

Monitoring the Rights of Vulnerable Migrant Children

with Trafficking Point of View



National Commission for Protection of Child Rights
5th Floor, Chanderlok Building, 36-Janpath,
New Delhi 110001

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Foreword

This approach paper “NCPCR’s Intervention in Monitoring the Rights of Migrant Children with Trafficking Point of View” is an outcome of NCPCR’s direct interventions on the subject through field visits, complaints redressal and responding to various Court matters. My special thanks to Dr. Ramanath Nayak (Sr. Consultant, Anti-Trafficking) who has painstakingly put together the related documents in the form of an approach paper for larger use. I also wish to thank Ms. Nina P. Nayak for assisting with this documentation and all other Members and officials for providing their inputs to improve the same.

Dr. Shantha Sinha
Chairperson, NCPCR

NCPCR's Intervention in Monitoring the Rights of Vulnerable Migrant Children with Trafficking Point of View

1. INTRODUCTION: STATEMENT OF PROBLEM

Migration of people within the country from one district to another, one State to another and from rural to urban India has become an everyday phenomenon. Thousands of people, including women and children, move either on a permanent or semi-permanent basis, but largely the movement is for a short duration in the lean season from their current place of residence.

The Census and National Sample Survey (NSS) are the two main sources of migration data in India. Census 2001 has classified categories of internal migration into seven broad groups – work/employment, business, education, marriage, moved at birth, moved with family and others and it accounts for 307.1 million and it is expected to touch a higher figure in the 2011 census. According to NSS 64th Round national survey, 78 percent of the migrant households in rural areas and 72 per cent of the migrant households in the urban areas had their last usual place of residence within the State¹. There is a gap in data on the internal migration as in India internal migrants are not required to register themselves with any local authority, either at the source point or the destination. Thus, information on the nature, pattern and structure of internal migration is not available even among the Ministry of Labour and the State Departments of Labour, and the available official data does not adequately capture the seasonal short-term migration and displacement migration.

¹ Migration in India (2007-2008), NSS 64th Round (July 2007 – June 2008), National Sample Survey, Government of India, June 2010, p. H-i.

Some of the reasons for distress migration of people leading to trafficking in human beings especially women and children from one district to another or from one State to another are as follows:

- (i) economic disparity between regions;
- (ii) scarce employment opportunities;
- (iii) natural calamities;
- (iv) development-induced displacement;
- (v) situations of conflict within communities;
- (vi) sharp decline in the share of agriculture in total employment² and exhaustion of the scope for absorbing substantial additional labour force in agriculture;
- (vii) fragmentation of land holdings;
- (viii) declining public investment in agriculture in rural India consequently there is evidence of mass exodus to areas with industrial development or high agricultural production which offer better prospects for jobs or self-employment;
- (ix) mining, building dams, hydroelectric projects and industrial development resulting in large-scale displacement of the people in the countryside; and
- (x) enormous demand for labour in urban/ industrialized centres.

2. PROFILE OF MIGRANT CHILDREN

Definition of Migrant Children

There are various types of migration, such as temporary, seasonal and circulatory migration. Though there is no holistic study/survey on migrant population, especially the children accompanying their family members, and the figures drawn often underestimated. The migration data relate to population mobility and not worker mobility, although, economic theories of migration are primarily about labour migration.

² Centre for Science and Environment's Report (for the Ministry of Rural Development), on "An Assessment of the Performance of the National Rural Employment Guarantee Programme in Terms of its Potential for Creation of Natural Wealth in India's Villages", September 2008, p.9.

This is because the definitions of migrants used in surveys, e.g., change from birthplace and change of last usual place of residence (UPR) are not employment related. The surveys on migration only consider the primary reason for migration and not the secondary economic reasons like women married and migrating with their husbands. Also migration data relate to stocks of migrants and not to the flows, though the various policy concerns relate to both stocks and flows.³ With regard to child population in distress family migration, few pilot studies or limited field evidence suggests that children accompanying their parents in the 0-14 year age-group may constitute about one-third of the total migrant population, while those in the elementary school age group (6-14 years of age) total approximately 20%, or nearly 6 million. These are conservative estimates, however, and the reality may well surpass this.⁴

The migration process is considered as an opportunity if it is migration by choice. But the distress or forced migration often leads to further vulnerabilities. There is no much distinction between trafficking in person and forced/distress migration as migration is distinguished from human trafficking by a very thin-line. Initially the migrant workers were given the impression that they are migrating to other places to enhance their earning though decent job, but remain no choice when they are given in the custody of some other contractor/agent, whom they have been meeting for the first time. Recruitment of workers and their transportation for the purpose of exploitation leads to human (including children) trafficking, which is certainly an organised crime.

It is estimated that there are approximately 15 million child migrants in India⁵, who constitute the children not enrolled in schools and who are dropouts. The pattern of migration of children could be seen as follows:

³ Incidence of Child Migration in Western Odisha, Migration Information and Resource Centre, Aide et Action, South Asia, 2009, p. 3.

⁴ Smita, Distress Seasonal Migration and its Impact on Children's Education, National University of Educational Planning and Administration NUEPA, 2008, p.5

⁵ U. Daniel and Smita, presentations at the UNESCO-UNICEF National Workshop on Internal Migration and Human Development in India, 6-7 December 2011, New Delhi.

i) Children Accompanying Families:

- Most such children are forced to leave schools as there are no institutional arrangements at home for their education. They suffer from lack of healthcare, safety and wellbeing;
- Sooner than later they get inducted into employment or are left unattended or become victims to trafficking, as there are no facilities available to meet their specific developmental needs.
- Older children accompanying their parents tend to become part of the workforce. Girls are engaged in domestic chores of fetching water, fuel wood and taking care of siblings on site. Since families either live in temporary structures provided by contractors or in slums/outlying areas, the local administration does not include children of migrants to provide them access to basic entitlements to health, nutrition, education, sanitation and hygiene and other services available through anganwadis, crèches, schools, local PHCs and hospitals etc.
- The families are treated as outsiders, discriminated, live as unlawful citizens who lack any official documents, and bereft of required papers, their access to basic goods and services is at a premium in the black market economy and this affects the entitlements of their children.⁶;
- Worksites are not women-friendly and they face health/life risks, often lack secure shelter, toilet, drinking water or crèche facility for young children;
- Women migrants are paid less, their economic contribution is subsumed, are denied maternity entitlements and are more vulnerable to sexual harassment and abuse. Lactating mothers are deprived of breastfeeding breaks at worksites and often one of them takes care of all the toddlers on a rotation basis, losing the wage of that particular day.

⁶ Preeti Mann, "Urban migration and exclusion" The Hindu - the Business Line, August 1, 2012, <http://www.thehindubusinessline.com/todays-paper/tp-opinion/urban-migration-and-exclusion/article3709009.ece>

ii) *Children trafficked for employment and exploitation who are not accompanied by adults or their families*

- In the case of children (mostly in the age group of 12 years and above) unaccompanied by their families, the middlemen/ contractors lure and take them to various places with the promise of jobs and good earnings and even better education. No information is given to their families or kith and kin on their welfare and safety. Once they land in new places, they are forced to work in confinement in an environment of abuse and exploitation.
- The trend of alluring adolescent girls by the placement agencies from the backward and tribal regions to the metropolitan cities have gone up and they are mostly engaged in domestic work being prone to sexual exploitation and abuse. Cases of adolescent girls lured into sex trafficking is also not uncommon. In 2007, the Ministry of Women and Child Development reported presence of 2.8 million sex workers in India, with 35.47 percent of them entering the trade before the age of 18 years.

iii) *Children left behind at home (source area) while the parents go out as migrant labours.*

- Children who have been left behind, remain either with their mother in cases where only the father has migrated or with the aged extended family members or are admitted into hostels, residential schools or childcare institutions with no guarantee on the quality of care and education they access. Sometimes they are left behind to head the household and arrangements for their provisions are made with the local shop, who settles the account once both the parents return. The children who stay back do not want compromise their education.

3. MIGRATION AND IMPACT ON CHILDREN

Migration has differential impacts on children of different age groups, such as:

- i. **Children of 0-6 years** are deprived of health, nutrition and pre-school education. They lack birth certificate, immunization, health facilities, resulting in acute malnourishment, sickness and mortality. They also lack access to anganwadis, crèche, safe drinking water, sanitation, etc.
- ii. **Children of 6-14 years** are increasingly school dropouts having no access to schools in the place of work and denial of schooling leads to engagement of children in various other activities that includes work on site with the members of the family causing health hazards, exploitation and abuse.
- iii. **Children of 14-18 years** are out-of-school, constitute an active labour force and are exposed to risks of drug abuse and sexual exploitation. The adolescent girls are vulnerable to sexual exploitation and get pushed into the sex trade; fall victims to early marriage, early pregnancies, face the risk of contracting HIV/AIDS, sexually transmitted diseases and other health problems.

4. ROLE OF CONTRACTORS/ MIDDLEMEN

- The process of migration, especially the distress migration, often leads to trafficking in person, as migration is distinguished from human trafficking by a very thin-line. The migrant workers were given the impression that they are migrating for decent job, but remain no choice when they are given in the custody of some other contractor.
- Taking advantage of the vulnerabilities of the families in backward areas the labour contractors and middlemen offer them an advance in the lean season and take them to various labour sites. The middlemen hand them over to another

contractor (who is not known to the migrants) who in turn takes them to the labour site or hands them over to yet another labour contractor. The process of labour transfer or trafficking proves to be a lucrative business for the middlemen /labour contractors.

- Due to increase in the sub-contracting, exploitation of migrant population is rampant and the private contractors hardly abide by the labour laws and agreements and there is poor monitoring on the part of the State to protect the interests of migrants.

5. CONDITIONS OF WORK

- Migrant labour, children in general and adolescent girls in particular work in exploitative situations, often take up manual work and are not informed about the employment conditions, or given any assurance about the wage, nature and hours of work. They are a source of cheap labour even as they have no voice and lack bargaining power. In addition they are “vulnerable and do the hazardous jobs of sorting and separating the waste without wearing any protective gear, while the men deal with the dry garbage”.⁷
- As they do not enter into any kind of formal contract with the labour contractor/ agent, the working conditions at the destination are not in compliance with national labour laws and lack any kind of health and safety regulations.
- No wages are paid in hand except a meagre amount for day to day survival and at the end of the employment period they are told that they owe an advance to the contractor of the money they had taken in the lean season or for medical emergencies or to meet family and social obligations. The jobs performed by

⁷ Kalpana Sharma, The Other Half “silent environmentalists”, The Hindu, Sunday, Jun 13, 2010, Editorial Page.

exploited migrants are not voluntary but extracted under threat of force or penalty.

- They are no less than any kind of indentured labour or bonded labour, frequently subjected to dismissal or physical violence, withholding of documents or wages, or entangling workers in fraudulent debt and put in captivity.

6. INSTITUTIONAL FRAMEWORK FOR THE MIGRANT FAMILIES AND THEIR CHILDREN

The laws that are meant to protect migrant labour are as follows:

(i) The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 –

- This Act applies to every establishment in which five or more Inter-State migrant workmen are employed or who were employed on any day of the preceding twelve months; and to every contractor who employs/ employed five or more inter-State migrant workmen on any day of the preceding twelve months. It is mandatory to register the establishments employing inter-State migrant workmen and issue of licensing of Contractors. It is the duty and obligation of Contractors to furnish such particulars to the specified authority in State from which an inter-State migrant workman is recruited and to issue to every inter-State migrant workman a pass-book affixed with a passport size photograph of the workman with the details like name, place of the establishment, period of employment, proposed rates and modes of payment of wages, the displacement allowance payable, return fare payable to the workman on the expiry of the period of his employment, deductions made, etc.
- In case the contractor fails to make payment of wages within the prescribed period or makes short payment, then the principal employer shall be liable to make payment of the wages in full or the unpaid balance due, as the case may

be, to the inter-State migrant workman employed by the contractor. The principal employer shall recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

- Any contravention of provisions regarding employment or any conditions of a licence granted shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both. If any person contravenes any of the provisions of this Act or of any rules for which no other penalty is elsewhere provided, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.
- *Gaps-* The Act does not include the details of the family members accompanying while registering the workers during recruitment. If the details are available then their children can receive their rights and entitlements.

(ii) The Contract Labour (Regulation and Abolition) Act, 1970 –

- This Act intends to regulate the employment of Contract Labour in certain establishments and provides for its abolition in certain circumstances and for matters connected therewith. The establishments covered under the Act are required to be registered as principal employers with the appropriate authorities and every contractor is required to obtain a licence. The licence granted is subject to such conditions as to hours of work, fixation of wages and other essential amenities in respect of contract labour as laid down in the rules.
- The contractor is to ensure disbursement of wages in the presence of the authorised representative of the Principal Employer and in case the contractor fails to pay wages, then the Principal Employer is liable to pay the same. For contravention of the provisions of the Act or any rules made thereunder, the punishment is imprisonment for a maximum term up to 3 months and a fine up to

a maximum of Rs.1000/-. There is also provision for the appointment of Inspecting staff, maintenance of registers and records and for making Rules for carrying out the purpose of the Act.

- *Gaps-* While the Act talks about accommodation for the workers, it should also define crèche, anganwadi and play school for the children of the workers.

(iii) The Minimum Wages Act, 1948 –

- Under the provisions of this Act, both Central and State Governments are to fix, review and revise the minimum wages of the workers employed in the scheduled employments under their respective jurisdictions. All the provisions of the Act equally apply to both male and female workers and it does not provide for any discrimination to an inter-State migrant workman in terms of wages.
- The Indian Labour Conference in its session held in 1957 recommended various norms for fixation/revision of minimum wages. One of the recommendations was "Children education, medical requirement, minimum recreation including festivals/ceremonies and provision for old age, marriage etc. should further constitute 25% of the total minimum wage." This judgment was delivered by the Supreme Court of India in 1991 in the case of *Reptakos Brett and Co. Vs. its workmen*.
- *Gaps-* In majority cases⁸ there has been discrimination in wages for the migrant workers. Also the agent/ labour contractor gets certain commission for supplying labour.

⁸ The Chennai Consultation revealed that the migrant workers do not have the bargaining power, so often get less than the wage local labours get.

(iv) The Building And Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 –

- This Act applies to every establishment which employs, or had employed on any day of the preceding twelve months, ten or more building workers in any building or other construction work. Under the Act, registration of establishments is mandatory and there is provisions for regulation of hours of work, welfare measures and other conditions of service of building workers, wages for overtime work, maintenance of registers and records, prohibition of employment of certain persons who are deaf or have defective vision or tendency to giddiness.
- The employer shall provide, free of charges and within the worksite or as near to it as may be possible, temporary living accommodation to all building workers with provisions of drinking water, latrines and urinals. Provisions of crèche in every place wherein more than fifty female building workers are employed as well as first-aid and canteens at the worksites. Under the Act employer shall be responsible for payment of wages to each building worker on or before the prescribed date. There is a provision for levy and collection of cess for the welfare of workers at such rate not exceeding two percent- but not less than one percent of the cost of construction incurred by an employer.
- *Gaps-* The Act clearly talks of crèche facility for the infants. It should also add the anganwadi and schools in vicinity. There shall be monitoring mechanism to make sure that the given provisions are implemented at ground.

(v) Juvenile Justice (Care and Protection of Children) Act, 2000 and Amendment, 2006 –

- This Act applies to a "child in need of care and protection", found without any home or settled place or abode and without any ostensible means of

subsistence, who is found begging, or who is either a street child or a working child, who does not have parent and or who is missing and run away child.

- Relevant sections of JJ Act could be attributed against the persons exploiting, engaging or violating any of the rights of the child of migrant worker. These sections are: Section 23 (cruelty to child), Section 24 (employment of child for begging), Section 25 (giving intoxicating liquor or narcotic drug or psychotropic substance to child) and Section 26 (exploitation of juvenile or child employee).
- If the child is unaccompanied and in need of care and protection, then s/he be produced before the Child Welfare Committee (Section 32), on the other hand the Committee shall have the powers to restore any child in need of care and protection to his/her parent, guardian, fit person or fit institution, as the case may be [Section 39(3)].

(vi) Bonded Labour System (Abolition) Act, 1976 –

- According to the Act, all the migrant workers fall under the Bonded Labour Act, as often they receive little advance, enter into an agreement, forced to give labour and paid less than prescribed wage rate. Under this Act, any custom or tradition or any contract, agreement or other instrument (whether entered into or executed) by virtue of which any person, or any member of the family or dependent of such person, is required to do any work or render any service as a bonded labourer, shall be void and inoperative. Every offence under this Act is cognizable and bailable.
- The worst affected are the children, particularly those from the socially disadvantaged community. The domestic distress migration from rural villages to cities forms the never ending supply chain of bonded labourers in Indian cities. The practice is so prevalent in the country because of the weak enforcement of labour laws in regulating the conditions of work of contract and migrant labour, prohibiting child labour in hazardous industries, and for minimum wages. It

requires a concerted effort to ensure implementation of the law, by government in close cooperation with employers' and workers' organisations and civil society.

(vii) The Immoral Traffic (Prevention) Act, 1956

- The Immoral Traffic (Prevention) Act, 1956 is to combat trafficking and sexual exploitation for commercial purposes.
- Any person who procures or attempts to procure a person whether with or without his/her consent, for the purpose of prostitution; or induces a person to go from any place, with the intent that he/she may for the purpose of prostitution become the inmate of, or frequent, a brothel; or takes or attempts to take a person or causes a person to be taken, from one place to another with a view to his/her carrying on, or being brought up to carry on prostitution; or causes or induces a person to carry on prostitution; shall be punishable on conviction with rigorous imprisonment.
- If any offence under this sub-section is committed against the will of any person, the punishment of imprisonment for a term of seven years shall extend to imprisonment for a term of fourteen years, provided that if the person in respect of whom an offence committed under this sub-section, (i) Is a child, the punishment provided under this sub-section shall extend to rigorous imprisonment for a term of not less than seven years but may extend to life; and (ii) Is a minor; the punishment provided under this sub-section shall extend to rigorous imprisonment for a term of not less than seven years and not more than fourteen years.
- This Act punishes trafficking for the purpose of prostitution and trafficking for other purposes (such as bonded labour and domestic work) is not covered.

(viii) Right of Children to Free and Compulsory Education Act

- Under Section 10 of the RTE Act it is the duty of every parent and guardian to admit their children aged between six and 14 in a neighbourhood school for pursuing elementary education and Section 8 defines the term 'compulsory

education' to mean the duty of the government to ensure and monitor admission, attendance and completion of elementary education by every child.

- However, the Act does not speak about how the government or the local bodies were going to ensure attendance of children whose parents keep moving from one place to another very frequently in view of their vocation (especially those of migrant labourers).

The above Acts available for the migrant workers and children for safeguarding their rights are implemented separately, not taking into consideration the relevant provisions of other Acts. The enforcement agency for each Act is also different. Yet, there are little or no institutional frameworks in place to safeguard the rights of children of migrant families at the worksites or places of destination. Their basic and inalienable rights go unrecognized.

7. POLICIES AND PROGRAMMES FOR CHILDREN

Besides laws to protect the interests of migrant families and their children, there are policies, programmes and administrative mechanisms at the destination point. Certain states where migration and trafficking are enormous have taken the initiative of seasonal hostels for the children of migrant families. The hostel at the source point is expected to prevent the children from dropping out from education and going along their families. The seasonal hostel at the destination place is aimed at preventing the children from entering into workforce. Some of the schematic programmes to address the issues and concerns of the migrant children at worksites are:

7.1 Survival and ECCE:

The Hon'ble Supreme Court has time and again ordered the universal coverage of the six components of ICDS. Consequently the Ministry of Women and Child Development

issued a circular (on 13 April 2011) to extend ICDS services to children of migrant labourers and temporary residents through setting up of Mini-Anganwadis even at the scattered habitats of migrant workers. Yet there is no evidence that such facilities for children of migrant families are available at construction sites, brick kilns, etc.

7.2 Integrated Child Protection Scheme (ICPS):

The centrally sponsored comprehensive umbrella programme, Integrated Child Protection Scheme, looks for building a protective environment for children in difficult circumstances, as well as other vulnerable children, through Government-Civil Society Partnership. It is a convergence of multiple existing child protection schemes and additional interventions for protecting children and preventing harm. The effort is to institutionalize essential services and strengthen structures, enhance capacities at all levels, create database and knowledge base for child protection services, strengthen child protection at family and community level, ensure appropriate inter-sectoral response at all levels.

ICPS provides preventive, statutory and care and rehabilitation services to children of potentially vulnerable families and families at risk, children of socially excluded groups like migrant families, families living in extreme poverty, socially disadvantaged families, families subjected to or affected by discrimination, minorities, children infected and /or affected by HIV/AIDS, orphans, child drug abusers, children of substance abusers, child beggars, trafficked or sexually exploited children, children of prisoners and street and working children. It provides care, protection and rehabilitation services including open shelter for the migrant population and shelter homes for the migrant children.

7.3 The Sarva Shishka Abhiyan (SSA):

The SSA scheme of the Ministry of Human Resource Development envisages specialised intervention for children of migrant population. However, provisions for setting up of tent schools, mobile schools, residential bridge course and non-residential

bridge course, induction of language tutors, special admission drive and community mobilisation programme to enable them pursue education as an entitlement remains poorly implemented.

SSA has made provisions for the 'Urban Deprived Children' who include children living in slums and resettlement colonies, child labours, street & working children, children of sex workers, children of migrant workers, children in various childcare institutions, etc. There are provisions of free school textbooks to girls & boys of the disadvantaged urban children, special schools like mobile schools, back to school camp, short term schools at the construction sites and facilities for girls, like residential schools, shelter home and toilets.

Out-of-School children are entitled for seasonal hostels/residential camps to retain children in the sending areas during the period of migration, worksites schools at the location where migrant families are engaged and bridge courses/remedial courses with a focus on mainstreaming out of school children.

7.4 Anti-Human Trafficking Units (AHTUs):

Being set up throughout the country to address the increasing human trafficking problem in a holistic manner. Trafficking of children could be for various reasons, but significant numbers have been trafficked to work as child labourers or in prostitution. Half are likely to be girls trafficked into brothels or domestic servitude. Children often go missing and sizeable number remains untraced.

'Strengthening the law enforcement response in India against Trafficking in Persons through Training and Capacity Building', a scheme set by the Indian Government has two components: establishing integrated Anti-Human Trafficking Units (AHTUs) and training of police officers specifically to handle cases of human trafficking.

The newly enacted laws, i.e., the Prevention of Children from Sexual Offences Act, 2012 and the Criminal Law Amendment Bill, 2013 intent to reduce the vulnerabilities of the children, particularly those migrant and trafficked children who are engaged as child labour and sexually exploited.

8. NCPCR'S INTERVENTION IN MONITORING THE RIGHTS OF CHILDREN AFFECTED BY MIGRATION

Visualizing that all children enjoy their basic and inalienable rights, NCPCR is mandated to ensure compliance of the Constitutional guarantees, national laws and international instruments across the country and implementation of all policies and programmes in consonance with the child rights perspective. Executing its monitoring role, NCPCR has made interventions and recommendations for the children affected by migration (accompanying the families, unaccompanied/ trafficked and left behind at home. These interventions have been based on the complaints received as well as *suo motu*. The Commission has also been responding to various Court matters relating to migration/ trafficking/ missing children. Some of the interventions are as listed below:

8.1 Trafficking of Children from North-East States

Pursuant to the Order of Hon'ble Supreme Court of India in the matter of Exploitation of Children in Orphanages in the State of Tamil Nadu, [WP (Cri.)No.102/2007 & Cr MP No. 4359/2010] the NCPCR followed up the case of children from Assam and Manipur who were rescued from Southern States for their rehabilitation and education back home.

A brief summary of the findings are as follows:

- (i) The States of Manipur, Assam, Meghalaya and Nagaland and Arunachal Pradesh were the 'source' states in the North East from where children as young

as five year olds were trafficked for education. The 'destination' states of these children were Tamil Nadu, Karnataka, Andhra Pradesh and Kerala.

- (ii) Children were being sent by poor parents to far off places due to their high expectation of quality education. In addition lack of basic infrastructure such as road connectivity, power, hospitals, etc. and insurgency in their local areas led parents to send their children out.
- (iii) More important was the role of middlemen who found it a lucrative business scouting for children from North East to the orphanages in Southern States. Most such orphanages/homes raised donations against the photographs of children sent to donors. There is no regulation on the activities of the middle men who arrange and transport children from the North Eastern States on the pretext of education.
- (iv) There is also little or no check on the illegal/ unregistered Children's Homes being run in the southern States. A lack of regular inspection and surveillance by the Social Welfare/ Social Defence authorities, Anti-Human Trafficking Units and local police in the districts/States where these children end up also contribute to the flourishing of these illegal activities
- (v) Most such children are placed in orphanages or Children's Homes that have no registration/recognition from the Government under the Orphanages and other Charitable Homes (Control and Supervision) Act, 1960, or the Juvenile Justice (Care and Protection of Children) Act, 2000. They are placed in crowded buildings, lacking in sanitation facilities, proper food, health care or education. Children are made to cook their food, clean the premises and even subject to abuse. They do not have any contact with their families for over two years or more and soon lose all connection and touch with their mother tongue, culture, community and belonging.

Considering the factors responsible for the large-scale migration/transportation of children from North-Eastern States to southern States, some of the recommendations made by NCPCR are as follows:

- (i) Prevention of children from being trafficked by ensuring that all children are in schools, and building of public awareness on the plight of children who have left their homes to far of places.
- (ii) Introduction of effective monitoring mechanism at the block, sub-district, State and Central level in the source areas.
- (iii) Proper residential educational rehabilitation of children from vulnerable families in the source areas;
- (iv) Closure of unregulated children homes/orphanages/child care institutions in the destination States as well as in the source States.

NCPCR sought various directions from Hon'ble Supreme Court of India from time to time in this matter. The State Governments of Karnataka, Kerala & Tamil Nadu as well as the Ministry of HRD, Ministry of Home Affairs, Ministry of Defence & Ministry of Development of North East Region (DONER) have been responding to the matter.

8.2 Large-scale migration/trafficking of children from Meghalaya and other North East States to the Educational Institutions in Karnataka.

Brief summary of the findings are as follows:

- i) Several children from Meghalaya were being sent to Karnataka to pursue education because of the urge of poor parents for quality education. Also the pull factor was that the institutions in Karnataka wanted children and Lei Synshar Cultural Society of Jaintia Hills facilitated travel and admission.
- ii) The terms of schooling differed and depended on the background of children. Poor parents paid for the transportation of children and education was free. They were kept in ashrams, or housed with a couple who had several children from north east in their house. None of these spaces were inspected or regulated. Quality of education was negligible and children were compelled to learn Kannada. Children lost contact with their homes, felt homesick and suffered a lot.

- iii) The well to do children paid hefty amounts as school fees and had better facilities.

Some of the recommendations made by the Commission to be followed by the Meghalaya government are as follows:

- (i) Setting up of procedures of transparency and accountability during the recruitment of children by the agents, recording and scrutiny of list of agents, collection of information of children already sent to Karnataka and ensure their safety and infrastructure development at home.
- (ii) Constitute a Coordination Committee with all the Secretaries of concerned Departments at Meghalaya to examine and address the issue of children being sent to Karnataka for pursuing education.
- (iii) Evolve procedures for the parents seeking to contact their children and being informed periodically about their children's welfare in Karnataka.
- (iv) Carry out a household survey of children who are not in the villages and have been sent to Karnataka or any other place either for study, for work or for any other purpose. Share the report with NCPCR and Government of Karnataka, containing the particulars of the children and the information about the schools or mutts in Karnataka.
- (v) Undertake survey of child labour in coal mines of Jaintia Hills with clear estimates of the numbers of children involved in each site/area and their origins as well as the particulars of each child, including, his/her socio-economic and educational profile as well as an Individual Care Plan for each child.
- (vi) Submit a comprehensive proposal to the Ministry of DONER for assistance/ support, including for children's education, hostels and other infrastructure/ requirements for consideration.

At the same time it was recommended that the Karnataka government takes up the following action:

- (i) Share updates with Government of Meghalaya and NCPCR on the number and particulars of children (from outside the State) who are living in mutts and other Childcare institutions.
- (ii) Child Welfare Committee (CWC) in each District to review the status of children in the residential educational institutions/hostels/other Childcare Institutions and their well-being on a regular basis.
- (iii) Status of children (from outside the State) living in the residential Educational Institutions/ Hostels.
- (iv) State Human Rights Commission and KSCPCR to carry out periodic investigations and regular follow up on the issue, with intimation to NCPCR.
- (v) Undertake health check of the children living in the residential educational institutions, hostels, mutts and other Institutions for Childcare.

The Ministry of DONER to consider the proposals received from the Government of Meghalaya in due course for the benefits of children including, for construction of more residential educational institutions/hostels, etc. under its non-lapsable Centrally Sponsored Scheme (CSS).

8.3 Monitoring the rights of the migrant/trafficked children in the coalmines of Jaintia Hills in Meghalaya.

A brief summary of the findings are as follows:

- i) Around the Lad Rymbai area of Jaintia Hills, there has been a phenomenal demand for cheap labour to work in the coal mines.
- ii) Children are preferred because they are the cheapest form of labour to work in inhuman conditions and also because of the mining practice famously known as 'rat holes mining' as it is humanely not possible for an adult to enter those holes to extract the coal. Children are also engaged in loading of coal, sorting of coal according to the size, cleaning the trucks and helping the drivers.

- iii) Children trafficked from Nepal and Bangladesh along with children from within Meghalaya were found to be working on the sites.

Some of the recommendations made by the Commission are:

- (i) Initiate a sustained and massive campaign against all forms of child labour and generation of community/ public support;
- (ii) Implementation of all the relevant laws and stringent actions against erring employers;
- (iii) Arrange rescue of children from labour force;
- (iv) Prepare for admission of rescued children into an age appropriate classes through residential and non-residential bridge course centres;
- (v) Reach out to all out-of-school children through SSA; and
- (vi) Evolve a set of protocols with specification of roles for all departments including the Child Welfare Committees for identifying, rescuing and rehabilitation of all such children and monitoring their enrolment and retention in full-time formal schools.

To bring a curb to the trafficking of children for the purpose of extracting coal from the rat-holes, the Anti-Human Trafficking Units and the State Police have conducted vulnerability mapping of areas prone to human trafficking and the police stations/Out Posts/ Beat Houses are keeping surveillance to prevent trafficking. The District Superintendents of Police have been conducting special drive to identify child labour in coal mines and verifying job placement agencies. Check posts have been set up to curb infiltration and BSF personnel have been sensitized on human trafficking.

8.4 Migration/trafficking of large number of children from southern Rajasthan to northern Gujarat to work in the BT. Cotton Farms.

A brief summary of the findings are as follows:

- i) There is an increasing incidence of child labour in Bt cotton seed production, mostly children below the age of fourteen years, which has been a cause of great concern. Children are used in spraying the pesticide in the Bt Cotton fields, work in pesticide-sprayed fields and are even compelled to live in the sheds in farms. The spray used in the cotton fields cause severe health hazards to the children⁹. The children engaged in the cotton farms work in inhumane conditions for more than 12 hours a day in extreme hot weather and often suffer from physical, verbal and sometimes sexual abuse. The young children– mostly girls – sacrifice their education and health to produce hybrid cottonseed for a thriving industry.
- ii) Children are preferred because they are a source of cheap labour and can be forced to work for long hours. They are even more vulnerable if they are not from the local area, and are trafficked. Thus a large number of them are from Dungarpur, Udaipur and other districts of Rajasthan trafficked to Gujarat.

Based on the interactions with representatives of civil society organizations, INGOs, trade/ labour unions as well as various Government Departments on the issues and concerns of the migrating/trafficked children engaged in the Bt cotton farms, NCPCR made following recommendations to the State Government:

- (i) Undertake survey of the out-of-school children, including the migrant children and ensure their enrolment in the place of current stay;
- (ii) Make all services available to all children, including the migrants, between 0-6 years and 6-14 years;
- (iii) Operationalize the Joint Task Force between Rajasthan and Gujarat governments and ensure that Anti-Human Trafficking Units, Special Juvenile Police Units and State- and District-level Anti-Trafficking Squads/Units in the State are sensitized and equipped to keep watch on movement of agents/ labour contractors in the border areas (Rajasthan and Madhya Pradesh)

⁹ Report on NCPCR's Meeting with the Seed Companies held at Hyderabad on 21st May 2012 to curb child labour in the production of Bt Cotton, p. 2.

- (iv) Provide status report of the children rescued in one year, repatriation of the migrant children to their State of origin, booking of employers under relevant labour laws and recovery of wages due to them and other compensations;
- (v) Constitute State Level Core Committee on Child Labour and District Task Force with clear-cut identification of roles and responsibilities of all members/ departments;
- (vi) Develop individual District Action Plan for total elimination of Child Labour in the Bt. Cotton farms in the districts of Banaskantha, Sabarkantha and Patan;
- (vii) Arrange a meeting of all Seed Companies.

8.5 Hemanti Mallick vs. Union of India, [WP(Crl.) No.1437/2010] in the High Court of Delhi regarding Inter-State Trafficking of children

In this case the Hon'ble High Court of Delhi has sought inputs/recommendations from NCPCR. Pursuant to the directions of the Hon'ble High Court, NCPCR has prepared recommendations in the matter with inputs from Government officials and NGOs from the States of Assam, Andhra Pradesh, Delhi, Orissa, West Bengal and Jharkhand. Interviews were conducted with key NGO representatives, officials from the Department of Social Welfare/Women & Child Development, Department of Labour, In-charge of Anti-Human Trafficking Units of Assam, Odisha and West Bengal and officials of Law enforcement agencies, CWC Members and children/shelter home functionaries. Accordingly, NCPCR has developed Protocols for the Prevention, Rescue, Repatriation/ Restoration and Rehabilitation of Children Victim of Inter-State Trafficking.

The Direction sought that the recommendations should be implemented in a timely manner to avoid any further re-victimization of the child/children rescued. The recommendations to end child trafficking focused on various action points, such as Prevention in 'Source' areas/points; Rescue operation in destination areas/points; Home verification/repatriation/restoration; Compensation; Rehabilitation; Monitoring

mechanisms; and Rescue of existing inter-State trafficked children/child labourers from Delhi.

9. IDENTIFYING MAJOR ROUTES OF MIGRATION / TRAFFICKING:

Based on the complaints received as well as *suo motu* cognizance taken, the Commission has intervened in various ways to curb the trafficking of women and children and discrimination of workers on the grounds of his/her place of residence. During its intervention to safeguard the rights of the migrant families including their children, the Commission has identified a few major routes of labour migration (precisely trafficking), which varies from place to place and sector to sector.

9.1 Demand for Child Labour in Brick kilns

Due to boom in construction industry, there is demand for child labour in brick kilns industry and large numbers of families of Western Odisha migrate seasonally to Andhra Pradesh. There are instances that children of eastern and central India are being trafficked to Delhi, Haryana, Punjab and J&K in brick kilns.

CHILD LABOUR IN BRICK KILNS

The seasonal distress migration has been a regular phenomenon in rural India and there are certain fixed routes for this circular migration. One such route of seasonal migration is from Western Odisha (constituting districts like Balangir, Nuapada, Kalahandi, Bargarh, etc.) to the neighboring state of Andhra Pradesh to work in the brick kilns.

Research conducted by Western Odisha Rural Livelihoods Project (WORLP) in Nuapada and Balangir shows a dominance of STs and SCs in migration streams from these poor districts. Though the female migration percentage is less than male, a significant percentage of females do migrate with their male counterparts to work in brick kilns and construction industries. The children also accompany their parents to work in brick kilns in Andhra Pradesh, Tamil Nadu and elsewhere as children constitute a vital part of the basic work.

The trend of seasonal distress migration from the western part of Odisha to Andhra

Pradesh since last 4 decades or so owes its legacy to lack of employment opportunities, increasing indebtedness and food insecurity. The reason for indebtedness and food insecurity are because of continuous droughts in these regions leading to crop failure, and land alienation owing to division of land over generations and landlessness owing to poverty. Also the region of Western Odisha has been predominantly the tribal belt, which is marked by low infrastructure, lack of governance and lack of effective political leadership. Western Odisha has been a long source of migration owing to highly unequal distribution of land, depletion of forest based resources, recurring droughts making agriculture an unreliable source of livelihood, poor governance system, etc.

Studies by CSOs suggest that about 200,000 people migrate from Western Odisha to brick kilns surrounding major cities of Andhra Pradesh¹⁰. The migration is not by choice but distress. The children migrate along with their families, or alone also, leading to dropout from their study and becoming part of the labour force.

The Commission had received a complaint from Action Aid Hyderabad regarding alleged engagement of child labour, detainment of migrant labourers and exploitation/torture by the employers at brick kilns. The complaints revealed that the migrant families recruited through the labour contractors give some advance during lean season and take the families to various brick kilns to Andhra Pradesh. The migrant families are kept in captive condition and are tortured, mentally and physically, if they try to flee or defy the orders of employers. They are forced to work overtime despite health problems and sickness.

Concerned about the gross violations of the rights of children working as well as living in brick kilns of Bhilwara district of Rajasthan, the Commission took cognizance of the issue and directed the District administration and State Government to ensure the services related to education, health, nutrition, childcare and inclusion in the surveys for service delivery. Large concentration of children, majority are seasonal migrants, justifies putting services such as AWCs and Schools near the brick kilns and on-site crèches as per labour laws.

The Commission recommended for mapping of all the brick kilns across the district, registration of all workers in brick kilns (male, female and lists of children), provide additional AWC in each brick kiln with more than 40 children under six and mini-AWCs for fewer children, schools on-site (with MDM facilities) for children in the age group of 6-14 years or by providing transport to nearby schools, deployment of ASHA in brick kilns, mobile primary healthcare services including curative care, immunization, ANC and other RCH services, immunization camps, among others along with an action taken

¹⁰ Incidence of Child Migration in Western Odisha, Migration Information and Resource Centre (MiRC), Aide et Action, 2009, p. 4.

report (ATR) within 45 days.

The Commission has been assured by the District Administration in the form of ATR to ensure rights of the children living with their family members in and around brick kilns.

9.2 Demand for Domestic Help

There is great demand for young girls of eastern and central India in metropolitan cities such as Delhi, Mumbai and so on to engage them as domestic helps, operated and facilitated by placement agencies. Several children are also trafficked from North Eastern States for domestic help.

9.3 Demand for Child Labour on construction sites

Several children are being trafficked from Andhra Pradesh, Bihar, West Bengal to all over the country to work at construction sites, after a boom in the construction industry. They are all bonded labourers who work against advances taken by their parents.

9.4 Demand for Child Labour in sweat shops

There are a huge number of children working in sweat shops variously in production of glass, diamond cutting, zari embroidery work, leather units, battery, glass and bulb making units, ginning mills, sugarcane cutting units, farm work. In fact these children are trafficked from almost every village in BIMARU states, Karnataka, Andhra Pradesh, and North- East and so on.

9.5 Demand for Children in Sex Work

It is estimated that 60000 children each year are trafficked for sex work and it provides a business for agents and contractors to the tune of Rs. 20 crores per annum. The well networked agents operate across the country with well entrenched connections that enable them to operate with ease. A complex set of routes exist between districts across states and distance seems no bar. They could be travelling within the country from West Bengal to Rajasthan, Andhra Pradesh to Maharashtra, Uttar Pradesh to Gujarat and Delhi and so on. There is also cross border trafficking of young girls from Nepal and Bangladesh to rest of the country.

ANNEXURE- I:

Chennai Consultation on Rights of Children of Migrant Workers Engaged in Constructions Works and Recommendations

I. Background Note received from Unorganized Workers Federation

Concept Note on Migrant Labour Families in Greater Chennai – Towards a Consultation of NCPCR with TN Government

Background

Migrant Labour in particularly in Greater Chennai and many other cities of Tamil Nadu in general has been on the increase since the last decade and now the Migrant Labour from Eastern States have reached every sector and in the main, are found in Construction industry. There are also many migrant workers coming along with their families to work in brick kilns across Tamil Nadu and the workers' families are mainly drawn from Orissa and Andhra Pradesh. It is estimated that over 3 Lakhs of Migrant Labour are in Greater Chennai. Most of these migrant workers come along with their families including children starting from toddlers to various age groups up to 18 years.

The problems faced by Migrant Labour families range from the lack of Housing, Basic amenities such as Drinking water, Toilets, PDS, Identity card, Lack of early Child Care and Children's Education leading to Child Labour, Low wages and Long Hours of Work, Accidents - Lack of Safety and Statutory Compensation, Harassments at worksite and outside, Sexual Abuse. (Report on Migrant Labour in Greater Chennai Attached). They are paid lower wages than local labourers thus there is discrimination in wage payments but they have to pay higher prices for provisions and the articles of daily use. Inter State migrant workers Act, Minimum wages Act, Child labour Act, Building and other Construction workers Act etc., are applicable to migrant labour but are not implemented.

There is no health facility and neither pregnant nor lactating women get requisite medical attention. Since there is no medical attention, the women go to their native places for deliveries. Even when children are born in Labour camps, the births are not registered.

Due to their near slave conditions of work and language difference, unionization has been nil and Local communities had been somewhat hostile especially after the Police coming out against outsiders indulging in Thefts and Bank Robberies as sequel to the encounter killing 6 persons, from north India, alleged to have committed a bank robbery.

There have been cases of Sexual Abuse of small children and after it was brought to the notice of NCPCR, Govt of Tamil Nadu was asked to enquire into situation of Migrant Child Labour. Dr Raman Mahadevan made a study commissioned by the Department of Labour on the basis of which there were a few Consultations and Action Plan on Migrant Child Labour (Attached) was drafted by TN Government and UNICEF but there has been NO ACTION.

In 2011 there was a Fact finding done on Unnatural Deaths of Migrant Children in Construction sites. (Report Attached). In spite of the Central Enactment and State Rules on Compulsory Education, this year there has been no listing of Migrant children though the academic year is half way through. Recently there is a spate of fatal accidents involving 15 Migrant Labour, exposing not only the lack of adherence to Safety norms but also lacunae in the Monitoring by Tamil Nadu Government as per the Rules notified in 2006(Attached).

Tamil Nadu Construction workers' Welfare Board is a statutory Board for Registration of workers and provision of Benefits such as Accident Relief, Assistance for Maternity, Natural Death, Education of Children, Child Care etc., and the Cess collected from Principal Employers is .3% -1% of Estimate Cost amounting to over 400 crores in Tamil Nadu .There are other Labour Welfare Boards for other categories of Labour but Migrant Labourers are not being registered by the Welfare Boards due to the GOs brought in 2008. Thus the Migrant Labourers (whether interstate or inter district) and their families, including children are denied their dues though Cess/Levy is collected from the sites in which they are working.

Main findings and recommendations of the study commissioned by the Department of Labour: In construction

- a) Majority of migrant households hailed from Andhra Pradesh (55%) and Orissa (20%) and from backward and depressed communities.
- b) 75% of the migrants came directly to Chennai through contractors, to work in construction sites.
- c) 54 % of the adults were unskilled casual labourers drawing a weekly wage well below stipulated minimum wage
- d) 90% of the migrant households returned to their native states at regular intervals, usually at least once a year if not more.
- e) 42% of the households are recent migrants, i.e. having lived in Chennai under a year, while those living for over 3 years form 47% of the households.
- f) Poor housing conditions with 92 % living in thatched huts or makeshift shelters.
- g) Poor quality of water and unsatisfactory sanitary facilities
- h) Inadequate access to government health care.
- i) Lack of ID cards.
- j) Lack of access to PDS – sourcing of food grains from open market at high prices

Migrant children in construction

- a) Nearly one third of the migrant populations are children below 15 years
- b) Lack of childcare centers or balwadis
- c) 30 % of the children in 0-5 age bracket: often older children are entrusted the responsibility of looking after the younger siblings.
- d) Poor nutritional standards
- e) In 69% of households, children did not have access to milk
- f) High incidence of morbidity owing to poor quality of water, inadequate nutrition and unsanitary living conditions
- g) Lack of schooling facilities
- h) Absence of ID cards as constraining factor for admission in schools
- i) Enclaved nature of worksites and distance of schools from work sites is another constraining condition
- j) Medium of instruction not in the mother tongue
- k) Poor outreach by NGO's
- l) High drop-out rate
- m) 54% of migrant children accompanying the parents dropped out
- n) 99.5 % of children who stayed back, continue with their education
- o) Lack of supervision of children who loiter around
- p) Absence of recreational facilities

Findings – among brick kiln workers

- a) Nearly one third of the migrant population are children below 15 years
- b) Lack of childcare centers or balwadis
- c) 30 % of the children in 0-5 age bracket: often older children are entrusted the responsibility of looking after the younger siblings.
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- o) Lack of supervision of children who loiter around
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Brick Kilns – Children

- a) The total child population in the 0 to 14 age category represented about 44 percent of the total population across all ages of all households surveyed. 55 percent of the total child population was female
- b) 315 of the total of 344 children amounting to nearly 92 percent of the total children had migrated along with their parents.
- c) Limited reach of balwadis and anganwadis. Infants and small children left in the custody of elder sibling
- d) Out of the total child population nearly 54 per cent were not receiving any formal education in the native place. Migration led to drop out of other children
- e) Children in the 5 – 14 age brackets are found to be working in the brick kilns and rice mills.
- f) Orissa – the system of ‘pathuria’ system where the child is part of the production team

SPECIFIC AREA-WISE INTERVENTIONIST STRATEGIES

1. Concerning the migrant labour families and children

- Developing a data base
- Registration of migrant labour households

Possible strategies

- Amendment of Factories Act
- Role of District Administration
- Inclusion of seasonal migration in the forthcoming census of 2011
- Ensure coverage of migrants under UID

2. Stricter Enforcement of Building and Other Construction Workers Act, 1996, Contract Labour Act and ISMWA

3. Rationalisation, regulation and strengthening of existing legal provisions

- Stricter enforcement of minimum wages act, equal remuneration act and manual workers act, as well as Bonded Labour System Abolition Act

4. Proactive mediation by welfare boards with respect to migrant worker households

- TN construction workers welfare board should adopt a scheme for compulsory registration of contractual construction workers
- Amendment of G O No 122, so as to allow migrant workers to produce age certificate issued by Government Medical Practitioner instead of Civil Surgeon.
- TNCWWB to come up with a concrete and time bound programme for an appropriate and regular utilization of the corpus fund for the welfare of all construction workers, including those in the brick kilns and quarries.

5. Proposed organizational structure for addressing the welfare needs of migrant families

- Constitution of a central inter departmental and inter-ministerial nodal agency at the state level under the aegis of the Commissioner of Labour.
- Similar organizational structure at the District level under the Chairmanship of the Collector
- Setting up of a migrant workers cell in the Labour Department
- Setting up of an inter-state coordination committee on migrant workers and children

6. Social security for migrant workers & families

- Access to potable drinking water
- To improve access to health care facilities and provide mobile health units for worker families in remote construction work sites
- To issue temporary ration cards to enable them to access the local PDS
- Improvement of quality of housing and public conveniences
- Assistance centres in all major areas of concentration of migrant labour households that would facilitate these migrant households to access information about their basic needs relating to education, health care and food security.

7. Addressing the problem of child labour

- More effective implementation of the existing legal provisions as well as revisiting the laws to make them more stringent
- Greater awareness and sensitization of all stakeholders

8. Early child care

- Mapping of infants at various work sites and centres of concentration of migrant families
- Provision of pre-and post natal care facilities through local PHC's
- To extend the Universal Immunization Programme for children of migrant workers in construction sector to those of all migrant workers, across sectors
- A time bound programme for provision of anganwadi services to all migrant children who fall in the 0-5 year age category
- To set up crèches and play schools for small children

9. Schooling & education of migrant children

- Mapping of children in various age categories
- To issue ID card to all migrant children
- SSA and NCLP should take the necessary steps to set up schools near the work sites under EGS(Education Guarantee Scheme)
- Mainstreaming of children from AIE/ NCLP to regular schools
- Transport facilities for schools at a distance
- Mobile door step schools for children in the construction sector.

- Education in respective mother tongues, such as Oriya, Telugu, Hindi etc. along with teaching and learning material
- Inter-state coordination between the SSA's
- Seasonal hostels
- Issue of TC by recognised district educational authorities
- Universal coverage of all school going children under Noon meal scheme

10. Awareness Generation and Social Mobilisation

- To intensify awareness programmes targeting various groups such as teachers, parents, employees, contractors and other stake holders
- To sensitize various stakeholders including officials of the various departments about the needs of the migrant children
- Booklets and leaflets on rights and entitlements of migrant labour and CL elimination as well as responsibilities of government officials must be widely publicized and well disseminated

11. Drawing upon good practices relating to interventions for protecting and empowering migrant children

- To involve specialist NGOs and aid agencies involved closely with migrant worker families and children and draw upon their rich experience in drawing up plans for migrant children
- Janarth of Maharashtra and its success with the Shakarshala experiment
- SETU in Gujarat, Vikalp and Lok Dhristi in Orissa, Sankalp in Rajasthan among many others

Focus

The Public Consultation by NCPCR will focus following Issues through Depositions by the affected Migrant Labour Families:

1. Children's Education
2. Child Care
3. Child Labour
4. Living Conditions – Housing and Basic Amenities
5. PDS and Nutrition
6. Health
7. Accidents, Safety and Compensation
8. Welfare Boards and Registration of Migrant Labour – Benefits for children
9. Status of Action Plan on Migrant Child Labour
10. Sexual Abuse on Children and Women
11. Unnatural Deaths of Children
12. Labour law implementation

II. Seminar on issues and concerns of Children of Migrant Labour Organized by the Unorganized Workers Federation at ICOSA Jeevan Jothi Hall, Chennai.

The Unorganized Workers Federation organized a day-long Seminar on issues and concerns of children of migrant labour on 28.1.2013 (Monday) at Jeevan Jothi Hall, ICOSA Centre, Egmore, Chennai. Ms. Nina P. Nayak, Member NCPCR, delivered the inaugural address, where migrant children, worker-parents, experts and social activists shared their experiences and views in the seminar. Ms. R. Geetha (NFUL & CLEAD), Dr. Gabriele (Pennurimai Iyakkam and CLEAD), Dr. Ramanath Nayak (Sr. Consultant, NCPCR), Prof. K. Shanmugavelayudham (TN- FORCES), Mr. Henry Tiphagne (ED, People's Watch & State Representative for RTE-NCPCR), Dr. P. Chandra (Director-Rtd, ICH), among others too deliberated their views, concerns and experiences in the seminar.

The seminar was attended by nearly 400 participants, including children of migrant workers, their parents, representatives of child rights organizations, Trade Unions, experts and activists, etc.

While addressing the participants, Ms. Nina Nayak reiterated that the Commission does not discriminate children only because of their place of birth, caste, class, religion or sex. She said that the Commission has taken the issues of the children of migrant workers and very much concerned about their safety, protection and rights and entitlements. She too shared major intervention of NCPCR relating to the issues of rights of the children of migrant workers, missing and trafficked children. Terming the issue a social problem, she urged everyone to come forward to extend a helping hand to the children of such migrant families/workers and act as an arm of the NCPCR to bring to the knowledge of the Commission such violations of the rights and entitlements of the children.

The issues raised in the Seminar:

- Migrant Labourer's Children face exploitation in Big Construction sites, Brick kilns and Rice Mills etc. with violation of RTE Act and Discrimination while their basic needs such as education, completely Child Care food and Health have been neglected
- Lack of Anganwadis and crèches leading to sibling care
- Denial of education facilities in mother tongue leading to Child Labour

- For inter district migrants, no transport facilities to go to school and no transfers allowed
- No access to PDS leading to purchase of all provisions in open market at high prices.
- PHC facility denied to Migrant Children and Pregnant Women Migrants, leading to home deliveries and total lack of Govt health care for Migrant Children
- Unnatural Deaths of Children on sites and accidents due to lack of Child care – nutrition, lack of amenities, housing and safety provisions.
- Rape and Sexual Assaults on girl Children
- Registration in TNCWWB denied to Migrant Labourers even though cess / levy is collected from Construction sites leading to denial of benefits to Migrant Children
- Displacements leading to denial of education, health and food rights to slum children
- No shelters provided to children on pavements
- Slum children fearing evictions and displacement to far-off places
- Rescued Irula child bonded labour not provided with release certificates, community certificates or rehabilitation

At the end of the sharing of experiences and views of experts, various recommendations were made for each department. To ensure the food & nutrition, safety, protection and development of children of migrant workers, the seminar/consultation suggested following measures on priority basis by the Government of Tamil Nadu:

- (i) Expedite the implementation of draft Action Plan on Migrant Child Labour evolved during 2010 by constituting an inter-Departmental Migrant Cell, so as to ensure that the children are not exploited and provided with identity, education, health, food rights;
- (ii) Ensure Child-friendly environment in worksites / labour camps and residential areas;
- (iii) Registration of Migrant Labour families to ensure PDS, Education and Health facilities;
- (iv) Right to Education of Migrant Children in mother tongue to be ensured up to 18 years;
- (v) Setting up of crèches for 0 -3 and Anganwadis in Worksites and Residential Areas in Chennai, Tiruvallur and Kanchipuram Districts immediately

- (vi) Antenatal, Post natal care to child bearing mothers, immunization to children and overall health care to be provided to Migrant Labour families.
- (vii) Compulsory Registration of all Migrant Workers in TNCWWB without Revenue Department interference and through TUs and provision of crèche – Education, Mobile Health care & Medical camps by TNCWWB
- (viii) Provision of Release certificates and Rehabilitation measures including caste certificates, Residential school facilities to rescued Irula Bonded Labourers of Cuddalore District, and filing of cases against the agent and employer;
- (ix) Enquiry into cases of trafficking of Irula Bonded children to various workplaces in Mumbai and states
- (x) Children census taken every year in the month of May/ December should include Migrant Children in villages, Construction sites brick kilns stone quarries rice mills etc.
- (xi) CWC Monitoring of incidents of violence on Migrant Children
- (xii) To form Interstate Migrant Cell for identification and tracking of Migrant children.
- (xiii) Formation of Civil Society Monitoring Group on Migrant Children
- (xiv) Provision of shelters to pavement children in Chennai as per the Supreme Court order
- (xv) Promotion of insitu development of slums and if necessary slum displacement to nearby areas and relocation to far off places should be stopped.
- (xvi) Child rights to be protected in resettlement colonies
- (xvii) Proper implementation of Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act 1996 provisions and Supreme court orders for construction workers to cover Migrant Children including safety, abolition of child Labour, compulsory registration in welfare Board and amendment for special provisions on Migrant Children and for smart card to be valid all over the country
- (xviii) Implementation of Inter- State Migrant workers' Act 1979 and Campaign for amendment in the Interstate Migrant Worker's Act to cover all Inter- state migrant workers and for special provisions on migrant children's Education – Health – Food Rights
- (xix) Provision of PDS in bulk for 6 months to Inter District Migrants as in Maharashtra.
- (xx) Govt Relief to be provided to Rape victims among Migrant Children
- (xxi) Identification of Bonded Labour in Construction, Brick kilns, stone quarries, etc through involving organisations working with Bonded Labourers ; Steps to be taken in Tamil Nadu for Identification, Release and rehabilitation of Bonded Labourers.
- (xxii) Campaign for amendment to Child Labour Act to ban all Child Labour with age less than 18 years and implementation through Mobile Courts Summary trials and Rehabilitation.

III. Meeting with the Chairperson, Tamil Nadu State Commission for Protection of Child Rights (SCPCR).

On the way to visit to one of the construction sites of Chennai, the Member-NCPCR halted for a while at Tamil Nadu Commission for Protection of Child Rights (TNCPCR) to meet the newly appointed Chairperson of the State Commission (Smt. Saraswathi Rangasamy). Introducing herself, the Chairperson- TNCPCR said that she headed the State Commission for Women prior to her current assignment. Showing her profound interest to work for the rights of the children in the State, she said that the system is yet to be put in place as she lacks helping hands and infrastructure. Responding to this Member-NCPCR shared her experience when she took over as Chairperson, Karnataka State Commission for Protection of Child Rights and the work initiated in a 10 x 8 feet room. Member-NCPCR even advised the new Chairperson to collect the relevant Acts and put together for ready reference and visit Karnataka sometime to understand the functioning of the Commission. Promising possible cooperation from NCPCR, she insisted that the cases from the State would be forwarded to the SCPCR once it is full-fledged.

IV. Report on Visit to the Construction Worksites of Loyola-ICAM Institute of Engineering and Technology, Chennai.

Listening to various participants in the seminar about the plight of the children of migrant workers in worksites and labour camps, Ms. Nina Nayak, Member, National Commission for Protection of Child Rights visited a construction site in the heart of Chennai located at Loyola-ICAM Institute of Engineering and Technology.

The Member found about 40 children below 12 years of age group with red hairs and malnourished in the labour camp where reportedly 300 families from Odisha, Jharkhand and Bihar have been living for close to four years. On enquiry she knew that there was no anganwadi centre, crèche or school in the labour colony with temporary sheds. Neither there was any arrangement to attach these children in the nearby available institutions. However, few women with whom the Member interacted informed that one Madam came sometime and gave two pairs of dresses and writing slate to the children. For 300 families there was only one uncovered water tank for drinking as well as other use, which was found to be dirty and muddy.

One middle age person in a half pant was loitering around with about 25-30 children and when the visiting team wanted to know his identity, he replied overconfidently as an

individual volunteer. Who later introduced himself as P. Dev, from Visakhapatnam, has been teaching the children in Oriya and Hindi. Despite the fact that SSA was supposed to provide one educator for 25 children and there were more than 40 school going-age children in the settlement, no arrangements were being done to provide books and a special educator.

The team interacted with many youth who had not gone for work because of injury and informed that there was no compensatory wage for that particular day. While the sub-contractors present there claimed that the labour engaged in the construction site has been getting a wage of Rs. 420 per day, however, the workers informed that there has been discrimination in wages for migrant workers, who get only Rs. 240 per day.

V. Report on Visit to the Resettlement Colony of Chemmancherry.

The NCPCR team visited Chemmancherry, which was a resettlement colony on the outskirts of Chennai. It was informed that the habitants of the colony are the victims of the Tsunami and internally displaced families under the slum-free Chennai project. When the team reached the colony around 4 pm, hundreds of children in uniform were stumbling because of the stones on the approach road to school. Both sides of the road had swamp and children found entering into the dirty water.

About 9-10 teachers present were preparing to go home. The Assistant Headmistress informed that there were 20 teachers and one Headmistress in place, including 5 B.Ed. teachers for 777 students. The school up to 8th standard has 12 classrooms, which were inadequate and no space to construct new classrooms. There was a separate room for preparing the noon meal, for which one teacher was made in charge and one assistant appointed to prepare the same. The toilet was found to be very dirty as there was no water facility. Children carry water bottles for their uses as there was no facility of drinking water in the school premises. They also carry their own plates for the noon meal. The school timing, as informed by the teachers, happened to be 9 am to 4 pm and the teachers find it difficult as there was no public transport facility up to the main road, a distance of about 5 km.

VI. Meeting with the Officials of UNICEF, Chennai.

The NCPCR team led by its Member Ms. Nina Nayak had a brief meeting with the officials of UNICEF to get feedbacks on the status of migrant children in the State and mechanisms in place to address their issues and concerns. A prior meeting with

UNICEF was felt important because the feedback could help the team to put before the various departments of the Government as recommendations.

The entire team of the UNICEF Tamil Nadu and Kerala Office under the leadership of Dr. Satish Kumar was present in the meeting with the NCPCR team and few civil society representatives. Member Ms. Nina Nayak articulated the purpose of the visit of NCPCR to Chennai and little background of the child protection policy in various parts of the country. She expressed her concern over the issue of fund going unspent earmarked under ICPCS, leading to non-implementation of juvenile justice system and need to influence the government.

Mr. Vidyasagar, Child Protection Specialist, reiterated that the District Child Protection Units (DCPUs) are in infant stage, although each district got a team of ten people. All 32 districts have formulated their district plan for child protection. He sounded that the Child Welfare Committees (CWCs) are very active in every district. However, he conveyed that there were more than 2000 cases pending in Juvenile Justice Boards (JJBs), as there used to be only 7-8 JJBs in place earlier, which has now been constituted in every district.

Mr. Vidyasagar stated that the district action plans are prepared through consultative process. He assure that UNICEF would advocate for a policy on migrant children, so as to make the child protection policy inclusive and non-discriminatory. He endorsed the idea of having an Inter-Departmental Migrant Cell and compulsory registration of migrant workers, including inter-State and inter-district. He also brought to the knowledge of the visiting team that there were 2004 Children Homes in the State out of which many NGO/voluntary organizations-run Homes are neither registered under Section 34(3) of the JJ Act, nor monitored regularly to ensure that the homes meet the minimum criteria in terms of infrastructure and personnel.

The Commission urged the UNICEF to have dialogue with the State Government on the issue of adoption and implementation of the 'Draft Action Plan for Rehabilitation of Children of Migrant Labour', registration of migrant workers in Welfare Board, issue ID cards as well as initiate actions on various studies conducted by UNICEF, etc.

Ms. Arunaratnam in charge of Education in UNICEF stated that the migration takes place largely during December to March and the activities in brick kilns are post-monsoon. There is no compatibility between the migration cycle and education cycle. Reiterating on various data available on children of migrant workers, she felt the need for verification of the same by randomly picking 5 per cent of the households.

She was of the opinion that tackling the issue of rights of all children of migrant workers is not a problem as everything falls under the given mandates of various departments. To her, the registration of migrant workers should be taken up by the Labour department on campaign mode and share the figure with other departments for ensuring their education, food, nutrition, healthcare and safety and security. Also she urged the Commission to recommend the Government to hand over the education component of SC/ST Schools to the Education Department and management of the residential facilities shall be with the SC/ST Department. Such schools are being run by the para-teachers and quality of education is in question.

Ms. Ahila in charge of UNICEF's Policy and Advocacy assured that issues related to the rights and entitlements of the children of migrant workers would find place in all the programmes of UNICEF.

While giving a presentation on water and sanitation status in the State, Mr. Arun of UNICEF stated that the data available with the State reveals very satisfactory, however, in reality there is no such facilities available at ground level. To him infrastructure is available in majority schools but maintenance again is a big issue. Each school gets Rs. 7500 per annum towards maintenance of water and sanitation facilities, excluding wash facilities. Mr. Arun shared the experience of UNICEF on the 'hand wash' campaign in some region, which may be mainstreamed to prevent viral diseases. To him, orientation on human hygiene should be made part of all programme. Quoting the ASER report which reveals water and sanitation status of the State at 62%, he expressed concern over use of napkins by the adolescent girls, which is a major cause of school dropout (the glaring example is the Krishnagiri district). He emphasized on the quality and quantity of the napkins supplied and need for energizing the School Management Committees.

Dr. Vandana Bhatia, Health and Nutrition Expert in UNICEF said that access to the services and facilities is a major issue, particularly among the women and children. According to her all local children are covered under immunization whereas a large percentage of children of the migrant families are deprived of the same as no mapping of such children is being done. Also she stated that the facilities made available to the migrant families are not being used because of various reasons. For example, the idea of Birth Resorts comprising 10 beds each in hard to reach areas are not utilized by the migrant women for institutional delivery as they will not get the wage for the period they don't report in work. So often they opt for delivery at home.

She urged the Commission to take up the issue with the Health Department relating to community adoption of OVC children, enrolment of migrant women with Aadhar and

PICME and GIS mapping of hard to reach areas and construction sites. Further it was agreed that computerized Mother Child Protection (MCP) Card be provided to all women, regardless of migrant or local, and money be transferred to the accounts of mothers.

VII. NCPCR's Meeting with Various Departments of Government of Tamil Nadu

A. DEPARTMENT OF SCHOOL EDUCATION, Government of Tamil Nadu:

Issues:

During the meeting with the officials of School Education Department, the NCPCR Member focused on streamlining child protection measures for those children accompanied by their worker parents coming from other districts or States. She reiterated that these children are children in need of care and protection and entitled for basic provisions such as food and nutrition, education, immunization and medical care and protection from sexual abuse and exploitation. She elucidated that the recommendations are based on the observations made during the seminar/consultation organized by 'Unorganized Workers Federation' and her field visits to one construction site and resettlement colony. From the consultation the team learnt that there is discrimination against the children from other states, in villages, Construction sites, brick kilns, stone quarries, rice mills etc

She expressed concern over plight of large number of children (numbering nearly a lakh) of migrant workers in greater Chennai and deprivation of basic facilities like nutrition, education and healthcare due to lack of mapping and registration of worksites as well as workers. She shared the situation of the School in Chemmancherry resettlement colony, which was found unhygienic, inadequate classrooms, improper approach road and waterlogging. She made it clear that there should not be discrimination in terms of issuing bus pass to the children migrated from other states as well as the inter-district migrants, imparting education in mother tongue and insistence for various documents, in violation of Right to Education.

Responses from the Department:

Mapping of the children is undertaken 3 times a year, i.e., January, June and October. The department has identified 4090 children during October 2012 survey. Agreed that there would be no insistence for caste certificates and necessary provisions will be

made for transport facilities to migrant children and coordinate with Tamil Nadu Slum Clearance Board (TNSCB) for providing space for improving the infrastructure of Chemmancherry School.

NCPCR Recommendations:

- i) Total enrolment of children up to the age of 14 years, regardless of their place of origin, after undertaking mapping of various construction sites and labour camps in the State;
- ii) Issuing ID card to all children of migrant population and providing hassle-free admission in schools, with provision of language teacher vernacular learning material;
- iii) Adoption and implementation of the draft “Action Plan for Rehabilitation of Children of Migrant Labour” and its activation;
- iv) Facilities of transportation for the migrant children from their habitation to schools, if schools are at distant places as well extending bus pass to the inter-district migrant children;
- v) Ensure coordination between the inter-State SSAs and provision of Seasonal Hostels;
- vi) Universal coverage of all school going children under noon meal scheme;
- vii) Provision of counselors for migrant Children to help and sort out their problems; and
- viii) to ensure that there is no insistence for caste certificate and make simple the issuing process for the Irula tribes, so as to prevent them from dropping out of the schools or enter into child labour and bondage.

B. DEPARTMENT OF HEALTH AND FAMILY WELFARE, Government of Tamil Nadu.

Issues:

The NCPCR interaction with the Secretary, Department of Health and Family Welfare, Government of Tamil Nadu was towards evolving child protection mechanism for the children of migrant families who are children in need of care and protection. The objective was to ensure that the entitlements such as food and nutrition, immunization and medical care, prevention against accidents and unnatural deaths, sexual abuse, compensation, etc. The migrant families are denied hospital and delivery facilities leading to home deliveries and there is lack of ante-natal, post-natal, immunization facilities.

Responses from the Department:

- (i) The State happens to be one of the best performing State in terms of health services at district, taluk and sub-taluk level;
- (ii) The State has 18 Government medical Colleges;
- (iii) The Department has reached to 5771 worksites through polic cmapiognes for migrant children as of December 2012;
- (iv) Routine Immunization is provided to migrant children living in the worksites and labour camps and more need to be covered;
- (v) Mother scheme is extended to the Sri Lankan refugees;
- (vi) 11 thousand village health nurses and 93 health posts in inaccessible area are in place;
- (vii) People in rural area often opt for treatment in urban centres and find it a challenge to the most difficult groups in unreached areas;
- (viii) Steps are being taken to provide Hospital facilities to migrant families;
- (ix) The Department will initiate Wheels Program to reach the migrant children and families for providing hospital services;
- (x) Evolve measures to make Government health facilities accessible to the migrant children and pregnant mothers;
- (xi) Will ensure that PHCs and Government healthcare programs including hospitals do not discriminate against migrant children, pregnant women and workers and provide healthcare facility to all;
- (xii) Health cards, immunization, medicines, antenatal, postnatal care and child delivery hospitalization facilities to be provided to migrant children and pregnant women workers;
- (xiii) Overall healthcare to be provided to migrant labour families and specifically Hospital on wheels facility to be made available to migrant children and families;
- (xiv) To hold inter-departmental meeting, particularly with Social Welfare and Education, to address the issue of immunization, malnutrition, SAM, IEC material, etc.;
- (xv) Targeted intervention through specialized NGOs on Drug addiction and delinquent issues;

NCPCR Recommendations:

The one-to-one discussion with the Secretary of Department of Health and Family Welfare deliberated upon the issues and concerned of children of migrant workers with following recommendations for immediate actions:

- i) GIS mapping of construction sites and brick kilns in urban areas along with services mapping to identify and include the sites in the jurisdiction of health and nutrition services for women and children and adolescents;
- ii) Ensuring access to universal immunization, nutrition, anti-natal and post-natal care, Institutional and home based care and related matter after registering migrants in UID and PICME programme for children of migrant workers across sectors, including construction sector;

- iii) Provision of mobile health units in remote construction worksites and Hospital on Wheels visiting for outreach on these sites;
- iv) Selection and appointment of ASHA or link workers from among the migrants;
- v) Ensure that the Maternal birth resorts set up by DDHS in hard to reach blocks are being utilized and linked to incentive with labour department;
- vi) Setting up of crèches for 0 -3 and Anganwadi centres in worksites and migrants' residential areas;
- vii) Antenatal, Post natal care to child bearing mothers, immunization to children and overall health care to be provided to Migrant Labour families; and
- viii) Review action taken by the Department on the issues raised during the Public Hearing held on 17-18 October 2012 and the pending cases with NCPCR.

C. DEPARTMENT OF HOME, Government of Tamil Nadu

Issues:

The NCPCR interaction with Home Department, Government of Tamil Nadu was towards evolving child protection mechanism for the children of migrant families who are children in need of care and protection. The objective was to ensure safety and security and initiate actions against the accidents and unnatural deaths, sexual abuse, exploitation, etc. The major issues the NCPCR team came-across were:

- (i) The Police Department has rescued Irula bonded children from Mumbai, but no release certificates were provided, as a result they are deprived of any rehabilitation measures;
- (ii) Police did not file any case against the middleman and employer of the rescued bonded Irula children from Cuddalore District;
- (iii) Ensure more raids to rescue Irula bonded children trafficked to Mumbai;
- (iv) Relief to Rape victim child Dhanam;
- (v) Investigate unnatural deaths and initiate action against the culprits (the civil society group handed over the Report copy to Home Department officials); and
- (vi) Inadequate staffing for implementation of child related laws.

Responses from the Department:

- (i) Promised action against trafficking and in specific cases of Irula bonded children from Cuddalore District to Mumbai and to steps to get case registered and secure release certificates;
- (ii) CBCID being the nodal agency to take action on POCSO, trafficking, child labour, JJ Act and has designated officers in all Police Districts;

- (iii) Expressed willingness to conduct raids in construction sites along with Labour Department to investigate Child Labour; and
- (iv) Proposal to increase the quantum of fund under the Victim Relief Fund.

NCPCR recommendations:

- (i) Safety and security of the migrant families, especially the women and children, in various construction worksites and labour camps;
- (ii) Anti-trafficking initiatives in the State including constitution of AHTUs, their training, cases/ complaints filed against child trafficking, etc.;
- (iii) Ensure SJPU and Child Welfare Officers in place and their functioning;
- (iv) Orientation training of police personnel for the enforcement of provisions of newly legislated Protection of Children Against Sexual Offences Act, 2012;
- (v) Ensure coverage of migrant families under UID;
- (vi) Initiate actions against the agent and employer involved in trafficking of Irula bonded labourers of Cuddalore District to Mumbai, ensure Release certificates to all rescued children for rehabilitation measures and enrolment in residential schools and coordinate with Mumbai police to raid and rescue the Irula Bonded children from various workplaces in Mumbai and other States;
- (vii) Initiate stringent actions against the cases of unnatural deaths of migrant children in workplaces/ labour camps by registering and investigating the cases, booking the culprits with severe punishment and provide relief to families (initiate actions on Fact Finding Report submitted by civil society groups);
- (viii) Provide immediate Relief to Rape victim among Migrant Child, Dhanam of Egattur;
- (ix) Ensure deployment of adequate and exclusive staff for implementation of child related laws at each level;
- (x) Ensure collaboration with Social Welfare for Task Force under ICPCS and with State Legal Services Authority for training of staff; and
- (xi) Comply with the issues and concerns came up during the NCPCR Public Hearing held in Chennai on 17-18 October 2012 and the pending cases with NCPCR.

D. DEPARTMENT OF SOCIAL WELFARE AND NUTRITIOUS MEAL PROGRAMME

Issues:

There are no childcare facilities like Anganwadi centres for the migrant children in construction worksites, residential areas, Brick kilns, etc. in Chennai, Tiruvallur & Kanchipuram Districts. The children in such areas are deprived of their basic entitlements as no mapping or need assessment of such areas is being undertaken.

Also lacks any coordination between the Departments of Labour, Health & Family Welfare and other concerned.

Responses from the Department:

The department claimed that structure is in place and it would take another 2-3 months to start anganwadis in construction sites and brick kiln areas, subject to making availability of space, shed and other equipment by the employer. CWCs are functional in 32 districts and SARA in place since last 2 years. All DCPUs have received training from NIPCCD and DEO appointment is awaited because of G.O. 1682 Homes are registered under JJ Act. There is delay in works because of transition for shifting of issues from Social Welfare to Social Defense and vice versa and comments of Personnel & Training on list of seniority is awaited. Proposal has gone to raise the Rs. 200 to Rs. 500 per child under foster care which also requires wide publicity. There are 7 sub-committees in the areas of child labour, beggary, abuse, etc. and there is need for networking and linkages. 500 SJPU personnel have been trained and Tamil Nadu Police Training Academy has included JJ Act, SJPU, etc. in its training module.

NCPCR Recommendations:

- (i) Undertaken mapping of construction worksites and centres of concentration of migrant families and the infants/children;
- (ii) Ensure provision of early childcare services (Crèches for 0 - 3 and anganwadi services for all migrant children between 0-6 category) and setting up of play-schools for the migrant children;
- (iii) Set up Anganwadis immediately in worksites in Chennai, Tiruvallur and Kanchipuram Districts for Migrant Children, in co-ordination with Labour Department;
- (iv) Implementation of the Juvenile Justice Act 2000 and Amendment Act 2006, ICPS and anti-trafficking programme;
- (v) Extend possible support to the newly constituted SCPCR and expedite appointment of other members with adequate staff and infrastructure; and
- (vi) Review of the issues and concerns deposed during the NCPCR Public Hearing held in Chennai on 17-18 October 2012 and the pending cases with NCPCR.

E. DEPARTMENT OF LABOUR AND EMPLOYMENT, Govt. of Tamil Nadu

Issues:

The "Draft Action Plan for Rehabilitation of Children of Migrant Labour" announced in the State Assembly in 2010 has not been adopted and implemented. There is no effort

to register the migrant workers and their registration in Welfare Boards. Lack of provision or services such as crèche, scholarships to children, medical assistance, maternity assistance etc., even though levy or cess is collected from the construction sites. There is no coordination between other related departments leading to huge gap in identification and registration of only 179 establishments against Health Department's 5771 sites.

No efforts are made by the Department to constitute a cell for the migrant workers and issue of ID cards for them. There has been inordinate delay in constitution of Inter-State Coordination Committee, comprising of Tamil Nadu, Odisha and Andhra Pradesh. The children of migrant families are loitering around the camps with red hairs, big stomachs, Taking care of their siblings as there are no crèches for small Children, anganwadi centre and schools nearby.

Responses from the Department:

Registration process of Migrant workers has been worked out and Inter-State Migrant Labour Committee is going to be set up, as the State of Odisha and Andhra Pradesh has agreed to be part of it. Budget allocation of Rs. 8,10,000/- has been made for the Migrant Labour Cell. The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, which came into force from April 2010 is not being implemented in the State and Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Act, 1982 is in place. However, there is a separate wing of Factories Department for implementation of the BOCW Act, 1996 and Rules, 2006, including inspections and prosecution purposes.

NCPCR recommendations:

- i) Developing a database on the number of migrant workers in the State and their registration of migrant households;
- ii) Ensure proactive mediation by Welfare Boards with respect to migrant worker households;
- iii) Ensure compulsory registration of contractual construction workers by the TN Construction Workers Welfare Board and evolve time bound programme for an appropriate and regular utilization of the corpus fund for the welfare of all construction workers;
- iv) Constitution of a central inter-departmental and inter-ministerial nodal agency at the State level under the aegis of the Commissioner of Labour and decentralizing the structure to District level under the Chairmanship of the District Collector;
- v) Expedite the setting up of Inter-State Coordination Committee on migrant workers and children;

- vi) Setting up of a Migrant Workers Cell in the Labour Department and inter-sectoral coordination;
- vii) Evolves action plan for complete abolition of child labour through awareness and sensitization of all stakeholders;
- viii) Assistance centres in all major areas of concentration of migrant labour households that would facilitate these migrant households to access information about their basic needs relating to education, health care and food security;
- ix) Ensure Social security for migrant workers & families, including access to potable drinking water, improvement of quality of housing and public conveniences;
- x) Review of the issues and concerns deposed before the Jury Panel during the NCPDR Public Hearing held in Chennai on 17-18 October 2012 and the pending cases with NCPDR;
- xi) Ensure effective rationalisation, regulation and strengthening of existing legal provisions; and
- xii) Last but not the least, ensure strict enforcement of the following Acts:
 - a) Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996;
 - b) *Contract Labour (Regulation and Abolition) Act*, 1970;
 - c) The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979;
 - d) Minimum Wages Act, 1948;
 - e) Equal Remuneration Act, 1976;
 - f) Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Act, 1982; and
 - g) The Bonded Labour System (Abolition) Act, 1976.

F. THE STATE GOVERNMENT OF TAMIL NADU shall ensure the following:

There are many issues and concerns which are cross-cutting and require inter-departmental/sectoral intervention:

- (i) Issuing temporary ration cards to all migrant workers to enable them to access to the local PDS;
- (ii) Generation of public awareness and social mobilization through publication and dissemination of booklets and leaflets on rights and entitlements of migrant labour;
- (iii) Constituting a Task Force with representatives from Government Departments, non-government and community organizations working on child rights/ human rights/ gender to protect the rights of the children of the migrant workers across sectors and with specific to the construction sector;
- (iv) Involving Child Welfare Committees, State Commission for Protection of Child Rights, State Legal Services Authority and District Legal Services

Authority, aid agencies and specialist NGOs working with migrant worker families and children so as to ensure that children of migrant workers get equal opportunity and are not discriminated;

- (v) Citizen's Charter giving details of the roles and responsibilities of Government officials; and
- (vi) Review of the issues and concerns deposed before the Jury Panel in the NCPCR Public Hearing held in Chennai on 17-18 October 2012 and the pending complaint cases with NCPCR.