt, non-ouster from homestead, restoration of property or release of property from mortgage, recovery of dues and compensation where applicable, are implemented;
- xi) Ensure that the release rehabilitation be a single composite step with long-term sustainable arrangements finalized within three months, as far as possible;
- xii) Consult the freed labourer on the method of his rehabilitation, considering his or her background, and specific needs and talents;
- xiii) Provide consumption loan or monthly sustenance, being a reasonable amount, in the Interregnum between release and rehabilitation or until suitable employment is found;
- xiv) Arrange alternative wage-employment through preferential treatment to the released individual.
- xv) Arrange or extend skill training or other adult education schemes utilizing the help of private or voluntary sector;
- xvi) Assist the freed labourer in obtaining financial assistance, subsidies through state funds or from nationalized banks.
- xvii) Endeavour to rehabilitate the individual in the same occupation. Co-operatives or collectives, wherever feasible, be encouraged for groups or released bonded labourers, on a preferential basis and all the complementary assistance such as training and managerial and marketing support be provided;
- xviii) Be vigilant against abuse or misappropriation of rehabilitation benefits by recommending stringent action against offenders;
- xix) Review rehabilitation efforts to assess if second dose or additional measures are necessary;
- xx) Recommend long-term measures through convergence of anti-poverty schemes, specific development programs and welfare measures including housing, cultivable land where bonded labourers receive preferential treatment;
- xxi) Assign rehabilitation package, in the name of the women of the household;
- xxii) Take all steps to prevent and preempt entrapment into bondage, through enforcement of the Bonded labour system (Abolition) Act, 1976;
- xxiii) Critically assess the socio-economic condition creating bondage and devise means of curbing them;
- xxiv) Study sensitive occupations known to employ bonded labour and employ specific measures;
- xxv) Review the functioning of Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 and the Contract Labour (Regulation and Abolition) Act, 1970 to prevent its abuse for employing bonded labour;
- xxvi) Maintain a list of employers of bonded labour, recruiters and agents and initiate criminal action against them and follow up diligently with prosecutions;

Contd.....5

xxvii) The principal employer will be liable for offenses under the Bonded Labour System (Abolition) Act, 1976;

xxviii) Step up enforcement of the Minimum Wages Act.

8. Further it is decided that one Vigilance and Monitoring Committee shall be constituted at District Level in every District and one Vigilance and Monitoring Committee each shall be constituted at Sub-Divisional Level in every Revenue Sub-Divisions in the State.

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9. All the District Collectors are requested to constitute the Vigilance and Monitoring Committees at District and Sub-divisional level as above by notifying in the District Gazette and send the copies of the notification to the Commissioner of Labour for record.

10. The District Collectors are directed to ensure that meetings of Sub-divisional level committees are conducted every month. The District level Committee meetings shall be conducted for every quarter and proceedings of these meeting should be sent regularly to the Commissioner of Labour. The Commissioner of Labour shall review these reports and send quarterly progress report to the Government.

11. The District Collectors must send their monthly and quarterly progress reports in the already prescribed formats to the Commissioner of Labour, Telangana, Hyderabad.

12. The District and Sub-divisional level Vigilance and Monitoring committees shall maintain all the registers as prescribed in Section 7 of the Bonded Labour System (Abolition) Act, 1976.

13. The Commissioner of Labour, Telangana, Hyderabad shall take further action in the matter accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. SHASHANK GOEL,
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Commissioner of Printing, Stationary and Stores Purchases (PW),
Chanchalguda, Hyderabad.

All the District Collectors in the State.

All Sub-Divisional Police Officers / Revenue Divisional Officers /
Sub-Collectors / Assistant Collectors.

All Superintendents of Police of the State.

The Commissioner of Labour, Telangana, Hyderabad.

The Commissioner of Scheduled Caste, Telangana, Hyderabad.

The Commissioner of Tribal Welfare, Telangana, Hyderabad.

Copy to:

The P.S. to Special Secretary to Chief Minister

The P.S. to Minister (Home & Labour)

The P.S. to Chief Secretary to Government

The Scheduled Caste Department

The Law (F) Department

SC

// FORWARDED :: BY ORDER //

SECTION OFFICER

RELEVANT POLICY XVII

GOVERNMENT OF TELANGANA ABSTRACT

Labour, Employment, Training & Factories Department – The Bonded Labour System (Abolition) Act, 1976 – Committees – Re-Constitution of the State Level Monitoring Committee for Elimination of the Bonded Labour – Implementation of the Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016 in Telangana State – Orders – Issued.

LABOUR EMPLOYMENT TRAINING & FACTORIES (LABOUR) DEPARTMENT

G.O.Ms.No. 19

Dated: 04-04-2018.

Read the following:-

1. G.O.Ms.No.77, Social Welfare (H2) Department, Dated: 09.06.1997.
2. G.O.Ms.No.127, General Administration (AR&T) Department, Dated: 19.05.2017.
3. From the Commissioner of Labour, Telangana, Hyderabad, Lr.No.J4/6793/2017, Dated: 23.02.2018.

ORDER:

In the G.O. 1st read above, Social Welfare Department, Government of Andhra Pradesh have issued order re-constituting the State Level Screening Committee in Andhra Pradesh.

2. In the G.O. 2nd read above, the General Administration (AR&T) Department has issued orders transferring the subject matter "Scheme of Bonded Labour" from Scheduled Caste Development Department to "Labour, Employment, Training and Factories Department.

3. In the letter 3rd read above, the Commissioner of Labour, Telangana, Hyderabad has furnished proposal for re-constitution of the State Level Monitoring Committee for elimination of the Bonded Labour and for implementation of the Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016 in Telangana State.

4. Government, after careful examination of the matter, hereby re-constitutes the State Level Monitoring Committee for elimination of the Bonded Labour and for implementation of the Central Sector Scheme for Rehabilitation of Bonded Labourer, 2016 in Telangana State with the following members:

1	Chief Secretary to Government	Chairperson
2	Principal Secretary to Government, LET&F Department	Member / Convener
3	Principal Secretary to Government, Finance Department	Member
4	Special Chief Secretary / Principal Secretary to Government, Revenue Department	Member
5	Secretary to Government, Department for Women, Children, Disabled & Senior Citizen	Member
6	Secretary to Government, Law Department	Member
7	Principal Secretary to Government, Panchayat Raj & Rural Development Department	Member
8	Principal Secretary to Government, School Education Department	Member
9	Principal Secretary to Government, Health Medical & Family Welfare Department	Member

Contd.....2

10	Principal Secretary to Government, Home Department	Member
11	Principal Secretary to Government, Municipal Administration & Urban Development Department	Member
12	The Special Chief Secretary & Chief Commissioner of Land Administration Department	Member
13	The Director General of Police, Home Department	Member
14	The Commissioner of Labour, Telangana, Hyderabad	Member
15	The Commissioner & Director, School Education Department, Telangana, Hyderabad	Member
16	The Director, Agriculture Department, Telangana, Hyderabad	Member
17	The Director of Factories, Telangana, Hyderabad	Member
18	The Director of Skill Development Board, Telangana, Hyderabad	Member
19	Local Representative, United Nations Children's Fund (UNICEF)	Member
20	Representative, Corporate Social Responsibility (CSR) Unit of Telangana Confederation of Indian Industry (CII)	Member
21	Representative, Federation of Telangana and Andhra Pradesh Chambers of Commerce and Industry (FTAPCCI)	Member

5. The functions of the committee with respect to elimination of Bonded Labour in the State will be as follows:

- a) It shall review the functioning of District Level Vigilance and Monitoring Committees and the functions of various Departments with regard to the identification, release and rehabilitation of Bonded Labourers in the State.
- b) It shall also take the following measures:-
 - (i) Take all Steps to prevent and preempt entrapment into bondage, through enforcement of the Bonded Labour System (Abolition) Act, 1976.
 - (ii) Critically assess the socio-economic condition creating bondage and devise means of curbing them.
 - (iii) Study sensitive occupations known to employ bonded labour and take specific measures.
 - (iv) Ensure the setting up of rural credit facilities such as Grameena Banks, Co-Operatives etc., from which short-term interest loans can be availed without security.
 - (v) Review the functioning of the Inter-State Migrant Workmen (Regulation of Employment Conditions of Service) Act, 1979 and the Contract Labour (Regulation and Abolition) Act, 1970 to prevent its abuse for employing bonded labour.
 - (vi) Review the enforcement of Minimum Wages Act.

Contd.....3

6. The State Level Monitoring Committee should meet as frequently as required but at least once in six months.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. SHASHANK GOEL,
PRINCIPAL SECRETARY TO GOVERNMENT

To

The Principal Secretary to Government, Finance Department.

The Special Chief Secretary to Government, Revenue Department.

The Secretary to Government,

Department for Women, Children, Disabled & Senior Citizens.

The Secretary to Government, Law Department.

The Principal Secretary to Government,

Panchayat Raj & Rural Development Department.

The Principal Secretary to Government, School Education Department.

The Principal Secretary to Government,

Health Medical & Family Welfare Department.

The Principal Secretary to Government,

Municipal Administration & Urban Development Department.

The Principal Secretary to Government, Home Department.

The Special Chief Secretary &

Chief Commissioner of Land Administration Department.

The Commissioner of Labour, Telangana, Hyderabad.

The Director General of Police, Telangana, Hyderabad.

The Commissioner & Director, School Education, Telangana, Hyderabad.

The Director, Agriculture Department, Telangana, Hyderabad.

The Director of Factories, Telangana, Hyderabad.

The Director, Skill Development Board, Telangana, Hyderabad.

The Representative, UNICEF, Hyderabad.

The Representative, Corporate Social Responsibility (CSR)

unit of Telangana CII, Hyderabad.

The Representative, Federation of Telangana and Andhra Pradesh

Chambers of Commerce and Industry (FTAPCCI), Hyderabad.

All District Collectors in the State.

Copy to:

The P.S. to Special Secretary to Chief Minister

The P.S. to Minister (Home & Labour)

The P.S. to Chief Secretary to Government

The P.S. to Principal Secretary to Government, LET&F Department

The Law (F) Department

SC

// FORWARDED :: BY ORDER //

SECTION OFFICER

GOVERNMENT OF TELANGANA ABSTRACT

The Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 and the Child Labour (Prohibition and Regulation) Act, 2016 – Committees – Constitution of State Level Monitoring Committee on elimination of Child Labour – Orders – Issued.

LABOUR EMPLOYMENT TRAINING & FACTORIES (LABOUR) DEPARTMENT

G.O.Ms.No. 25

Dated: 23-06-2017

Read the following:

1. Minutes of the Meeting under the Chairmanship of the Chief Secretary held on 06.05.2017.
2. From the Commissioner of Labour, Telangana, Hyderabad, Lr.No.J1/2374/2017, dated: 25.5.2017.

ORDER:

In the meeting convened by the Chief Secretary to the Government on 06.05.2017, it was recommended to constitute a State Level Monitoring Committee (SLMC) on Elimination of Child and Adolescent Labour in the State.

2. In the letter 2nd read above, the Commissioner of Labour, Telangana, Hyderabad has submitted proposal for constitution of State Level Monitoring Committee on elimination of Child Labour.

3. Government, after careful examination of the proposal submitted by the Commissioner of Labour in the reference 2nd read above, hereby decided to constitute a State Level Monitoring Committee (SLMC) with the following Members:

1	Chief Secretary to Government	Chairperson
2	Principal Secretary to Government, LET&F Department	Member / Convener
3	Secretary to Government, Finance Department	Member
4	Secretary to Government, Department for Women, Children, Disabled & Senior Citizen	Member
5	Secretary to Government, Law Department	Member
6	Principal Secretary to Government, Panchayat Raj & Rural Development Department	Member
7	Principal Secretary to Government, School Education Department	Member
8	Principal Secretary to Government, Health Medical & Family Welfare Department	Member
9	Principal Secretary to Government, Municipal Administration & Urban Development Department	Member
10	The Director General of Police, Home Department	Member
11	The Commissioner of Labour, Telangana, Hyderabad	Member
12	The Commissioner & Director, School Education Department, Telangana, Hyderabad	Member

Contd....2

13	The Director, Agriculture Department, Telangana, Hyderabad	Member
14	The Director of Factories, Telangana, Hyderabad	Member
15	The Director of Skill Development Board, Telangana, Hyderabad	Member
16	Local Representative, United Nations Children's Fund (UNICEF)	Member
17	Representative, Corporate Social Responsibility (CSR) Unit of Telangana Confederation of Indian Industry (CII)	Member
18	Representative, Federation of Telangana and Andhra Pradesh Chambers of Commerce and Industry (FTAPCCI)	Member

3. The concerns of the committee will be

- (i) to finalize and update periodically the strategy for elimination of child labour in Telangana State ,
- (ii) to issue guidelines for conduct of survey / periodical updation of the data regarding prevalence of child labour in hazardous occupations,
- (iii) to approve action plans / programmes for release and rehabilitation of child labour,
- (iv) to monitor and enforcement of relevant labour laws relating to release of children from hazardous occupations and other working children,
- (v) to monitor the programmes relating to education of children released from work and particularly implementation of National Child Labour Projects,
- (vi) to issue guidelines and monitor the employment / rehabilitation of families of child labour as per the directions of the Supreme Court,
- (vii) to monitor the implementation of directions of the Supreme Court relating to "Child Labour rehabilitation-cum-welfare fund" constituted as per the directions of the Supreme Court.

4. The State Level Monitoring Committee should meet as frequently as required but at least once in a quarter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

**DR. RAJAT KUMAR,
PRINCIPAL SECRETARY TO GOVERNMENT**

To

The Principal Secretary to Government, LET & F Department
 The Secretary to Government, Finance Department
 The Secretary to Government, Women, Children, Disabled & Senior Citizens Dept
 The Secretary to Government, Law Department
 The Principal Secretary to Government, Panchayat Raj & Rural Development Dept
 The Principal Secretary to Government, School Education Department
 The Principal Secretary to Government, Health Medical and Family welfare Dept
 The Principal Secretary to Government, Municipal Administration & Urban Development Department
 The Commissioner of Labour, Telangana, Hyderabad.
 The Director General of Police, Telangana, Hyderabad
 The Commissioner and Director, School Education, Telangana, Hyderabad

Contd....3

The Director, Agriculture Department, Telangana, Hyderabad
The Director of Factories Department, Telangana, Hyderabad
The Director of Skill Development Board, Telangana, Hyderabad
The Representative, UNICEF, Hyderabad.
The Representative, Corporate Social Responsibility (CSR) unit of Telangana CII, Hyderabad.
The Representative, FAPCCI (unit of Telangana), Hyderabad.
All District Collectors in the State.

Copy to:

The P.S. to Special Secretary to C.M.
The P.S. to Minister(Home & Labour)
The P.S. to Chief Secretary to Government
The P.S. to Prl. Secy., LET&F Dept.,
SC/SF

// FORWARDED :: BY ORDER //

SECTION OFFICER

RELEVANT POLICY XIX

GOVERNMENT OF TELANGANA ABSTRACT

Labour Employment Training & Factories Department – Constitution of State Resource Centre Society for implementation and monitoring of the National Child Labour Project (NCLP) Scheme in the Telangana State – Orders – Issued.

LABOUR EMPLOYMENT TRAINING & FACTORIES (LABOUR) DEPARTMENT

G.O.Rt.No. 246

Dated: 26-05-2018

Read the Following:-

1. G.O.Rt.No.317, LET&F (Lab) Department, Dated: 05.05.2017.
2. From the Deputy Secretary to the Government of India, Ministry of Labour & Employment, New Delhi, Office Memorandum No.G-20013/1/2012-CL, Dated: 31.10.2017.
3. From the Commissioner of Labour, Telangana, Hyderabad, Lr.No.J1/516/2017, dated: 23.02.2018.

ORDER:

In the G.O. 1st read above, Government have issued orders constituting a State Resource Centre (SRC) with certain members for coordinating all the activities / programmes for elimination of Child Labour in Telangana State as per the draft Telangana State Action Plan.

2. In the Office Memorandum 2nd read above, the Deputy Secretary to the Government of India, Ministry of Labour & Employment, New Delhi have modified the National Child Labour Project Scheme implemented by the Ministry of Labour & Employment for rehabilitation of child labourers in the Country.

3. In the letter 3rd read above, the Commissioner of Labour, Telangana, Hyderabad has submitted proposals for constitution of State Resource Centre Society for implementation and monitoring of the National Child Labour Project Scheme in Telangana State as per the instructions issued in the Office Memorandum 2nd read above.

4. Government, after careful examination of the matter hereby constitutes the State Resource Centre Society for implementation and monitoring of the National Child Labour Project (NCLP) Scheme in the Telangana State duly superseding the G.O. 1st read above:

(a) Members of the Society:

Sl. No.	Post and Address	Designation in the Society
1	Commissioner of Labour, Telangana, Hyderabad	Chairperson
2	Joint Commissioner of Labour (to be nominated by the Commissioner of Labour, Telangana, Hyderabad)	Member Secretary
3	Representative from Director General of Police	Member
4	Director of Factories, Telangana, Hyderabad	Member
5	Director, Sarva Shiksha Abhiyan or his representative	Member
6	Director of Employment & Training, Telangana, Hyderabad or his representative	Member
7	Representative of UNICEF	Member

Contd.....2

(b) Functions of State Resource Centre (SRC):

- i. Coordinate rescue of children and adolescents on complaint or information and report in PENCIL for information of Central Government.
- ii. Monitor enforcement of the Child and Adolescent Labour Act in the State and update the information in Online portal-PENCIL.
- iii. Coordinate inspection and monitoring of implementation of the NCLP in State and supervise the data of Project Societies on PENCIL.
- iv. Coordinate data on child tracking system with respect to child labour in State on PENCIL.
- v. Make Awareness Generation Plan for various stakeholders and implement it.
- vi. Be the Focal point for communication with the Central Government on enforcement on Child and Adolescent Labour Act and implementation of NCLP.
- vii. Would provide overall management and monitoring oversight to all child labour prevention projects in the State.
- viii. Will also function as the Secretariat for the State Level Monitoring Committee (SLMC) and assist the Commissioner of Labour, Telangana to coordinate with Departments concerned at State and District Level to strengthen convergence mechanisms and accelerate the implementation of the Project.
- ix. Will also be responsible for conducting and planning, training, capacity building and awareness programme on child and adolescent labour. It would be manned by officials of State Labour Department.

(c) State Resource Centre would be State Government supported Society registered under Telangana Societies Registration Act, 2001:

- (i) The State Resource Centre Society will maintain separate bank accounts to receive any financial assistance from Government of India.
 - (ii) The Utilization Certificates (UC) need to be submitted by the Commissioner of Labour, Telangana. Balance sheet of the Society is required to be regularly maintained and audited by Chartered Accountant and duly signed by the Labour Commissioner
5. The Commissioner of Labour, Telangana, Hyderabad shall take further action in the matter accordingly.
6. This orders issues with the concurrence of the Finance (EBS.X) Department vide their U.O.Note.No.19371/41/A2/EBS.X/2018, Dated: 25.04.2018.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. SHASHANK GOEL,
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Commissioner of Labour, Telangana, Hyderabad.
The Officers concerned through the Commissioner of Labour.

Copy to:

The P.S. to Special Secretary to Chief Minister.
The P.S. to Minister (Home & Labour).
The P.S. to Chief Secretary.
The Officer-in-charge, UNICEF Field Office for Telangana,
317/A, MLA Colony, Road No.12, Banjara Hills, Hyderabad-500 034.

SC

// FORWARDED :: BY ORDER //

SECTION OFFICER

MOST IMMEDIATE

No. 14051/14/2011-F.VI
Government of India
Ministry of Home Affairs
(Foreigners Division)

Dated 1st May, 2012

OFFICE MEMORANDUM

Sub: Advisory on preventing and combating human trafficking in India - dealing with foreign nationals.

The undersigned is directed to refer to this Ministry's Office Memorandum No. 15011/6/2009-ATC (Advisory) dated 09.09.2009 on the above mentioned subject (copy enclosed). It has come to the notice of this Ministry that foreign nationals are associated in some instances of human trafficking among women and children.

2. Further to the detailed procedure outlined in the above mentioned Office Memorandum, it has been decided with the approval of the competent authority that in cases of foreign nationals who are apprehended in connection with human trafficking, the State Governments / UT Administrations may follow the following procedure :-

- (i) Immediately after a foreign national is apprehended on charges of human trafficking, a detailed interrogation/investigation should be carried out to ascertain whether the person concerned is a victim or a trafficker.
- (ii) The victims and the persons actually involved in human trafficking should be treated differently by the police authorities. This is in line with the SAARC Convention which advocates a victim-centric approach.
- (iii) Missions/Posts in India may be informed of the arrest/detention of the foreign national by the concerned state or other authorities through CPV division in the Ministry of External Affairs(MEA) or the concerned territorial Division in MEA.

Contd...2...

- (iv) It is seen that in general, the foreign victims of human trafficking are found without valid passport or visa. If, after investigation, the woman or child is found to be a victim, she should not be prosecuted under the Foreigners Act. *If the investigation reveals that she did not come to India or did not indulge in crime out of her own free will, the State Government / UT Administration may not file a charge sheet against the victim. If the chargesheet has already been filed under the Foreigners Act and other relevant laws of the land, steps may be taken to withdraw the case from prosecution so far as the victim is concerned.* Immediate action may be taken to furnish the details of such victims to the Ministry of External Affairs (Consular Division), Patiala House, New Delhi so as to ensure that the person concerned is repatriated to the country of her origin through diplomatic channels.
- (v) During the interim period, pending repatriation, the victim may be taken care of in an appropriate children's home, or "Ujjawala" home or appropriate shelter home either of the State Government concerned or of any NGO aided by the Government of India / State Government.
- (vi) If the investigation reveals that the person is actually a trafficker, he/she may be charge-sheeted under the Immoral Trafficking Prevention Act and the Foreigners Act and due process of law should be followed in such cases.
- (vii) In order to ensure better conviction rates of perpetrators of the crime of trafficking, prosecution should be based on documentary, forensic and material evidence. State Governments are advised to encourage the law enforcement agencies to investigate the cases in a manner that they are able to build fool proof cases against the traffickers, so that convictions can be guaranteed. Use of fast-track courts and video conferencing to the extent possible also need to be ensured. Please refer to para 7 of the enclosed Advisory dated 9.9.2009.

Contd...3..

3. All other instructions contained in this Ministry's Advisory dated 09.09.2009 including reporting to the Anti Human Trafficking Nodal Cell in MHA will be applicable in the case of foreign nationals associated with human trafficking, whether they are women or children(children means both boys and girls upto 18 years of age).

4. You are requested to issue suitable directions to all concerned under intimation to this Ministry.

5. The receipt of this Office Memorandum may kindly be acknowledged.

(G.V.V. Sarma)

Joint Secretary to the Govt. of India

To

The Chief Secretaries/Principal Secretaries/ Secretary (Home) of all State Governments and Union Territory Administrations.

Copy for information and necessary action to:-

- (i) The DGs / IGs (In-charge of Prisons) /- All State Governments/ UTs
- (ii) Sri Sandeep Goel, Joint Commissioner(Crime), 3rd Floor, Police Station Kamla Market, Delhi.
- (iii) Ministry of Women and Child Development(Smt. Aditi Ray, Senior Economic Advisor), Shastri Bhavan, New Delhi.
- (iv) Secretary, Ministry of Labour, Shram Shakti Bhavan, New Delhi
- (v) Secretary, Ministry of Social Justice & Empowerment, Shastri Bhavan, New Delhi.
- (vi) Secretary, Ministry of Overseas Indian Affairs, Akbar Bhavan, New Delhi.
- (vii) Ministry of External Affairs:
 - (a) Addl. Secretary(PV) (b) JS(Consular) (c) JS(BSM)
- (viii) Chairperson, National Commission for Women, 4, Deen Dayal Upadhyaya Marg, New Delhi.
- (ix) Chairperson, National Commission for Protection of Child Rights, 5th Floor, Chandralok Building, Janpath, New Delhi.
- (x) Chairperson, National Human Rights Commission, Copernicus Marg, New Delhi.
- (xi) Director General, NCRB, R.K.Puram, New Delhi.
- (xii) Director General, BPR&D, New Delhi.
- (xiii) Director General, Border Security Force, New Delhi.
- (xiv) Director, CBI, New Delhi..
- (xv) AS(CS) / JS(CS) / JS(UT) / JS(NE) / JS(K), MHA, North Block, New Delhi.

(G.V.V. Sarma)
Joint Secretary to the Govt. of India

F.NO.15011/6/2009-ATC (Advisory)
GOVERNMENT OF INDIA/BHARAT SARKAR
MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA
NORTH BLOCK NEW DELHI/CS DIVISION

New Delhi, the 09.09.2009

OFFICE MEMORANDUM

Subject: Advisory on Preventing and Combating Human Trafficking in India

Introduction:

The Trafficking in Human Beings (THB) is a crime committed in order to target, lead or drive a human being into an exploitative situation with the aim to make profits. Such exploitation may take many forms, for example commercial sexual exploitation, child labour, forced labour, bonded labour or illegal organ removal etc. The country is witnessing cross-border as well as internal (intra-country) trafficking.

Human Trafficking and Indian Laws:

Trafficking in Human Beings (THB) is prohibited under the Constitution of India under Article 23 (1). Following specific legislations deal with Trafficking in Human Beings (THB)

- Laws relating to trafficking in women and children being administered by the MWCD (wcd.nic.in)
 - i. Immoral Traffic (Prevention) Act, 1956.
 - ii. Prohibition of Child Marriage Act (PCMA), 2006.
- The “Bonded Labour System (Abolition) Act, 1976”, being administered by Ministry of Labour and Employment (labour.nic.in), provides for abolition of the system of bonded labour and the rehabilitation of released labourers. Child Labour (Prohibition and Regulation) Act, 1986 is also being administered by Ministry of Labour.
- Further, commercial dealing in human organs is a punishable offence under the Transplantation of Human Organs act, 1994, being administered by Ministry of Health and family Welfare (mohfw.nic.in). The appropriate authorities appointed under the Act are responsible and empowered to check the illegal activities of human organs traffickers.
- Specific Sections in the IPC, e.g., Sections 372 and 373 dealing with selling and buying of girls for the purposes of prostitution.

‘Public Order’ and ‘Police’ as per the 7th Schedule of the Constitution of India, are State subjects and, as such, detection, registration, investigation and prevention of crime is primarily the responsibility of the State Governments. However, Central Government supplements the efforts of the State Governments by providing policy guidelines, financial assistance for modernization of the State Police Forces in terms of weaponry, communication, equipment, mobility, training and other infrastructure under the Scheme of Modernization of State Police Forces.

A working Group comprising of Directors General of Police of some of the affected States was constituted in 2004 by MHA to study the issues relating to cross border trafficking. The recommendations of this group were sent to the State Governments and they were advised to

evolve a comprehensive strategy for effectively dealing with the problem of trafficking. Also an “**Integrated National Plan of Action to Prevent and Combat Trafficking in Human Beings Specially Women and Children**” (nhrc.nic.in/planofaction.doc), which has been worked out through a consultation process of all related Ministries and other stakeholders, has been adopted by Government of India in the Ministry of Women and Child Development. This plan deals with all aspects of prevention, rescue, registration of cases, investigations, prosecution, conviction, cross border trafficking issues, rehabilitation, repatriation and reintegration of victims etc. Based on these the recommendations of DGPs and the integrated action plan stated above the State Governments may evolve a holistic approach towards combating Trafficking in Human Beings (THB), encompassing all aspects of prevention, rescue and rehabilitation. Convergence should be adopted between various state departments and stakeholders for effective of handling of crime of Trafficking in Human Beings (THB).

Following key points of advice have been worked out in collaboration with the related Ministries of Women and Child Development, Labour and Employment, and Health and family Welfare where the assistance/ action by the State Government/ Police would be required for the effective implementation/ enforcement of laws relating to Trafficking in Human Beings (THB):

1. **Constitution of the State Advisory Committee for Preventing and Combating Trafficking of Women and Children for Commercial Sexual Exploitation.**

According to the Supreme Court order dated 2/05/09 (Vishal Jeet Vs Union of India), every State Government should set-up a State Advisory Committee for Preventing and Combating Trafficking of Women and Children for Commercial Sexual Exploitation. Ministry of Women & Child Development (MWCD) has already issued an advisory in this regard to all the State Governments. .

2. **Implementation of Immoral Traffic (Prevention) Act (ITPA), 1956.**

- 2.1. Since ITPA is the main Act that can be used to book trafficking for commercial sexual exploitation, its implementation is essential for counter-trafficking. Under Section 23, the State Government may, by notification in the Official Gazette, **make rules for carrying out the purposes of the Act.** Such rules may be formulated, notified and intimated to MWCD with a copy to MHA.
- 2.2. Under Section 13, the State Government may **appoint ‘Special Police Officers (SPOs)’** and the ‘Non-official advisory bodies’ to advise the SPOs for dealing with offences under the Act.
- 2.3. Under Section 21, the State Governments may set-up ‘Protective homes’ and ‘Corrective institutions’ for ensuring proper implementation of the provisions of the Act. **The information regarding these homes may be circulated to all Police Stations and officers dealing with the trafficking cases.**
- 2.4. Under Section 22-A, the State Government may, by notification in the Official Gazette, **and after consultation with the High Court, establish one or more Courts** for providing speedy trial of the offences under the Act.
- 2.5. It is generally noticed that sections 8 and 20 of ITPA, which focuses on the victims, are more often invoked as a result of which the victim is re-victimized and the exploiters are not punished. It is, therefore, advised that sections 3, 6 and 7 which pertains to pimps, brothel owners, clients who are actual perpetrators of the crimes need to be invoked rather than sections 8 and 20. **Law enforcement agencies need to adopt a victim centric approach in the investigations.**

3. **Implementation of Juvenile Justice Act (JJ Act), 2000:** Juvenile Justice Act provides comprehensive mechanism for care and protection of children including rehabilitation and social integration of children. Therefore, its implementation is essential to address trafficking of children. Following provisions of the Act are concerned with the Home Department/ Police and require action by the State Governments:
 - 3.1. Under Section 62-A, the State Government shall constitute 'Child Protection Units' for the State and districts to fulfill its responsibilities as stipulated under the Act.
 - 3.2. Under Section 63, in each police station, at least one police officer may be designated as the 'Juvenile or Child Welfare Officer' to handle a juvenile or child in coordination with the police.
 - 3.3. Under Section 68, the State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.
4. **Implementation of Prohibition of Child Marriage Act (PCMA), 2006:** Prohibition of Child Marriage Act (PCMA) was enacted in 2006 repealing Child Marriage Restraint Act, 1929. It is reported that traffickers in some pockets in the country are exploiting evil custom of child marriage to target innocent girls for trafficking. Therefore, it is essential to implement the Act to address this modus operandi of traffickers.
 - 4.1. As per PCMA, State Governments under Section 19 (1), may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.
 - 4.2. Under Section 16, the State Government may appoint 'Child Marriage Prohibition Officers' to fulfill the mandate as stipulated in the Act. State Governments may intimate the MWCD about the status of appointment of Prohibition Officers and Rules.
 - 4.3. The State Governments are to maintain MIS and send quarterly information on number of cases registered under PCMA and convictions.
 - 4.4. On receiving a complaint about child marriage, police are required to follow the procedure laid down in the Code of Criminal Procedure, 1973, which include registering an FIR and carrying out investigation.
 - 4.5. The offences under PCMA are cognizable and non-bailable, hence, immediate arrest of offenders is necessary.
 - 4.6. Extra vigilance should be maintained during festivals such as 'Akshya Tritha' to ensure that no child marriage takes place.
5. **Capacity building of the State machinery:** Implementation of the legal provisions in relation to applicable Acts- CLPRA, BLSA, IPTA, JJA and IPC involves not only police but many other officials dealing with the Criminal Justice System - notably the executive magistrates, the labour officials, CWC members and in-charges of Homes. Therefore, the State government may initiate a time bound action plan to build the required capacity of the state investigation and prosecution machinery in this regard. Some of the key areas identified for capacity building are listed below.
 - 5.1. Identification of victims of trafficking for the purpose of commercial sexual exploitation, child/bonded/forced labour and for illegal organ removal.
 - 5.2. Recognition of all applicable legal provisions of the law to a case of trafficking (not just one Act or two) by law enforcement machinery.

- 5.3. Understanding of legal and administrative provisions for inter-state and cross border investigation.
- 5.4. Understanding of legal provisions for closure of places of exploitation.
- 5.5. Understanding of legal provisions for confiscation of proceeds of crime.
- 5.6. Understanding of the mechanism in place for victim support and assistance.
- 5.7. Integrated actions on prosecution, prevention and protection by building linkages with other Government departments and agencies, including NGOs.
- 5.8. For capacity building the Bureau of Police Research and Development (BPR&D) (www.bprd.gov.in), at the behest of MHA, has prepared a **training manual on Human Trafficking Handbook for Investigators** and this has been circulated to the States for use in the police Training Institutes. All the training materials have also been uploaded on BPR&D website. BPR&D has already translated the training material in Hindi, Telugu and Marathi languages. 12 Resource Books on 'Training and Investigation on Anti-Human Trafficking' prepared as a result of pilot project between MHA and UNODC (www.unodc.org/india/ind_s16.html) have also been uploaded on BPR&D website. These resource materials should be used by State Governments for the capacity building of all agencies involved in prevention of human trafficking.
- 5.9. Also MWCD, in collaboration with National Institute of Public Co-operation and Child Development (NIPCCD) and UNICEF, has developed manuals for training of stakeholders such as 'Judicial Handbook on Combating Trafficking of Women and Children for Commercial Sexual Exploitation', 'Manual for Medical Officers for dealing with Child Victims of Trafficking and Commercial Sexual Exploitation', counseling services for Child survivors of trafficking', Counseling services for Child survivors of trafficking', Social workers.
- 5.10. States may organize training/workshops/awareness campaign to sensitize their SHOs/Dy. SP/ACP and other law enforcement agencies towards the crime, safety and security of women and children.
- 5.11. The **Compendium of Best Practices in handling cases of human trafficking** (www.unodc.org/india/ind_s16.html) **has already been circulated** to all the State Governments and UT Administrations for information and appropriate use.

6. Prevention of Trafficking:

- 6.1. It has been noticed that people, especially women and children are vulnerable to trafficking during 'distress migration' and from 'disaster prone areas'- such as during floods, earthquakes, crop failures, riots, terrorist activities etc. Therefore, it is important to establish extra vigilance in this regard around transit points and at borders- inter-district/inter-state and international.
- 6.2. Police should work closely with immigration authorities, Border Security Force (BSF), Railways and other transport authorities, provincial/ territorial and municipal agencies, with Social Services, child welfare authorities and with any NGOs involved in service delivery for spotting and rescuing the victims.
- 6.3. Effective patrolling and vigil at locations prone to trafficking such as highways, dhabas, railway stations and bus stations for suspicious movement of traffickers and victims and monitoring, through involvement of village community, the suspicious/ unnecessary movements of strangers in the villages.

- 6.4. Pro-active policing through information exchange with representatives from the local Government, community, NGOs with a view to raise awareness and garner active support of the community.
- 6.5. Periodical checks on transporters to prevent physical transportation of the trafficked persons.
- 6.6. Prevention at the demand area by understanding/ addressing new forms of demand. For example, placement agencies providing domestic child labourers.
- 6.7. Facilitating inter-State collaboration by sharing data on missing children/ kidnappings and suspected offenders. Development of victim and offender profiles on an inter-agency basis.
- 6.8. Sensitization programmes/workshops for police officers/railway police force and prosecutors on various legislations mentioned above in relation to trafficking. State nodal officers may hold periodical meetings to review and monitor the efforts taken to prevent and combat the crime of trafficking.
- 6.9. In case of child trafficking, following provisions also need to be kept in view:-
 - 6.9.1. Identification of children at risk, (e.g. following raids on off-street sites, responding to referrals from other agencies, NGO or members of the public, following up reports of missing children).
 - 6.9.2. Report instances of children in need of protection to relevant child protection agencies. For this purpose the Police Stations could be sensitized.
 - 6.9.3. The development of victim profiling with other agencies.
 - 6.9.4. Undertaking joint interviews with social workers of children identified as victims or potential victims to assess risk and assist in the development of protection plans.
 - 6.9.5. Carry out checks on sponsors and people who claim to be the relatives of children identified as being at risk of trafficking.
 - 6.9.6. Participating in local child protection networks with related organizations (immigration, social services, NGOs, health, education) to develop joint approaches to the issue at local level and contribute to wider forums as appropriate.
 - 6.9.7. If children disappear, initiate missing person's procedures, investigate circumstances and circulate information/ undertake investigations, linking with other agencies as required.
 - 6.9.8. Ministry of Labour & Employment has developed a detailed protocol for prevention, rescue, repatriation, rehabilitation and reintegration of migrant and trafficked child labour. The protocol has been issued to all State Governments for implementation.

7. Investigation & Prosecution:

- 7.1. Standard operating procedures for Investigation have been developed under the pilot project between MHA and UNODC as mention in para 5.8 above, which can be used for effective investigation in trafficking related crimes.
- 7.2. One of the effective means of securing better conviction rates of perpetrators of crime

of trafficking is to base the case on documentary, forensic and material evidence. At present, most of the time, the victim is being used as a witness and more often than not, he/she can easily be intimidated. State Governments are advised to encourage the law enforcement agencies to build full proof investigation against the traffickers, so that, convictions can be guaranteed.

- 7.3. Use of fast track courts and video conferencing to the extent possible.

8. Rescue and Rehabilitation

- 8.1. Police should work with other agencies and stakeholders to ensure that those who are rescued or who choose to return are not re-trafficked; this should include a risk assessment of the danger to returning victims (child care authorities would prepare risk assessment for children).
 - 8.2. Identifying support services and referring victims/ potential victims to specialist NGO's and safe accommodation, where these are available. The Ministry of Women and Child Development runs short stay homes Swadhar shelter homes for women in difficult circumstances (wcd.nic.in/Comscheme.doc). These cater to trafficked women/girls rescued or runaway from brothels or victims of sexual crimes who are disowned by family or who do not want to go back to respective family for various reasons. The schemes provide for shelter, food, clothing for women and children below the age of 18 years, counseling, clinical, medical, legal and other support, training and economic rehabilitation and helpline facilities.
 - 8.3. A new scheme - UJJAWALA (wcd.nic.in/Comscheme.doc) – a comprehensive scheme for prevention of trafficking, rescue, rehabilitation, reintegration and repatriation of the victims of commercial sexual exploitation has been launched on 04.12.2007 by the Ministry of women and Child Development which should be effectively used by the State Governments.
9. MHA has already established an Anti Trafficking Cell (ATC) under the Director (SR) which deals with the following major subject matters:
- 9.1. All matters pertaining to the criminal aspect of trafficking in human beings especially of women and children, which is the fastest growing organised crime and an area of concern.
 - 9.2. To act as the Nodal cell for dealing with the criminal aspect of Human Trafficking in India, hold regular meetings of all States and UTs, communicating various decisions and follow up on action taken by the State Governments.
 - 9.3. To interface with other Ministries like MWCD, MSJE, MEA, MOIA, MOLE, MOL, MOT and NCRB regarding the criminal aspect of human trafficking.
 - 9.4. All matters relating to the UNODC, UNIFEM, their meetings, conferences, conventions, reports etc. in the context of the criminal aspect of Human Trafficking.
10. The Anti Trafficking Nodal Cell of MHA has developed an MIS proforma for the monitoring of the action taken by various State Governments regarding the criminal aspect of human trafficking as well as crime against women. The State Governments are requested to send quarterly information on 1st January, 1st April, 1st July and 1st October of the year in the prescribed proforma.
11. You are requested to issue suitable directions to all concerned under intimation to this Ministry. It is further requested that action taken in this regard may be regularly / periodically

reviewed by the State Governments and UT administrations and a report indicating the present status sent to this Ministry within a month.

12. This advisory is being issued in consultation with the Ministry of Women and Child Development and Ministry of Labour and Employment.

The receipt of this letter may kindly be acknowledged immediately.

Yours faithfully,

-Sd-

(Nirmaljeet Singh Kalsi)
Joint Secretary to the Government of India
Ministry of Home Affairs, North Block
New Delhi - 110001
Tel. No. 23092630

To,

The Chief Secretaries &

The Principal Secretary / Secretary (Home)

All State Governments and Union Territory Administrations – for information and necessary action.

Copy for information and necessary action to:

- i. The DGs / IGs (In-charge of Prisons)/ - All State Governments / UTs for information and necessary action.
- ii. Ministry of Women and Child Development (Mrs. Manjula Krishnan, Advisor & Joint Secretary, MWCD, Ms. P. Bolena, Joint Secretary) Shastri Bhawan, New Delhi.
- iii. Ministry of Labour (Shri S.K. Dev Verman, Jt. Secy.), Shram Shakti Bhavan, New Delhi.
- iv. Ministry of Social Justice and Empowerment (Sh. D.V.S. Ranga, Joint Secretary), Shastri Bhawan, New Delhi.
- v. Ministry of Overseas Indian Affairs (Shri G. Gurucharan, Jt. Secy.), New Delhi.
- vi. Ministry of External Affairs, (Joint Secretary SAARC and Joint Secretary UNES) South Block, New Delhi.
- vii. Chairperson, National Commission for Women, 4, Deen Dayal Upadhyaya Marg, New Delhi-110 002.
- viii. Chairperson, National Commission for Protection of Child Rights, 5th Floor, Chandralok Building, Janpath, New Delhi-110 001.
- ix. Chairperson, National Human Rights Commission, Copernicus Marg, New Delhi.
- x. Director General, NCRB, RK Puram, New Delhi.
- xi. Director General, BPR&D, New Delhi.
- xii. Director General Border Security Force, New Delhi
- xiii. Director, CBI, New Delhi.
- xiv. JS (UT)/ JS (NE) /JS (K), MHA, North Block, New Delhi.
- xv. Under Secretary (Parliament), MHA, North Block, New Delhi.

-Sd-

(Nirmaljeet Singh Kalsi)
Joint Secretary to the Govt. of India



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