

National Commission for
Protection of Child Rights

Annual Report 2011–2012



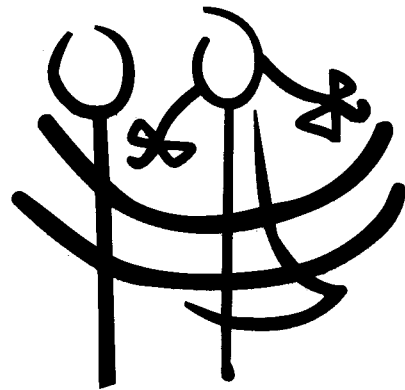
NCPCR

“ My final words of advice to you are educate, agitate and organize; have faith in yourself. With justice on our side I do not see how we can lose our battle. The battle to me is a matter of joy. The battle is in the fullest sense spiritual. There is nothing material or social in it. For ours is a battle not for wealth or for power. It is battle for freedom. It is the battle of reclamation of human personality.”

Dr. B.R. Ambedkar,
speech delivered at All India Depressed Classes Conference,
Nagpur on July 18-19, 1942,

**National Commission for
Protection of Child Rights
(NCPCR)**

**Annual Report
2011-2012**



NCPCR



सत्यमेव जयते

कृष्णा तीरथ
Krishna Tirath



राज्य मंत्री (स्वतंत्र प्रभार)
महिला एवं बाल विकास मंत्रालय
भारत सरकार
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MINISTER OF STATE (INDEPENDENT CHARGE)
MINISTRY OF WOMEN & CHILD DEVELOPMENT
GOVERNMENT OF INDIA
NEW DELHI-110001

08 APR 2013

MESSAGE

Children constitute 40% of our population and India is home to the largest child population in the world. The Constitution of India permits positive discrimination in favour of children by providing that the State can make special provision for children. The Directive Principles of State Policy also provides that the State directs its policy to ensure that children are not abused and are given opportunities and facilities to develop in a healthy manner in conditions of freedom and dignity.

The National Commission for Protection of Child Rights (NCPCR) was set-up in 2007, in recognition of the need to ensure that our children enjoy their childhood and all their entitlements as a matter of right. The Commission creates public awareness on child rights through visits to States and consultations with officials, NGOs, children and others. It examines existing laws, policies and programmes on children from a child rights perspective and makes recommendations through a multi-level process of consultation.

NCPCR has also been entrusted with the task of monitoring the implementation of the Right of Children to Free and Compulsory Education Act, 2009 and the Protection of Children from Sexual Offences Act, 2012.

Although, a lot needs to be done to further the cause of child rights in the country, it is heartening to see the Commission working continuously towards its mandate of ensuring that all laws, policies, programmes and administrative mechanisms are in consonance with the child rights perspective. I wish the Commission success in its future endeavors.

(Krishna Tirath)

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List of Abbreviations

AAY	Antodaya Anna Yojana
AHTU	Anti-Human Trafficking Unit
ANM	Auxiliary Nurse Midwife
ATR	Action Taken Report
AWC	Anganwadi Centre
AWW	Anganwadi Worker
BB	Bal Bandhu
BBS	Bal Bandhu Scheme
BEO	Block Education Officer
BPL	Below Poverty Line
CDPO	Child Development Project Officer
CHC	Community Health Centre
CJM	Chief Judicial Magistrate
CMM	Chief Metropolitan Magistrate
COFI	Cable Operators Federation of India
CWC	Child Welfare Committee
CWO	Child Welfare Officer
DDC	District Development Committee
DGP	Director General of Police
DM	District Magistrate
DSWO	District Social Welfare Officer
ECCE	Early Childhood Care and Education
EID	Educational Infrastructure Development
FIR	First Information Report
GoI	Government of India
GRP	Government Railway Police
IBF	Indian Broadcasting Federation
ICDS	Integrated Child Development Services
ICPS	Integrated Child Protection Scheme
JJA	Juvenile Justice Act
JJB	Juvenile Justice Board
JWO	Juvenile Welfare Officer
KGBV	Kasturba Gandhi Balika Vidyalaya
KSCCW	Kerala State Council for Child Welfare
MDM	Mid-Day Meal
MDONER	Ministry of Development of North Eastern Region

MHA	Ministry of Home Affairs
MHRD	Ministry of Human Resource Development
MSO	Multi-Service Operators
MWCD	Ministry of Women and Child Development
NAC	National Advisory Council
NBA	National Broadcasting Association
NCLP	National Child Labour Project
NCPCR	National Commission for Protection of Child Rights
NGO	Non-Governmental Organization
NRC	Nutrition Rehabilitation Centre
NRHM	National Rural Health Mission
PCTC	Pregnancy and Child Tracking System
PDS	Public Distribution System
RBC	Residential Bridge Course
REPA	Right to Education Protection Authority
RPF	Railway Protection Force
RTEA	Right to Education Act
SAA	Specialised Adoption Agency
SAM	Severe Acute Malnutrition
SAM	Severely Acute Malnourished
SCPCR	State Commissions for Protection of Child Rights
SHP	School Health Programme
SJPU	Special Juvenile Police Unit
SMC	School Management Committees
SMCU	Special Medical Care Unit
SOP	Standard Operating Procedures
SPO	Special Police Officer
SSA	Sarva Shiksha Abhiyaan
TBA	Traditional Birth Attendants
THR	Take Home Ration
TISS	Tata Institute of Social Sciences
UNICEF	United Nations Children Fund
UNRCR	United Nations Convention on the Rights of the Child
UT	Union Territory
VCDC	Village Child Development Centre
WCD	Women and Child Development

1. Introduction

The National Commission for Protection of Child Rights (hereinafter referred to as NCPCR or the Commission) was set up by the Ministry of Women and Child Development as a statutory body of Government of India (GoI) in March 2007 under the Commissions for Protection of Child Rights (CPCR) Act, 2005 to protect, promote and defend child rights in the country.

1.1 Mandate

The Commission has been mandated to perform all or any of the following functions:

- a. Examine and review the safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measures for their effective implementation.
- b. Present to the Central Government, annually and at such other intervals, as the Commission may deem fit, reports upon the working of those safeguards.
- c. Inquire into violation of child rights and recommend initiation of proceedings in such cases.
- d. Examine all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence, riots, natural disasters, domestic violence, HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography, and prostitution and recommend appropriate remedial measures.
- e. Look into matters relating to children in need of special care and protection, including children in distress, marginalised and disadvantaged children, children in conflict with law, juveniles, children without family and children of prisoners and recommend appropriate remedial measures.
- f. Study treaties and other international instruments and undertake periodic review of existing policies, programmes, and other activities on child rights and make recommendations for their effective implementation in the best interest of children;
- g. Undertake and promote research in the field of child rights.
- h. Spread child rights literacy among various sections of society and promote awareness of the safeguards available for protection of these rights through publications, media, seminars and other available means.
- i. Inspect or cause to be inspected any juvenile custodial home or any other place of residence or institution meant for children, under the control of the Central Government or any State Government or any other authority including any institution run by a social organisation, where children are detained or lodged for the purpose of treatment, reformation or protection and take up with these authorities for remedial action, if found necessary.
- j. Inquire into complaints and take suo motu notice of matters related to:
 - i. Deprivation and violation of child rights.

- ii. Non-implementation of laws providing for protection and development of children.
- iii. Non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring welfare of the children and to provide relief to such children, or take up the issues arising out of such matters with appropriate authorities.
- k. Such other functions as it may consider necessary for the promotion of child rights and any other matter incidental to the above functions.

1.2 Composition of the NCPCR

- (i) A chairperson who is a person of eminence and has done outstanding work for promoting the welfare of children, and
- (ii) Six members (out of which at least two shall be women) from the following fields to be appointed by the Central Government from amongst persons of eminence, ability, integrity, standing and experience in
 - a. Education.
 - b. Child health, care, welfare or child development.
 - c. Juvenile justice or care of neglected or marginalised children or children with disabilities.
 - d. Elimination of child labour or children in distress.
 - e. Child psychology or sociology, and
 - f. Laws relating to children.

The Commission had a chairperson and five members in place during the reporting year. The Secretariat of the Commission comprises of 36 officers and staff with a member secretary (in the rank of Joint Secretary or Additional Secretary) as its head. During the reporting year, NCPCR had three officers/staff from programme side and seven officers/staff from administrative/secretarial side on a regular basis. NCPCR engaged consultants and contractual/outsourcing staff to carry out its activities in furtherance of its mandate.

The Commission intervened in most states. The interventions included monitoring the functioning of Anganwadi centres, schools, juvenile homes, ashram shalas, and so on. Based on its past experience, the Commission evolved an understanding of the core principles that have to be adhered to in formulating policies and delivering services, adjudication of justice for children, as well as making legislations for children. Five essential core management principles viz: decentralisation, flexibility, institution-building processes, convergence and listening to children and their voices guided formulation of policies and delivery of services.

- a. The first is the principle of decentralisation and devolution of authority to the local bodies. All the three functions of planning, implementation and assessment/monitoring of the programme should devolve at the local level enabling an active role for the gram panchayats (local bodies) or municipalities. Local community associations such as women's groups, youth groups and child rights protection groups and also local level functionaries of various line departments should consult the gram panchayats in a systematic manner. The plans should flow from the gram panchayats to the cluster level and consolidate at the block

Introduction

level. The role of district and the state is to respond to the demands from the field level. It is necessary to have a shorter cycle of planning as far as children are concerned. Ongoing long cycle of planning based on a centralised annual plan fails to deliver the entitled and much-needed benefits to the infants and young ones.

- b. Second, the method through which the goals are to be attained should be flexible. This would entail decision-making in response to the local context. In a way, flexibility would enable an organic process of decision making at the level of the gram panchayat, which in the long run would foster new tradition and culture for caring for children and their protection in a sustainable way.
- c. Thirdly, all endeavours should be towards strong institution-building processes where there is predictability and continuity in services, flow of funds and technical support and not "person-driven" or dependent only on a well-meaning bureaucrat or a politician.
- d. Fourthly, there is a need for convergence between all the relevant functionaries of the departments of Women and Child Development, Health, Education, Rural Development, Water and Sanitation, Civil Supplies etc. from the local to the national level. Protecting the rights of children can happen only with the coming together of all relevant functionaries across all departments at every level.
- e. Finally, there have to be processes where voices of children are heard, their views are taken seriously and they are enabled to exercise agency against violence, abuse, exploitation, harassment and punishment and given support and institutional care when they take stands to come out of trafficking, marriage, labour and other forms of violence.

Children would need special measures at every stage of the process of justice. These measures would extend to child victims and witnesses i.e. children in contact with law and children in conflict with law. This would require the introduction of child jurisprudence, a child focussed procedure code, a well-trained cadre of the judiciary on child rights, and adequate space and opportunity for children to seek justice under humane and "child friendly" circumstances. This would involve adherence to the following principles:

- a. Children are to remain protected and not victimized - from the first contact with law enforcement agencies, which are often the police, to the presentation before the magistrate and the period of trial and cross examination. Ensuring dignity, privacy and safety of the child should be of central concern at every stage of adjudication.
- b. All questions in cross-examination shall be put to the child witness only through the judge.
- c. It must be noted that extending special measures to the child is not because the child is considered to be incompetent to give evidence but rather to give the child support such that the best quality of evidence is forthcoming, without further victimising the child. The tendency of adults (judges not excluded) to patronise the child is strongly discouraged while providing special measures. On the contrary, it is intended to enable the child to depose under the best conditions which the court in its discretion, may facilitate.
- d. To minimise child stress and to ensure that justice to children deserves the highest priority, the court must designate all trials involving children as being of special public importance. It must ensure that it not only takes precedence over other regular cases but that these cases are always taken up on a day-to-day basis and completed with speed and special care in the best interest of the child.

- e. It should also provide for reformative and restitutive justice.

All legislations for protection of child rights have to ensure the following:

- a. Taking categorical and unambiguous position on children's rights, ensuring state commitment and obligation to provide all structures, institutions and processes for delivering services to children.
- b. Adherence to principles of universality as against targeting, equity and social justice to cover all children up to 18 years of age.
- c. Special provisions for affirmative action for the disadvantaged children in all legislations, in the framework of rights and universal coverage.
- d. Inclusion of accountability and grievance redress mechanism in all legislations.
- e. Allocation of resources to be part of the legislation with clarity on the role of Union and State governments.

During the reporting year, there has been a significant improvement in rolling out of the Integrated Child Protection Scheme (ICPS) in most states. Although much needs to be done in terms of building knowledge and awareness on the ICPS scheme and also in establishing offices at the district and sub-district level, the programme holds a radical departure as it is envisaged as an important facility to bring all services and departments close to children in favour of their rights.

The second year of the Right to Education Act has also generated a groundswell of support and parental demand for educating their children. The challenge is in responding to the enormous demand for compliance of the provisions in the RTE Act towards maintaining the mandated teacher pupil ratio of 1:30 at the primary school level and 1:35 at the upper primary school level with the subject-wise and trained teachers, playground, library and other facilities; special training for older children; etc. by the year 2013.

There has also been a deeper penetration of the anti-human trafficking units (AHTU) in about 350 districts of the country. It is in a nascent stage but holds promise in bringing to book the predatory perpetrators, agents and contractors who are involved in sale and exploitation of children.

The issue of malnutrition remains a challenge. It is hoped that a revised ICDS programme would entail greater decentralisation, giving better physical infrastructure, additional Anganwadi workers, greater role for community and local bodies and more investments. This, in turn, would shift the trend of hunger and malnourishment, to correcting the health and nutrition deficit of children in India.

Introduction

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2. Laws, Policies and Guidelines

2.1 Advocacy for amending the Child Labour (Prohibition & Regulation) Act, 1986 to bring it in sync with the RTE Act

NCPCR has continuously advocated for policy and legislative changes on the issue of child labour at various levels in the government. Notably, it made a presentation to the National Advisory Council (NAC) regarding the amendments required in the CLPRA, 1986, especially, to bring it in sync with the RTE Act. Thereafter, it sent its formal recommendations in the matter to the Hon'ble Prime Minister on 02.05.2011 as well as to the NAC on 26.07.2011. Some of the recommendations of NAC in this regard, as made to the Hon'ble Prime Minister vide letter No.30014/1/2011-NAC/3714 dated December 20, 2011(a copy of which was received by the Chairperson, NCPCR from NAC vide their letter no. 30014/1/2011-NAC) are as follows:

- a. Child labour in the age group of 0-14 years should be prohibited.
- b. Under no circumstances should parents and guardians of children be punishable under this Act.
- c. There should be no bar on children helping their families after school hours and in vacations, in fields, home-based work, forest gathering and vending.
- d. The overall responsibility for implementation of the Act should vest with the district magistrate and the subordinate executive machinery.
- e. The administrative framework of the Child Labour (Prohibition and Regulation) Act, 1986 should be split between monitoring, inspections and rehabilitation related functions.
- f. Offences under Child Labour Act should be made cognisable and penalties for violation of various offences be made more stringent.
- g. A more sensitive and child-supportive programme for rehabilitation of child workers be developed.

Action Taken Report

The Child Labour (Prohibition and Regulation) Amendment Bill, 2012 as introduced by the Government in the Rajya Sabha on December 4, 2012, has incorporated many recommendations of NCPCR, including banning child labour up to 14 years of age in all sectors.

2.2 Legislative reform for children: An approach paper

NCPCR prepared a document entitled "Legislative Reform for Children: An Approach Paper" to guide the direction in which a rights-based perspective should govern all law making for children in the country. In the first phase of the legislative reform exercise, the paper recommended that central laws that directly impact child well-being are to be examined and amended, from a child rights perspective with focus on child jurisprudence.

The approach paper examined the legal reforms with reference to the gaps in legislation, convergence between criminal and civil aspects of law and child centered procedures; access to justice by children and their representatives; fundamental principles: UNCRC general measures of implementation; Children's Codes v. Sectorial Reform; legislation that impacts children indirectly; concluding observations and general comments of the Committee on the Rights of the Child; and other international instruments. It also examined legislative reforms mandated by international law and the Supreme Court of India and looked at the important steps in the process of legal reform.

2.3 Suggestions for the NCLP in the context of RTE Act for 12th Plan

A policy document focusing on removal of all forms of child labour and enforcement of the CLPRA 1986 under the NCLP for the 12th Five-Year Plan was submitted to the Ministry of Labour, MHRD and Ministry of Women and Child Development (MWCD) by NCPCR on 10.01.2012.

2.4 Guidelines to eliminate corporal punishment in schools

NCPCR finalised a set of guidelines on "Elimination of Corporal Punishment in Schools" and forwarded the same to MHRD (Department of School Education and Literacy) on 23.02.2012 with a request to issue the same to the State Governments/UT Administrations under Section 35(1) of the Right of Children to Free and Compulsory Education (RTE) Act, 2009. The same was released by the Hon'ble Union Minister (Independent Charge) of Women and Child Development on the Foundation Day function of NCPCR on March 5, 2012. These guidelines were built upon the guidelines /recommendations issued by NCPCR earlier on August 9, 2007, February 4, 2008, May 26, 2009 and July 14, 2010 as well as the recommendations of the Working Group that was set up by the Commission on the issue (as reported in the previous year). These guidelines included affirmative action in schools towards positive development of children, positive engagement with children, creating an environment conducive to learning, mechanisms and processes to give children a voice and engage in the process of creating a positive environment as well as guidelines for accountability and multi-sectoral responsibility.

2.5 Protection of children from Sexual Offences Bill

The Commission set up two sub-committees to deal with the substantive and procedural aspects of this legislation to ensure a comprehensive legislation for the protection of children against sexual offences. In connection thereto, the Commission held six consultations with judges, retired judges, lawyers, police officers, social activists, academics, researchers etc in different parts of the country using the infrastructure of National Law Universities. Practicing criminal lawyers having the experience and expertise of dealing with similar offences were also part of this exercise. The Commission examined and made a comparative analysis of jurisprudence in this regard in 12 countries. Much of this analysis is part of the Commission's comments offered on the Bill.

Response

Following the presentation by NCPCR to the Parliamentary Committee, NCPCR has been made the monitoring body along with State Commissions for Protection of Child Rights (SCPCR)

under Section 44 of the Protection of Children from Sexual Offences Act, 2012 and its functions have been detailed under Rule 6 of the corresponding rules framed by the government.

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2.6 NCPCR 's Strategic Plan Document

A document enumerating the strategic plan for the Commission's priorities for the next five years (2011-2016) was submitted to the Ministry of Women and Child Development on December 9, 2011. It emphasised the rights-based perspective in all its interventions. It highlighted the need to focus on legislation and policy formulation for protection of rights of children under six years of age enabling their access to health, nutrition, education and a caring and protective environment; effective legislation to ban all forms of child labour, child trafficking and harmonising the relevant laws with the RTE Act; bringing about reforms in the Juvenile Justice Act in view of the new generation of vulnerabilities that children are located in contemporary India face including commercial sexual exploitation, drug peddling (children being made carriers of drugs and narcotics) and transfer of organs and victims of civil unrest; evolve practices and procedures for delivery of justice to children; evolve a policy relating to access of adolescents to education, health, nutrition and life skills.

It also focussed on the need for creation of a critical consciousness (which goes beyond routine public awareness) in civil society for protection of child rights through social communication and advocacy strategies and facilitation of research. This would be achieved through commissioning of studies and impact evaluations as well as creation of a reliable data base on the overall situation in which children have been placed in society today.

2.7 Comments on the ratification of the Hague Convention on Civil Aspects of International Child Abduction, 1980

The Ministry of Women and Child Development, vide its letter dated September 4, 2011, wanted to know as to whether NCPCR could perform the functions of the Central Authority of India as envisaged under the Hague Convention on the Civil Aspects of International Child Abduction, 1980. In response, the Commission conveyed the following to the Ministry, vide D.O. No.DL(13)/23/NCPCR/2008/Prog.I/20389 dated September 4, 2011:

- i) India should accede (be a signatory) to the said Convention at the earliest (as conveyed to the Ministry vide its earlier letter of even number dated 23.7.2008);
- ii) However, it would be difficult for NCPCR to undertake the role of a central authority (which is implementing in nature), as it will have a conflict of interest with its present role of entertaining complaints/taking suo motu notice of violations/deprivations of child rights under Section 13(1)(j) of the Commissions for Protection of Child Rights Act, 2005;
- iii) Under Article 9(3) of the UNCRC, a child has a right to have regular contact with both the parents who are living separately in two different countries. The Indian State is supposed to ensure this. The Central Authority under the said Hague Convention will be executing arm of the Indian State to ensure this with the help of the concerned High Court (as envisaged under Section 9-11 of the draft Implementing Legislation, 2011);
- iv) If any parent or any relative of the child (involved) is aggrieved by the action(s) or inaction(s) of the Central Authority, he has the right to move to NCPCR for relief under Section 13 (1) (j) of the Commissions for Protection of Child Rights Act (CPCR) 2005. NCPCR as a grievance redress authority on child rights (cannot be a judge in its own case of the Central Authority). Hence, there is a conflict of interest. In view of this, the NCPCR would not be in a position to undertake the responsibility of the Central Authority under the Hague Convention on Civil Aspects of International Child Abduction, 1980.

2.8 Standard Operating Procedures (SOPs) for dealing with complaints regarding child rights violations

The NCPCR developed “standard operating procedures (SOPs) for Inquiry, investigation and disposal of complaints regarding violations and deprivations of child rights” in February, 2012. The SOPs have elaborated on the procedure for the receipt, registration, scrutiny, processing and follow-up of complaints and suo motu cases, as well as analysis of ATR/Investigation Reports thereof; summon hearings, and procedure to be adopted after inquiry, etc. These SOPs have been submitted to the MWCD on February 22, 2012.

3. Testimonies before Parliamentary Committees

3.1 Before the Rajya Sabha Committee on petitions on amendments in section 498a of Indian Penal Code, 1860.

NCPCR made its submissions to the Committee on 25.07.2011 (Annexure) on the prayer for amendments to Section 498A of IPC, 1860 from child rights perspective. The view of NCPCR has been reflected in the 140th Report of the Committee which was presented to the Rajya Sabha on 07.09.2011.

3.2 Before the standing committee on HRD on the protection of children from Sexual Offences Bill, 2011

NCPCR made oral presentation to the Parliamentary Standing Committee on the Protection of Children from Sexual Offences Bill, 2011. It submitted its response to the written questionnaire of the Committee on 24.10.2011 [vide its Letter No. 12012/01/2009-NCPCR (PD)].

3.3 Before the sub-committee of the standing committee on HRD on the issue of Right to Education (RTE)

NCPCR made written and oral submissions to the sub-committee on Right to Education of the Parliamentary Standing Committee on HRD on 13.02.2012, highlighting its role as a monitoring body under section 31 of The Right of Children to Free and Compulsory Education Act, 2009. Among other things, it highlighted its structure/mechanism/instruments as well as interventions in the form of social audits, public hearings, and redress of complaints relating to violations of children's right to education, ensuring RTE of children in the area of civil unrest, policy recommendations made to central government/state governments. In course of its presentation, NCPCR flagged the following key challenges confronted in the implementation of the RTE Act in the country:

- a) Establishing grievance redress mechanism and accountability from the school to the level of State and Central Government.
- b) Harmonising Child Labour (Prohibition and Regulation) Act 1986 and the National Child Labour Programme with RTE Act.
- c) Total ban on corporal punishment in practice.
- d) Investments in special needs for children with disabilities.
- e) Ensuring all entitlements of children in accordance with the RTE Act in terms of school standards, infrastructure, teachers training, and recruitment of teachers are met in accordance with the time as stipulated in the RTE Act.
- f) Involvement of gram panchayats and urban local bodies in the monitoring and implementation of the RTE Act as mandated under the Act.



- g) Convergence with departments of labour, women and child development; social welfare/justice, tribal affairs, civil supplies and so on;
- h) Universal coverage of pre-school children.
- i) Establishment of SCPCR's/ Right to Education Protection Authority (REPA) in all states.
- j) Drafting of State Rules for implementation of RTE Act in all states.
- k) Taking to scale protocols of social audit prepared by NCPCR.
- l) Replicating Bal Bandhu programme to protect RTE in areas of civil unrest.

4. Representation in Courts

The activities of NCPCR pertaining to some important court matters during 2011 12 are mentioned below:

4.1 In the matter of exploitation of children in orphanage in the State of Tamil Nadu v. UOI and Ors.(criminal writ petition no. 102 of 2007) before the Hon'ble Supreme Court of India

NCPCR was formally impleaded as a respondent in the above matter, vide Order dated 7.03.2011. Vide Order dated 16.08.2011, NCPCR had been asked to file an application, seeking directions for education-based rehabilitation of the children of Manipur and Assam who had been rescued from southern states, especially, Tamil Nadu and Karnataka. An application was filed by NCPCR on 14.09.2011, containing the following broad recommendations in the matter:

For the rehabilitation of rescued children and prosecution of persons involved in trafficking of children.

- (i) The North-Eastern (NE) states to do the following:
 - a. To track all children, who are found missing, who are found in child labour or who have been trafficked, through the respective village councils/gram panchayats/VCDCs (as the case may be) and to get the lists of the same forwarded to the School Education Department, Labour Department, Tribal/Hills Department and Social Welfare Department through the district collector/deputy commissioners concerned for necessary action. Also to ensure that such cases are reviewed by the District Child Protection Society headed by the district collector/deputy commissioner at least once in a month and to take appropriate remedial measures in this regard.
 - b. To regulate the movement and activities of middlemen/agents who are taking children out of the states on the pretext of education by giving false promises through the Anti-Human Trafficking Units(AHTUs)/village councils/gram panchayats/VCDCs.
 - c. To develop a mechanism, including setting up of a dedicated Cell in the Department of Education/Social Welfare, to oversee the movement of children to other states and to establish a system for interactions/interface of the parents with the children living outside and vice-versa and to address their grievances.
 - d. To provide counseling to the rescued children as well as to their parents.
 - e. To provide scholarships to the needy children under relevant schemes.
- (ii) The North-Eastern (NE) states and southern states to complete penal actions under relevant laws within reasonable timeframe against the middlemen/agents/traffickers involved in the trafficking/transportation of children.

Relating to implementation of RTE Act

- (i) All North-Eastern (NE) states to do the following:
 - (a) To complete a mapping process within 06 months in order to list out all children in the age group of 6 to 14 years age (disaggregated by gender, age and whether they are attending

school or out of school, and to get the same maintained by the respective village councils/gram panchayats/Village Community Development Centres (VDCs) (as the case may be).

- (b) To identify the gaps (with the involvement of the village councils/gram panchayats/ VDCs) in the educational infrastructure, including but not limited to: opening of new schools, renovation of old buildings, more classrooms in the existing schools, more hostels, renovation of old hostels, more teachers, more quarters for teachers and staff, teaching-learning materials, uniforms, library, fencing/boundary walls, play grounds and play materials (indoor and outdoor), potable/drinking water, toilet facilities separately for boys and girls, kitchen facilities for Mid-Day Meal (MDM), transport facilities in remote habitation with sparse population, etc.
 - (c) To develop a roadmap within six months for setting up of "neighbourhoods schools", as envisaged under Section-6 and 8(b) of the RTE Act (since such schools need to be operationalised by 31.3.2013).
 - (d) To ensure that all aided and unaided schools provide admission to 25 per cent of the students' strength in Class-I from weaker sections, educationally and socially backward/disadvantaged groups for free and compulsory education [in accordance with the provisions under Section 12(c) of the RTE Act].
- (ii) The state government of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland and Tripura to constitute and fully operationalise the State Commission for Protection of Child Rights (SCPCR) under Section 17 of the Commissions for Protection of Child Rights (CPCR) Act, 2005 within three months for monitoring "children's right to education" under Section 31 and 32 of the RTE Act at the state level.
- (iii) The Ministry of Human Resource Development (MHRD) to do the following:
- a. To get the kind of infrastructure/manpower gaps (as mentioned in para 1(ii) above) attended to with the resources available under the Sarva Shiksha Abhiyan (SSA) Programme within the timeframe stipulated under RTE Act.
 - b. To open more Kendriya Vidyalayas, Kasturba Gandhi Balika Vidyalayas (KGBVs), Navodaya Vidyalayas and establish more hostels both for boys and girls under Sarva Siksha Abhiyan (SSA) in the "source areas" (in consultation with the North-Eastern(NE) states) within a period of one year.
- (iv) The Ministry of Development of North Eastern Region (MDONER), GOI to support the proposals under the Non-Lapsable Central Pool of Resources (NLCPR) Fund for the educational infrastructure development (EID), such as, construction of school buildings, hostels, teachers and staff quarters in the district/sub-divisional headquarters (in consultation with the concerned North-Eastern states).

All the states were directed by the Hon'ble Apex Court vide Order dated September 19, 2011 to file their individual responses to the recommendations of NCPCR.

4.2 In the matter Sampurna Behrua v. UOI &Ors. relating to implementation of JJ Act (civil writ petition no. 473/ 2005) before the Hon'ble Supreme Court of India

- (i) In the above matter, NCPCR had been directed to give a report to Hon'ble Apex Court in the matter in regard to the various steps that have to be taken to implement the provisions of the JJ Act and

also to suggest and make appropriate applications for issuing further directions. An affidavit, containing some of the major recommendations made by NCPCR in regard to the various steps that have to be taken by the respective state governments/U.T. administrations for implementing the provisions of the JJ Act, has been filed in the matter on 06.05.2011:

- (a) **Compliance with the order dated 22.01.2010 in the matter of Bachpan Bachao Aandolan:** The states/UTs, who have not fully complied with the Order of the Hon'ble Apex Court dated 22.01.2010 in the matter of Bachpan Bachao Andolan v. Union of India & Ors. regarding the constitution of Child Welfare Committees (CWCs), Juvenile Justice Boards (JJBs) and Special Juvenile Police Units (SJPU) should comply with the same at the earliest.
- (b) **Dedicated CWCs and Juvenile Justice Boards (JJB) at major railway stations:** A large number of abandoned children, missing children and trafficked children pass through railway stations. These children are in need of care and protection. The decision regarding their interim care, restoration and long term rehabilitation has to be taken by CWC. The presence of CWCs in major railway stations will facilitate prompt production, interim care and restoration of the said category of children. In view of this, the respective state governments/UT administrations, in consultation with the railway authorities, should set up dedicated CWCs/JJBs in major railway stations/junctions.
- (c) **Full-time chairperson/members of CWCs:** In the states of Haryana and Sikkim, the deputy commissioners (district collectors/district magistrates) have been appointed as the chairpersons of concerned CWCs in contravention of the provisions of Rule 22 (3)(iii) of the Juvenile Justice (Care and Protection of Children) Rules, 2007 (hereinafter called "JJ Rules, 2007", which reads as follows:

"No person shall be considered for selection as a Chairperson or Member of the Committee, if he is holding such full-time occupation that may not allow him to give necessary time and attention to the work of the Committee as per the Act and corresponding Rules".

In Meghalaya, also, the District Social Welfare Officers (DSWOs), who have full-time responsibilities towards implementing various schemes/programmes of the government, have also been assigned the role of Chairperson of the CWCs in the state. Consequently, not only do such officers have dual functions but also there is a conflict of interest as well.

In view of the above, *the respective state governments should replace such officers with dedicated/well-trained persons as Chairperson of CWCs on full-time basis within 02 months.*

- (d) **Circulation/posting of details of the CWCs/JJBs in the website:** Mere constitution/notification of CWCs and JJBs would not ensure performance of their role in the desired manner as envisaged under the JJ Act. What is important is whether the CWCs and JJBs have all members in position, whether they have regular meetings and hearings, adequate infrastructure and support from the government. In addition, many members of both CWCs and JJBs, would require training on the role, relevant legislation and policies and the manner in which they are expected to discharge their responsibilities. In view of this, the state governments/UT administrations may be directed to ensure that all the CWCs/JJBs have all members in position (wherever not available), and post the lists of CWCs and JJBs containing their sitting place, the name, address, contact no. and tenure of the chairperson/members in the website of the State Child Protection Unit (SCPS) or concerned Department within 02 months.

- (e) **Facilities for CWCs and JJBs:** Respective state governments/UT administrations should provide all infrastructure, manpower and financial support to CWCs and JJBs, as envisaged under the ICPS for effective implementation of the JJ Act. In addition, they should attach at least one probation officer/case worker with professional background on a full-time basis to each JJB and CWC for rendering effective assistance in timely completion of the profiles of children and statutory inquiries as required under the Act. These actions may be completed within 03 months time.
- (f) **SJPUs:** Although many states have reported the constitution of special juvenile police units (SJPUs), their functioning remains confined to mere notification (except in Delhi and in other metropolises). Most of the police force at the district/sub-district/police station level is ignorant of the objectives, existence and role of SJPU in protecting children in conflict with law as well as children in need of care and protection. In view of this: (a) the Director General of Police (DGPs) may be directed to ensure that the lists of SJPUs (district-wise) and child welfare officers (CWOs)/juvenile welfare officers (police station-wise) containing the name, address and contact numbers are posted on the website of the state police and are updated within two months thereafter regularly. The SJPU in the state police headquarter as well as at district level should circulate the contact details of the SJPU in-charge as well as the child welfare officer and/juvenile welfare officers (police station-wise) to the state child protection unit, and district child protection units for their onward transmission to the concerned CWCs, JJBs and other concerned within two months. All state police headquarters should issue guidelines on how the police force should deal with “children in conflict with law” as well as “children in need of care and protection”, in the line of Delhi Police which has issued such guidelines under the guidance of the Juvenile Justice Committee of the Hon’ble High Court of Delhi. Every state government/UT administration should provide 2 paid social workers to each SJPU Unit having experience of working in the field of child welfare, of whom one should be a woman [as envisaged under Rule 84 (2) of the JJ Rules, 2007] for professional counselling support.
- (g) **Production of juveniles before competent court of jurisdiction (JJBs):** NCPCR has received many cases involving the unlawful detention/confinement of children alleged to be in conflict with law by the police, be it in Odisha, Jharkhand, Uttar Pradesh or Haryana. The police often use its discretion to produce children alleged to be in conflict with law before any magistrate (as against producing them before the Juvenile Justice Board). This is perhaps based upon their reading of Section 7 of JJ Act in isolation and not together with the Provision of Section 10 of the Act.

In view of the above, *the DGPs of the states/IGPs of UTs may be directed by this Hon’ble Court to ensure that (a) the police officials while apprehending any person below 18 years of age under allegation of being in conflict with law is quickly handed over to the designated Juvenile Welfare Officer (JWO) of the concerned police station; (b) The JWO follows the ‘rules of diversion’ as provided under Rule-11 of the JJ Rules 2007; (c) The apprehended person is produced by the concerned Police Official/JWO before the JJB having jurisdiction over the years at the earliest but within 24 hours; (d) Strict actions (legal/administrative/disciplinary) are taken against erring police official/juvenile welfare officer who are not complying with the relevant provisions of the JJ Act and Rules as well as the instructions/directions sought above;*

The concerned JJB may initiate appropriate legal action against the police officer in the event of complaint being received and verified regarding children detained in a lock up, harmed, taken in public glare, presented before the media and the like [as envisaged under Rule 84(11) of JJ Rules, 2007.]

- (h) **Presumption of juvenility:** In the event of any doubt regarding the age of the person apprehended, the magistrate should presume that the person apprehended is less than 18 years of age. Consequently, the said person should be sent to an observation home. Thereafter, the age verification process could be undertaken by the JJB in accordance with relevant provisions of the JJ Act and corresponding JJ Rules.
- (i) **Age determination:** Ordinarily the police presume children in the age group of 14-18 to be adults, apparently on the basis of looks and appearance of such child and deals with them as per the procedure provided under the criminal justice system. This is illegal, especially in the light of the provision under Rule 12(3) to (6) of Juvenile Justice Rules, 2007. In view of this, suitable directions may be passed by this Hon'ble High Court that the hierarchical process of age determination as per the above rule position are strictly adhered to by the concerned police officials, JJBs and other magistrates (irrespective of fact whether the juvenility is claimed by the person apprehended or anybody on his/her behalf or not). Any non-compliance with the same be viewed seriously by the concerned Chief Judicial Magistrate (CJM)/ Chief Metropolitan Magistrate (CMM) and proceeded with as per law.
- (j) **Expeditious disposal of cases by CWCs:** Although it is a requirement under law [Section 33 (3) of the JJ Act] for the state governments to review the pendency of cases in the CWCs on six-monthly basis, there has been no instance of such review being conducted. In view of this, all the state governments/UT administrations may be directed to have a proper review of the pendency of cases in CWCs periodically through the DCPU and to take appropriate remedial measures to ensure that cases are disposed of speedily. An evaluation of the functioning of the CWCs should also be carried out on a scientific basis by the State governments/UT administrations through the respective state child protection societies or an independent research institution/university department within 03 months. The evaluation report may be filed in this Hon'ble Court by a sworn affidavit with an advance copy of the same being sent to NCPCR.
- (k) **Expeditious disposal of cases by JJBs:** Section 14(2) of Juvenile Justice Act, 2000 requires the CJMs or CMMs to review the pendency of cases in JJBs on six (6) monthly basis. However, the pendency in most of the JJBs is not reviewed even on yearly basis by the respective higher judicial officers. In view of this, it is suggested that while the pendency of cases in JJBs are reviewed quarterly by the concerned CJMs/CMMs, the Juvenile Justice Committee and/or the Hon'ble High Court Judge In-charge therefore may review the same on an annual basis. It would also be useful if the National Judicial Academy independently or in collaboration with the judicial training institutions under the high courts could carry out a study on the pendency of cases in the JJBs, reasons thereof, remedial measures for the same showing the good practices, the level of understanding among the presiding officers regarding child rights jurisprudence and submit the findings of such study to this Hon'ble Court. NCPCR can extend necessary support to the National Judicial Academy in this regard.
- (l) **Benefit of delay in disposal of cases:** Since no child in conflict with law can be detained in a special home for more than three years under Section 15 (1) (g) of JJ Act, this Hon'ble Court

may pass suitable directions to all the JJBs to review all pending cases of juveniles in conflict with the law within 02 months and release those children forthwith who have completed maximum of their stay (as per Order) in various special homes. The probation officer and/or the superintendent of the observation home concerned should bring such cases of overstay to the notice of JJB. During the review of pendency, if it is found by the concerned CJM/CMM that any child has been detained in special home beyond the term given in the Order, appropriate penal action may be initiated against the concerned officer(s).

- (m) **JJ institutions:** In majority of the states, the number of existing observation homes are inadequate to cater to the needs of children in conflict with law in following manner: (a) The location of such homes are quite far for the poor parents/relatives of children belonging to other districts to visit homes periodically for inter-facing/interaction with their wards; (b) Some children in conflict with law miss their dates for production before the JJB due to non-availability of escort party of police on such dates resulting in delay in the disposal of cases; (c) Travelling of long distance by a child in the company of police involves greater risk for abuse; (d) The concerned JJB/CWC on the basis of whose order, such children are sent to an observation home/children home out of its geographical jurisdiction, has no opportunity to see the conditions in which such children live. In view thereof, the concerned state government(s)/UT administration(s) may be directed to set up new observation homes/children homes and/or relocate the existing ones in such a manner so as to ensure the existence of at least one observation home and one children home (for boys and girls separately) at every divisional headquarter covering two/three adjoining districts (in large States) for the interim care of such children.
- (n) **Model juvenile homes:** The members of NCPCR have visited various homes in different parts of the country during the last three years. The impression gathered from such visits is not encouraging in so far as the conditions of children living in such homes are concerned. There is neither freedom of movement nor any outing/recreational programmes for the children. There is no proper schooling (for all children in school-going age) and no creative engagement programme for them. Most of the homes have inadequate professional staff. The supervisory/administrative and watch and ward staff in such homes requires adequate training/orientation for creating child-friendly environment in such homes. In view of this, each state should have at least two model homes with all infrastructure and processes of child participation, openness, transparency, accountability, etc. within six months to serve as the resource centres to conduct training programmes for the functionaries of other similar homes in the state.
- (o) **Educational improvement of children in institutions:** It has come to the notice of NCPCR during the visits of its members to the homes in various parts of the country that children living therein are deprived of full-time formal education at par with other children. In fact, many school-going children have discontinued their studies after they are lodged in such homes. This situation is not acceptable especially after the enactment of the Right of Children to Free and Compulsory Education Act, 2009. In view of this, the following directions may be issued by this Hon'ble Court: (a) To ensure that the superintendent of the home get the educational status, level of learning/background and educational requirements assessed through the qualified teaching staff available in-house or specially requisitioned for the purpose from the Department of School Education; (b) The education progress report should be maintained for each and every child in the home; (c) The bridge courses should be

organised by the school education department under SSA programme for the drop-out/older children to prepare them for admission into age appropriate classes in full-time formal schools; (d) The school education department should also provide free text books/note books/other learning materials to all children living in observation homes/special homes/children homes/shelter homes under the SSA programme on the basis of requisition from the superintendent of such homes; (e) It should also be the responsibility of the superintendent to arrange tuitions for the students facing examinations in order to solve their difficulties encountered on different subjects.

- (p) **Legal aid to children:** The district legal services authorities should nominate lawyers from their panel to facilitate the legal assistance to children (including their representation in the proceedings before JJB) and obtaining relief from abuse or exploitation under JJ Act.
- (q) **Compulsory registration of all child care institutions:** All state governments/UTs may be directed to maintain a register/list of institutions run by the government as well as NGOs/Trust (at district/sub-district level) under Section 34(3) of the Act to ensure holistic development of children within the framework of law and in the best interest, care, protection and rehabilitation of children. This process should be completed within 03 months by a sworn affidavit to this Hon'ble Court and under intimation to NCPCR.
- (r) **Non-institutional approach and alternative care:** All concerned (JJBs, CWCs, Police and Homes) should resort to "institutionalization" as last resort in view of the provisions of law under Section 15(1)(a) to (f) and Section 40 of the JJ Act.
- (s) **Non-stigmatising approach:** The non-stigmatising semantics should be strictly adhered to and the use of adversarial or accusatory words, such as arrest, remand, accused, charge sheet, trial, prosecution, warrant, summons, conviction, inmate, delinquent, neglected, custody or jail should be avoided by all concerned in the processes pertaining to the children in conflict with law under the Act.
- (t) **Capacity-building:** Respective state governments/UT administrations should ensure that all members/officers/functionaries associated with JJBs, CWCs, SJPU and homes undergo induction/refresher trainings about Juvenile Justice Act vis-à-vis their role from time to time.
- (u) **Annual conference of CWCs/JJBs/SJPUS/probation officer/superintendent:** The state governments/UT administration should organise a two-day conference on an annual basis for the CWCs, JJBs, SJPU, Probation Officers and Superintendents of the JJ Homes for sharing good practices, establishing linkages and brainstorming on issues of mutual interest.
- (v) **NGO participation:** Since most of the homes do not have proper counselling, education, recreation and vocational training facilities, the state governments/UT administrations should encourage structured partnership/participation of experienced NGOs for having creative programmes for the children living therein (as envisaged under Rule 55 (5) of the JJ Rules, 2007).
- (w) **Monitoring and evaluation:** The respective state governments/UT administrations should ensure that the inspection committees (as envisaged under Section 35 of Juvenile Justice Act and Rule 63 of the JJ Rules, 2007) carry out surprise inspections of all children homes (government and NGO run) on a periodic basis and the recommendations of the committees

for taking remedial measures to improve the conditions of the homes are given due regard by the directors/commissioners of concerned departments (in accordance with the guidelines issued by NCPCR).

- (x) **Social audit of children homes:** The respective state governments/UT administrations should ensure that "social auditing" of the functioning of children homes as envisaged under Section 36 of the Act and Rule 64 of the JJ Rules, 2007 are carried out on an annual basis and its outcome is communicated to NCPCR in the manner and format as prescribed by it from time-to-time.
 - (y) **Child protection units (CPUs)** should be constituted at the state level and in all districts (under section 62 A of the Act) by the respective state governments/UT administrations without further delay in order to have better implementation of the JJ Act and its monitoring.
 - (z) **Regular meetings of state/district juvenile justice advisory board:** The respective state governments/UTs administrations should ensure that the state level and district level advisory boards are constituted (wherever they do not exist) and all of them (as envisaged under Section 62 of the Act) have periodic meetings at least four times in an year in order to review the situation of the implementation of the JJ Act and functioning of the juvenile justice system within their respective jurisdictions and to propose appropriate remedial measures to concerned authorities. The minutes of the meetings of the state advisory board should invariably be marked to NCPCR for perusal.
 - (aa) **Resource mobilisation:** The fund, as envisaged under Section 61 of J.J. Act and Rule 95 of JJ Rules, 2007 should be created and operationalised by all states/UTs at the earliest, so as to support the expenditure for various purposes, including for the welfare and rehabilitation of children in need of care protection and children in conflict with law.
 - (bb) **State rules:** The State Juvenile Justice (Care and Protection of Children) Rules shall be revised as per the JJ Amendment Act, 2006 and notified to all concerned within 02 months by those states/UTs who have not done so.
 - (cc) **Application of central model rules:** Till the state JJ Rules are notified, such states/UTs shall follow the JJ Rules, 2007, as required by the proviso under Section 68(1) of the JJ Act.
 - (dd) **Reporting:** The state governments/UT administrations should furnish a copy of their affidavits that they may file in the matter from time-to-time as well as a separate report regarding the implementation of the JJ Act to NCPCR on six-monthly basis, so as to enable it to furnish a consolidated and analytical report to this Hon'ble Court periodically in the present matter as well as in the matter of Bachpan Bachao Andolan v. UOI & Ors (Civil Writ Petition No. 51 of 2006).
- (ii) As follow-up, NCPCR had issued Circulars, vide its O.M. No. 32/12/1/2010/NCPCR(PD) dated 17.02.2012, to the chief secretaries/DGPs and secretaries of WCD/social welfare of all states/UTs to implement the directions issued by the Apex Court vide Order dated 22.01.2010 in the matter of Bachpan Bachao Andolan v. Union of India & ORS (Civil Writ Petition No.51 of 2006) as well as vide Order dated 12.10.2011 and also in the matter of Sampurna Behruav. Union of India & ORS regarding implementation of Juvenile Justice (Care and Protection of Children) Act, 2000 as well as for the constitution of CWCs, JJBs and SJPU and appointment of Child Welfare Officer (CWO) in

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every police station. In this circular, the state governments/UT administrations had been requested for the following actions and to furnish ATRs regarding the same:

- a. To furnish a latest (consolidated) Action Taken Report (ATR) regarding the implementation of the directions of Hon'ble Supreme Court of India as mentioned above.
 - b. To get necessary information furnished (by fax/email/SP) in the prescribed formats, complete in all respects, regarding the constitution of SJPU and appointment of child welfare officers CWOs for every police station (district-wise and police station-wise in a consolidated manner).
 - c. To get the list of SJPU (district-wise) and child welfare officers (district-wise and police station-wise) with their contact details posted on the website of the state police as well as in the district portal maintained by the NIC and to get the same updated from time-to-time (such lists should also be circulated to the concerned departments/authorities/stakeholders).
 - d. To get the list of district child protection societies (DCPSs) under ICPS, child welfare committees (CWCs) and juvenile justice boards (JJBs) (district-wise) with their contact details posted in the website of the state government (Department of WCD/social welfare/social justice) as well as in the district portal maintained by the NIC and to get the same updated from time to time (such lists should also be circulated to the concerned departments/authorities/stakeholders).
- (iii) The status of the setting up of SJPU and designating CWOs, as compiled from the reports received from the states/UTs during the reporting year, is provided below:

Sl.No.	State/UT	SJPU	Police Stations	CWOs	Source(s)
1.	Andhra Pradesh	33	1655	1655	Office of DGP
2.	Andaman & Nicobar Islands	1	23	23	DWCD/ SLSA
3.	Arundhchal Pradesh	17	87	87	Office of DGP
4.	Assam	30	297	285	-----
5.					
6.	Chandigarh	1	11	11	Office of IGP
7.	Chhattisgarh	23	148	148	Office of DGP
8.	Dadra & Nagar Haveli	1	-	-	
9.					
10.	Delhi	14	174	410	Office of the Commissioner of Police

Sl.No.	State/UT	SJPU's	Police Stations	CWOs	Source(s)
11.	Goa	2	25	25	Home Department
12.	Gujarat	31	-	-	
13.	Haryana	20	238	238	Office of DGP
14.	Himachal Pradesh	20	102	101	Office of DGP
15.	Jharkhand	24	455	455	Office of DGP
16.	Kerala	17	465	465	State Police HQ
17.	Karnataka	40	828	445	DWCD
18.	Lakshadweep	1	-	-	
19.	Madhya Pradesh	50	884	884	Office of IGP
20.	Maharashtra	29	525	523	DWCD
21.	Manipur	11	57	57	Office of DGP
22.	Meghalaya	7	41	7	DWCD
23.	Mizoram	8	32	32	Home Department
24.	Nagaland	11	49	42	Office of DGP
25.	Odisha	30	-	-	
26.	Puducherry	2	34	34	SCRB

Sl.No.	State/UT	SJPUs	Police Stations	CWOs	Source(s)
27.	Punjab	26	325	323	DWCD/District Police HQs.
28.	Rajasthan	40	-	-	
29.	Sikkim	4	31	36	Office of DGP
30.	Tamil Nadu	32	1464	1464	Office of DGP
31.	Tripura	10	65	65	Office of DGP
32.	Uttarakhand	13	125	120	UCPCR/ SLSA
33.	Uttar Pradesh	72	1429	1429	Office of DGP
34.	West Bengal	19	432	431	Office of DGP

4.3 In the matter of Hemanti Mallick v. UOI and others (criminal writ petition no. 1437 of 2010) before the Hon'ble High Court of Delhi relating to trafficking of children by placement agencies

In the above matter, the inputs/ suggestions of NCPCR(as Respondent No. 7) had been desired by the Hon'ble High Court vide Order dated 23.02.2011 and 27.05.2011. NCPCR had submitted its initial observations and recommendations in the matter on 19/10/2011. Further submissions/ recommendations of NCPCR in the matter made on 29.05.2012 include:

- a. A ban on recruitment agencies by whatever name called from recruiting and placing children below the age of 18 for domestic work and such recruitment and placement be declared as trafficking in children.
- b. That no recruitment agency which recruits children and offers them for employment be provided registration under any law for the time being in force including the Delhi Shops and Establishment Act, 1954.
- c. That all contracts or arrangements between parents and recruitment agencies be declared null and void. No parent to be allowed to deliver a child below 18 years to a recruitment agency.
- d. That children rescued from placement agencies and/or from trafficking are to be treated as children in need of care and protection under Section 2 (d) of JJ Act and dealt with by the Child Welfare Committee in accordance with the said Act and Rules.
- e. That before passing orders for restoration and/or rehabilitation, the Child Welfare Committee must hear and consult the child, on whether s/he wishes to be restored to her/his parents/family. If such child wishes to be so restored, then there must be a guarantee that the child will not be victimised and offered for labour by the parents.

- f. That such abandoned children who do not wish to be restored or rehabilitated, be provided with education in a school in the neighborhood of where such child is found.
- g. That all children below the age of 14 years must be provided with the right to education in a school in their neighbourhood in accordance with the Right of Children to Free and Compulsory Education Act, 2009.

4.4 In the matter of Government of NCT of Delhi v. NCPCR (civil writ petition no. 4973/2010) relating to screening/entrance test for admission into RPVVs before the Hon'ble High Court of Delhi

The counter of NCPCR in the above matter was placed on the record of the Hon'ble High Court on 05/05/2011. The matter got disposed of by the Hon'ble High Court vide Order dated 14/10/2011 with direction to Government of NCT of Delhi that admission of students in elementary classes in all the government schools including RPVV Schools shall be in conformity with the provisions of the Right of Child to Free and Compulsory Education Act, 2009.

4.5 In the matter of Court on its Own Motion v. Department of WCD, GNCTD (Civil Writ Petition No. 8889/2011) before the Hon'ble High Court of Delhi relating to survey in the jails of Delhi to find out juveniles

Vide Order dated 08.02.2012 in the above matter, NCPCR was directed to conduct an enquiry in the jails in Delhi in order to find out as to whether there are inmates who might be beneficiaries of the Juvenile Justice (Care and Protection of Children) Act, 2000.

4.6 In the matter of Mr Anant Kumar Asthana and Others v. Union of India and another (civil writ petition no. 787/2012) before the Hon'ble High Court of Delhi

In the above matter, the Hon'ble High Court of Delhi vide its Orders dated 08.02.2012 and 07.03.2012 directed to constitute a committee to frame the guidelines to regulate media reporting and disclosure of details relating to children. NCPCR was designated as the convener of the committee.

5. State Level Interventions

5.1 Child Labour

5.1.1 Uttar Pradesh

Lucknow

A team from the NCPCR met the Chief Secretary and other officials on April 30, 2011 in Lucknow to discuss child rights issues in the state, with special emphasis on elimination of child labour through campaign for implementation of the RTE Act 2009.

The state government subsequently set up a state level core committee on child rights and identified the following six districts for monitoring and reviewing the action taken in respect of abolishing child labour:

1. Aligarh,
2. Firozabad
3. Moradabad
4. Sant Ravi Das Nagar
5. Bhadohi, Sonbhadra and
6. Varanasi

Action Taken Report

Meerut

A team from the NCPCR visited Meerut, UP on September 7, 2011, to inquire into children being trafficked and working in an abattoir house with specific reference to the reported death of a Santhali child. During the inquiry, it was revealed that a 14-year-old child, brought (reportedly trafficked) to Meerut from Assam to work as a manual labour in a meat export factory on a job-work basis had reportedly caught infection due to the unhygienic working condition. The child was taken to a private nursing home but could not survive and died due to lack of timely medical care.

An Action Taken Report (ATR) on rescuing of child labour was received from the District Magistrate, CWC, District Child Protection Officer/Probation Officer and Addl. SP of Police, Firozabad on July 5, 2011. The license of the nursing home in Meerut where the child reportedly died due to lack of medical care was cancelled. The traffickers, working as managers, were arrested and charges framed against them, as reported in the latest ATR received by the Commission on February 7, 2012 reference no. 271/36-3-12.

Firozabad

On June 28, 2011, an NCPCR team rescued three child labourers during its visit to Firozabad district. The



labour department and the police department were asked to provide them necessary legal aid. The following day, 15 more child labourers were rescued by the joint efforts of the police and the labour departments.

Sonabhadra

In order to review the situation of children in the district, a team from the NCPCR visited from December 23-26, 2011 and held a meeting with the district administration regarding formulation of an action plan on elimination of child labour and interaction with the civil society for the same.

A detailed ATR made by the district administration of Sonabhadra towards uplift of living conditions of children in tribal areas was handed over to NCPCR team that visited Uttar Pradesh from July 6-9, 2012. Some of the action points include inclusion of 5930 out of school children in the mainstream 590 special training centre; organisation of motivation camps to create awareness among parents regarding purpose and functions of RBCs, ashram shalas, etc.; formation of SMCs in schools; and provision of capacity enhancement on the RTE Act to block and district level functionaries.

Action Taken Report

The NCPCR received an acknowledgement from the Government of Uttar Pradesh (vide its Letter No. 66 (4)/60-1-11/13 (102)/01-T.C.UP Administration dated June 21, 2011) in response to NCPCR's proposal (vide Letter No. 16/4/2010/UP/NCPCR/CL/1810 dated 11.05.2011) for constituting a state level core committee on child rights issue.

5.1.2 Meghalaya

In spite of repeated correspondence and field visits made by the team of NCPCR in the previous year, there was no action from the State of Meghalaya on rescue of child labour working in the coal mines of Jaintia Hills. Therefore, a team from the NCPCR visited Shillong from October 16-18, 2011 to discuss the issue with the state government and all other stakeholders.

NCPCR Recommendations

A detailed letter of recommendations was sent to the Chief Secretary, Government of Meghalaya on October 28, 2011 vide letter no. Meghalaya/Comp/2011 by the Commission. Some of the significant recommendations comprised the following:

- a. The Department of Education to conduct survey of out-of-school children in the state.
- b. Undertake mapping of schools in the coalmine and coal depot areas of Lad-Rymbai and Rymbai in Jaintia Hills district.
- c. Prepare annual work plan under SSA to bridge gaps in access of children to primary schools, secondary schools etc. in the coal mines areas.
- d. Constitute School Management Committees (SMCs) and orientation/training of the members.
- e. Mainstreaming of children in the age group of 3-6 to Early Childhood Care and Education (ECCE) centers and children of 6-14 years of age to regular schools.

Action Taken Report

Due to non-receipt of the ATRs from the State of Meghalaya, the Commission deputed a team once again to visit Meghalaya from May 17-20, 2012. During this visit, the state government handed over and presented the ATR which comprised the following action points:

- a. Department has undertaken comprehensive GIS mapping of 12,794 schools across the state. Mapping of schools/educational infrastructure done in the coalmine and coal depot areas of Jaintia Hills.
- b. Annual work plan under SSA submitted to MHRD in March 2012.
- c. SMC is constituted as per RTE norms, but the State Assembly has sent a resolution to MHRD to modify the composition of SMCs for minority institutions.
- d. Convergence of ICDS and education department to mainstream the 3-6 age groups to pre-schooling.
- e. Curriculum has been revised and text books supplied free of cost. For free uniforms from first academic year, proposal sent to MHRD.
- f. Enrolment drive on and corporal punishment has been banned vide notification no. EDN/RTE.222/2011/40, dated 31.10.2011.
- g. Teachers have been notified as inspectors under the CLPR Act, 1986, vide notification no. LBG.52/2010/283, dated 12.3.11 (modified on 16.12.11) and trained. Total 222 children have been identified and rescued from coalmines area. Mapping of high potential of child labour was undertaken in Jaintia Hills.
- h. The Department has come up with a plan for complete elimination of child labour after the survey of child labour is completed. The joint task force is under process and state-level core committee has been constituted. District Task Force on child labour has been constituted vide No.LBG. 55/2011/83 dated 19.12.11. The action plan for identification, planning, rescue, rehabilitation, etc. is under process.

The NCPCR also communicated to the Ministry of Coal, Govt vide its letter dated November 4, 2011 regarding the situation of children in the mining area in the state of Meghalaya and the existence of child labour in the coal mines area. The Commission requested the Ministry to issue guidelines to the state government to abolish child labour in the coal mines.

TISS report on child labour in the mines of Meghalaya:

A survey of the magnitude of child labour in Jaintia Hills was conducted by Tata Institute of Social Sciences (TISS) and its report was received by the NCPCR in August, 2012.

According to the report prepared by TISS on child labour in the mines of Jaintia Hills District, Meghalaya, a total of 343 child labour cases were found in the mines and depots, where the study was conducted. The report findings stated that almost half of the children had never attended school and more than 64 per cent of the cases that were interviewed were engaged in cutting coal and carrying coal - both extremely risky tasks. Even the children who worked in the depots doing various tasks were at risk due to high amount

of coal dust in the areas. The report clearly stated that child labour was a common and widespread problem, and the situation called for stringent and effective action by concerned authority. The report was received by the Commission from the Government of Meghalaya vide their letter No. LBG.52/2010 of 83 dated 23 August 2012.

5.1.3 Rajasthan

The NCPCR relentlessly followed up on the issues of trafficking, migration and labor in Udaipur, Banaswara and Dungarpur districts of Rajasthan and Banaskantha, Sabarkantha and Patan districts of Gujarat, where large number of child labour were reportedly engaged in cross pollination of hybrid cotton seeds. A team of NCPCR visited Rajasthan from August 9-11, 2011 and thereafter from August 26-29, 2011 to look into the Child Trafficking/Migration in B.T. Cotton field and also child labour issues in mines and brick kilns. The team also visited quarries and mines at Lakarwas, Gogunda and Hindustan Zinc in Udaipur District. During the visit, three child laborers were rescued from a brick kiln in Lakarwas area of Bichiwara block in Udaipur and an FIR was lodged against the brick kiln owner.

In Jaisalmer, nine child laborers were rescued during the visit of the team and owner of a stone crushing mine was arrested after filing an (First Information Report) FIR under Child Labour (Prohibition & Regulation) Act, 1986. The following recommendations were made to the State Government of Rajasthan on pursuant to the above visits:

- (i) Take disciplinary action against erring officials.
- (ii) Take effective steps to curb child labour.
- (iii) Close all the illegal brick kilns,
- (iv) Stop trafficking of children to Bt. Cotton fields.
- (v) Curb pollution caused due to quarries and mines.
- (vi) Ensure proper rehabilitation of children in distress in Udaipur district; and
- (vii) Provide compensation to children who have disabilities due to working in the cotton fields.

Action Taken Report

An action taken report which was handed over to the NCPCR team which visited Jaipur in August 2012 comprised the following:

- a. A State level Core Committee and a District level task force as well as a village level vigilance committee on child labour have been constituted.
- b. A campaign "Nanhe Hath Kalam ke Sath" was launched directly from Chief Minister's office in joint partnership with the United Nations Children Fund (UNICEF), Labour department and concerned District Administration (Udaipur, Dungarpur and Banswada). It was reported that this awareness campaign through community mobilisation (Kalam Sena) programme was effectively implemented in 90 panchayats of three districts.
- c. A police control room for complaint redress has been formed and check posts to curb trafficking of children was in place.

Baran district

A fact-finding team was constituted to report on the alleged incidents of bonded child labour and alleged abuse of girls in the Residential Bridge Course (RBC) run by an NGO Doosra Dashak in Kishan Ganj Block of Baran district in Rajasthan.

The team visited Baran district from 10-13 January, 2012 to investigate into the alleged incidents of bonded child labour. The delegation also investigated into the alleged abuse of two Sahariya girls in November, 2012 in the four month camp run by the NGO Doosra Dastak.

The main findings of the report suggested a nexus between local panchayat leaders and the local law enforcement machinery on the matter of false charges against Doosra Dastak.

Recommendations made by NCPDR pursuant to such visit:

- a. Systematic survey in each panchayat should be conducted to identify laborers who may be working as a bonded labour.
- b. The SDOs of the respective blocks should be strictly instructed not to ask for "proof" or evidence' from the bonded laborers who approach them with a complaint for release from bonded labour.
- c. The present rehabilitation package needs to be re-evaluated and revised.
- d. The rehabilitation of the released bonded labour should be done expeditiously.
- e. FIRs need to be initiated against all those landlords from whom Sahariya bonded laborers have been released in the last two years, and subsequently, whose names are on record.
- f. A separate cell within the district labour office should be created to address the bonded labour problem.
- g. Some village-specific recommendations were also issued.

Action Taken Report

NCPDR wrote to the Government of Rajasthan vide its letter No. - 35/3/12-NCPDR(PD) dated April 24, 2012 to take immediate appropriate action and send the views/comments of the state government to the Commission. However, no ATR has been received by the Commission in this regard, so far.

5.1.4 Gujarat

As a follow-up of the Rajasthan visit and to step up the efforts to curb the trafficking of children to Bt. cotton fields in Gujarat, a team from NCPDR visited Ahmedabad from October 7-10, 2011 and reviewed the same. The team also interacted with the state government officials and civil society representatives on the issue of child labour and child trafficking.

NCPDR Recommendations

A detailed letter of recommendations was sent to the Chief Secretary, Government of Gujarat on October

14, 2011 vide letter no. RJ/Comp/BT-Cotton/11 and the same comprised of the following:

- a. The Department of Education to conduct a survey of the out-of-school and engaged as child labour and furnish a report on the number of schools that have been already closed and along with those that are proposed for closure.
- b. Coordinate with the forest and wild life departments to get the clearance to acquire land for construction of school building in tribal areas.
- c. Mapping of schools in the resettlement colonies and slum areas of Ahmedabad as well as other urban clusters.
- d. Ensure issuance of pre-matric scholarship for the minority children.
- e. Ensure notification of RTE Rules and compliance of the Act.
- f. Ensure the constitution of SMCs and the orientation/training of the members.
- g. Ensure that all children in the age group of 3-6 are mainstreamed to Early Childhood Care and Education (ECCE) facilities, and children of 6-14 years of age effectively realize their Right to Education (RTE).

Action Taken Report

ATRs received from various departments of the Government of Gujarat vide letter no. PRCH-10-2011-709-M (2) dated February 14, 2012 included some of the following points:

- a. Under intra-state online entry carried out through cluster resource centre level, 26794 migrant children were found. Of these 13140 children were covered under residential camps in villages, and rest were covered under tent school programme/work site school.
- b. SMCs have been constituted in 33385 schools out of 34289 and members were trained in 3 phases.
- c. All children of ages 3-6 have been mainstreamed to ECCE and enrolled in Balwadi. ECCE will be provided supplementary nutrition and services of ICDS.
- d. Sabarkantha and Banaskantha are identified as suspected child labor prone area for Bt. cotton farm. Department carries out remedial, preventive and sensitisation programme before onset of the season.
- e. District Task Force carries out the raid and rescue operation. Awareness generation activities such as display of hoardings, banners, poster etc. at public places, sensitization workshops of all stakeholders held in every district to prevent the incidences of employment of child labour.
- f. Regular monitoring of the educational rehabilitation of child labour and economic rehabilitation of parents of the child labor is done by the monitoring cell, with provision of special budget.

5.2 Child Abuse

5.2.1 Haryana

A team of the NCPCR facilitated a raid by the government of a home run by an NGO Drone Foundation located in Gurgaon in January 2012. Fourteen children were rescued. It was found that some of the children were affected and infected with HIV and AIDS. They were sexually abused by the manager of the home, who himself was a HIV/AIDS patient and could have infected some of the victims in the home.

Action Taken Report

- 1) The children were shifted to other homes by the district administration.
- 2) The Gurgaon police booked the NGO caretaker and board member on charges of rape and his mother for conspiracy. An FIR has been filed under sections 376/376C/376F/120B/506 of the Indian Penal Code and Section 23 of the Juvenile Justice Act.
- 3) The prosecution in the matter is in progress before the court of Additional District Judge, Gurgaon. The ATR has been communicated through a letter dated 24/02/2012, reference no. 281/SPSU/ICPS.

Relief to child illegally detained and tortured in police custody:

The Commission took suo motu notice of a report published in the national daily Hindustan Times on April 2, 2011, of a child arrested on the alleged charges of stealing a vehicle. This case brought to the fore a larger malaise, whereby the protectors turned perpetrators of crime. It was observed in this case that each and institution whose statutory duty it was to protect children, failed to act diligently, allowing two policemen to illegally detain, frame and torture a minor child in the police custody. The inquiry revealed that even the official records were fudged by the concerned police officials.

NCPCR Recommendations

- a. To institute departmental proceedings and take disciplinary action against the erring police officials, for the infringement of law and rules and to file FIRs against such erring officials.
- b. To make available interim relief of Rs 25,000 to the child for the physical tortures needing medical treatment.
- c. To ensure restoration of educational rights of the child.

Action Taken Report

The ATR received under reference no.2465MB dated 22-5-2012 confirmed that the child was illegally detained. Disciplinary action against the erring police officials for the infringement of law and rules was initiated and were placed under suspension. An interim relief of Rs 25,000 was paid to the victim child, which was deducted from the salary of the police officials who tortured the child.

5.2.2 Delhi

NCPCR took suo motu cognisance of the case of a two-year-old battered baby with fractured skull, bruises and human bite marks all over her tiny frame in January 2012, who was battling for life at a city hospital along with the teenager who perpetuated the violence on the infant. It was a case of serial trafficking that involved violence even on the teenaged child. The Commission sought a detailed report from the police and the Child Welfare Committee regarding the case.

5.2.3 West Bengal

A complaint was received by the Commission regarding death of a 13-year-old boy due to torture by the employer in Howrah, West Bengal. After taking cognisance of the same, the matter was referred to Superintendent of Police, Howrah. A report was received from Superintendent of Police, Howrah (letter no. Memo No 41 dated 11.04.2012) and, as per the report, a case was registered and accused was arrested. Case was charge sheeted under section 304 of IPC and 3/14 of Child Labour Prohibition and Regulation Act 1986 and section 23 of Juvenile Justice (Care and Protection) Act 2000. On the instructions of the Commission, an ex gratia amount of Rs 2000/- was given to the family of deceased child.

5.2.4 Uttar Pradesh

A complaint was received by the Commission regarding alleged rape of a minor girl in Firozabad district of Uttar Pradesh. After taking cognisance of the complaint, the matter was brought to the notice of Chief Secretary, Govt. of Uttar Pradesh. An Action Taken Report dated 28.01.2012 vide letter no. 1123/Ra Sha-2/Baal Ayog/2012 was received from District Magistrate, Firozabad. On recommendations of the Commission an FIR was registered in the case under relevant sections of IPC and SC/ST Act. Two accused persons were sent to the jail for 10 years and a penalty of Rs 2000/- was imposed. The girl victim was given free medical treatment and an interim relief of Rs 25,000.

5.3 Inspection of Juvenile Homes

5.3.1 Gujarat-Visit to the children home, Khanpur in Ahmedabad

Visit to the children home, Khanpur in Ahmedabad on October 9, 2011

A team from the Commission visited a children's home at Ahmedabad located at Khanpur, combination of children home and observation home. On enquiry it was found that there were 19 children in conflict with law staying in the home. Sixteen children were in need of care and protection while four children were shifted to some other place on the same day. It was informed that there was a plan to make separate arrangements for the children in conflict with the law. The home had one language teacher and one craft teacher. The counsellor visited every Monday and Friday.

5.3.2 Tamil Nadu Sathiya Ammaiya Ninaivu Orphanage at Ramanathapuram (a Children's Home for Girls) on 18.11.2011

On inspection of the government orphanage (a children's home for girls) at Ramanathapuram (Tamil Nadu) on November 18, 2011 it was found that children admitted to the home were broadly from the following categories:

- a. Orphans without parents or relatives.
- b. Children with single parent.
- c. Children whose parents are imprisoned or the abandoned children, and
- d. Children of such parents who are suffering from incurable diseases.

Among other issues, it was recommended that the Home established in 1984, which had over 100 children and was housed in a rental building be shifted to a permanent location; regular health check-up by doctors should be conducted and the children be imparted health and hygienic education; staff of the Homes should be sensitised; mainstream children including the disabled children should be given quality education; inspections of all children's homes in the district should be conducted and licenses verified issued by the Social Welfare Department; The District Collector informed that 25 cents of land was allotted for the same in Achadiparambu village, 8 km away from the Ramanathapuram town. The administration now felt that the place might not be convenient for the home and a suitable place be allotted in the town itself.

5.3.3 Rajasthan - Ambavatta Children Home, Udaipur

In its visit to the Ambavatta Childrens' Home in Udaipur where children in need of care and protection were kept, the NCPDR team found a boy lying unconscious on the terrace of the home suffering from fever, with no care being provided. He was immediately shifted to the hospital under instructions of the team. Proper care was then provided.

The Juvenile in Conflict with Law and Children in need of care and protection both were in the same building. It was found that the Home was lacking in basic facilities. Toilets and bathrooms were not functional.

5.3.4 Rajasthan - Children/Observation Home at Nari Niketan, Udaipur

The team visited the Nari Niketan in Udaipur on 27.02.2012. It was found that the same campus was being used both for the children's home for boys and the observation home for girls. Girls below 18 years were found locked in one section of the Nari Niketan, having no access to their parents. Most of the girls were in custody on charges of elopement or love marriages. They were referred to the civil court and not the JJB, contrary to the Juvenile Justice Act. No age verification test of the girls had been done so far.

There were no facilities of food, clothes, play or immunisation for the infants. The facilities in the children's home for both the girls and boys were found abysmal.

5.3.5 Maharashtra - Observation/Children Home in Gadchiroli

In its visit on 15.03.2012 to the observation/children home for boys (Shasakiya Mulanche Nirikshan Griha) in Gadchiroli, it was found that they functioned in the same premises. Consequently, the JJB and the Child Welfare Committee sat in the same building. It was pointed out that there were no women members in the CWC although it was mandatory as per Section 29 (2) of the JJ Act. Although JJB was in place, it comprised only two members, including the chairperson and not a full-bench as envisaged under Section 4 (2) of JJ Act. It was also found that even on petty offences children were kept in custody without being granted bail.

5.3.6 Kerala - Adoption Home of KSCCW

In its visit to the Kerala State Council for Child Welfare (KSCCW), which was registered on September 1960 under the Travancore Cochin Literary Scientific and Charitable Societies Registration Act, 1955 at Thycad, Thiruvananthapuram to inquire into the matter regarding the death of an one-and-half-year old child, it was informed that the child fell into a bucket of water which was kept in the room and died on the way to Medical College Hospital, Thiruvananthapuram. At the time of inspection, there were 54 infant/children present in the home. This adoption centre, which has been declared by the State Government of Kerala as a Specialised Adoption Agency (SAA), had given more than 1500 children in adoption within the country.

NCPCR recommended an enquiry into the cause of the death of the child. A four member Inquiry Committee led by the Chairman, Child Welfare Committee was formed to inquire into the matter. The Committee, in its report, highlighted that the adoption centre severely lacks basic facilities, such as inadequate staff, safe drinking water, vehicles for meeting exigencies, training of ayahs, etc.

5.4 Child Health and Nutrition

5.4.1 Delhi

A team from NCPCR visited 16 Anganwadi Centres (AWCs) from April 19-21, 2011 and two hospitals (Hindu Rao and Kasturba Hospital) as well as a kitchen utilised to prepare food for AWCs at Bhatti Mines project from April 26-27, 2011 to ascertain the status of health and nutrition of children below six years of age.

NCPCR Recommendations

- a. The spaces for AWCs cannot be allowed to house other programmes such as schools, community halls, corporate assistance, and wedding halls and so on. The AWCs should not be allowed to run from the first floor but if it was unavoidable then safety provision on the stairs should be made to avoid accidents.
- b. The AWC should be weather friendly and must have all basic amenities such as drinking water, electric fans, floor carpets, first aid kits.
- c. Provision of functional weighing machines should be urgently made in all AWCs.
- d. Take Home Ration (THR) which is supplied should have a label depicting date of manufacturing and best used before and the description of content and the packaging of THR should be in leak-proof, tamper-proof packets which were easy to handle and store.

On this issue, the Commission also conducted a meeting with the officials from the Department of Health and Family Welfare, Department of Social Welfare and WCD and the Director Mission Convergence, Government of NCT of Delhi on 17.06.2011.

From August 18-19, 2011, the NCPCR team re-visited the AWCs of Ramesh Park Jhuggi, Seemapuri and Seelampur, Maidangarhi, Fatehpur and Harijan Basti in Delhi.

NCPCR Recommendations

State Level Interventions

- a. Floor mats, earthen pots with lids and weighing machines to be made available at all the AWCs.
- b. WHO Growth Charts to be made available at all the AWCs and provide training to all the AWWs.
- c. Properly labelled food packets a must and physically checking quality of food distributed at the AWC.
- d. Referral slips to be made available at all the AWCs to refer the child to the nearest dispensary/PHC/ hospital.

Action Taken Report

Department had provided through CDPOs, earthen pots, weighing scales, growth charts etc. to all 55 ICDS projects, as communicated through letter no. 76/NCPCR/DWCD/2011-2012 dated November 30, 2011. Growth chart booklets had been arranged for all AWCs, floor mats, water containers had been provided at the centres visited.

Crèches of Delhi (Functioning under Rajiv Gandhi National Creche Scheme for Working Mothers)

A team of NCPCR visited 21 crèches of Delhi functioning under Rajiv Gandhi National Crèche Scheme for Children of Working Mothers managed by different voluntary organisations from December 27-29, 2011 to assess the utilisation of crèche services by the children of working mothers.

NCPCR Recommendations

- a. Increase the availability of crèches in the slum area and provide benefit of quality child care services to the poor families. As the crèches were meant for the children of working mothers, the timings of the crèches i.e. 09.00 a.m. - 05.00 p.m. to be strictly maintained.
- b. Enrolment of children below 1 year of age to be promoted and accordingly provision for milk to be made. A separate space for breast feeding to be marked for the mothers to feed their children during the crèche hours.
- c. As the stay hours of a child in the crèche are eight hours, the distribution of one meal in eight hours was not sufficient. Hence the number of meals/day/child to be increased to 2-3 and wherever possible children were to be asked to bring their lunch box.
- d. Per child allocation for food which was Rs 2.08 was to be enhanced. In the meantime material for the crèches to be provided from the PDS system.
- e. The honorarium of crèche worker/helper which was Rs 1000 per month (which works out to approximately Rs 1.50 the cost of taking care of a child for eight hours in a day) to be enhanced and brought at par with the remuneration of the AWW.
- f. Charges of Rs 200 per child per month being charged by a mobile crèche managed by Mahila Pragati Samiti in Seemapuri to be discontinued since it was against the norms of the scheme.

- g. To generate a database at all crèches regarding children with different needs and children with chronic illnesses; to hold a quarterly or half-yearly health camp for such children in coordination with the health agencies and provide rehabilitative, curative, diagnostic services. Synchronisation of health services in the crèches to be created to provide immunisation. Preventive health services could be offered at the crèche.
- h. Club ICDS and crèches to offer maximum benefit to the children of poor working mothers.
- i. Facilitate interface with the neighbouring schools for smooth transition from the crèche to school.

Action Taken Report

- a. A letter received from the Executive Director, CSWB dated March 22, 2012 stated that the issue of inadequacy of funds to NGOs was raised several times by the State Social Welfare Board chairpersons in National conferences as well as in executive committee and general body meeting of the Central Social Welfare Board.
- b. Further, the revision of the crèche scheme was under consideration with the Ministry of Women and Child Development. It affirmed that directions to all the State Social Welfare Boards were issued to ensure that the NGOs running crèches observed the norms of enrolment of children, the timing of the crèches, synchronisation of health services with the crèches, interface with the neighbouring schools etc.
- c. Regarding charging of Rs 200 per child per month by a mobile crèche managed by Mahila Pragati Samiti, Seemapuri, Delhi it was stated that the matter was being taken up with the NGO as well as Delhi State Board for corrective measures.

5.4.2 Madhya Pradesh

A team of NCPCR visited Indore from July 1-3, 2011 to inquire into the incidents of genitoplasty as reported in the Hindustan Times dated 26.6.2011. The team found no reliable evidence of such an allegation.

5.4.3 Rajasthan

From September 15-17, 2011, a team visited Jaisalmer and Jodhpur in Rajasthan on receiving complaints regarding infanticide and female foeticide in the villages of Chhor, Devikot, Sitadoi and Devda. The team visited Primary Health Centres (PHC), interacted with AWCs, Auxiliary Nurse Midwife (ANMs) and the villagers in the affected villages. It was revealed that there was a general preference for male children resulting in sex determination tests organised by a nexus that were conducted in Jodhpur since the same was not available in the local areas in Jaisalmer. This led to foeticide. It also came to the notice of the team that post institutional delivery there was a practice of infanticide after the patients availed of the cash transfers and other incentives.

Action Taken Report

The ATR report, in response to NCPCR's recommendations, had been received from the state government vide letter no. न्यायिक /2012/6500 dated 29.5.2012 for Jaisalmer and एफ 6(33) विकासबालसंरक्षण /12/3434 for Jodhpur. It includes the following:

- a. Investigating the sonography machines for sex determination. ANC records of pregnant women are kept at district level through Pregnancy and Child Tracking System (PCTS) and at sub-health centre by the ANM which is carried out by PCTS in the online software.
- b. Sub-Divisional Officers, Chief Medical and Health Officer and Deputy Director, Women and Child Development, Jaisalmer were instructed to ensure effective execution of PCPNDT Act and degradation in the sex ratio in the state. This was to be linked to the pregnant women coming for tests at the sonography centres with their pregnancies under 15 sutri pranali.
- c. Instructions had been given for putting active tracker at sonography centres at the district.

5.4.4 West Bengal

A team from the NCPCR visited Malda, West Bengal from November 23-25, 2011 for inquiry into neo-natal deaths in hospitals, right of children to education and other issues related to child rights. The visit to the Malda Medical College and district hospital revealed that the in-patient admission of children in the hospital was more than three times its capacity. This enhanced the cross infections of the newborns, leading to neo-natal deaths. Lack of doctors, nurses and para-medical staff further aggravated the rendition of the healthcare services. Based on the visit, a report on "The Complaints of Neo-natal Deaths in Malda Medical College and Hospital Deprivations of Child Rights on Account of Gangetic Chars in Malda District" was submitted.

NCPCR team also visited the Gangetic Chars areas of Hamidpur (Khatiakhana), Narayanpur and Duyani Chars, where NCPCR had made recommendations in October 2011 for immediate mapping of the out of school children in the habitated Chars of Malda District. After a consistent follow up by the NCPCR with the state Government, the following schools were set up from November 23-24, 2011.

- a. Village Hamidpur (Khatiakhana), Kaliachak-II, Block, Malda District, W.B. - 378 children.
- b. Village Narayanpur, Manikchak Block, Malda District, W.B. - 136 children.
- c. Village Duyani, Manikchak Block, Malda District W.B. - 199 children.

School children of Hamidpur (Khatiakhana) Char also tasted for the first time in their lives the freshly cooked mid-day meals, which was to continue thereafter. The Commission had desired that the district administration continue to provide not only MDM to the children but also to ensure regular health check-ups which commenced on November 25, 2011.

Further arrangements were made to hire a boatman to ferry teachers to Duyani Char from the mainland (on a monthly charge of Rs 2000) to ensure the educational rights of the children, since Duyani Char was the farthest from the mainland and teachers would resist attending school at their own expense.

NCPCR Recommendations

- (i) Measures to be taken for upgrading the department of obstetrics and gynaecology with all necessary equipment including a well-equipped newborn resuscitation corner by removing the dumped furniture in the LR.28 and appointment of doctors, nursing staff and para-medical staff after a need assessment.

- (ii) Increase the number of beds in the children's ward and as a matter of short term measure, the empty/unused beds in the children's eye ward to be converted to the children's general ward. Hospital premises to be kept in a clean and hygienic condition. Conduct a periodic review of neo-natal care and neonatal deaths.
- (iii) Impart fresher course trainings to the peripheral T.B.As. (Traditional Birth Attendants).
- (iv) Also the entry and exit points were to be manned with security to regulate the traffic of attendants of patients into the wards.

Action Taken Report

An ATR dated April 12, 2012 ref.no. 73 WBFW comprising the following had been received regarding the neo-natal deaths in Malda Medical College and Hospital.

- a. Healthcare providers have been made aware on issues/weaknesses observed by the team.
- b. The superintendent of the hospital was directed to repair the radiant warmers.
- c. One neo-natal ward (having 15 beds) was opened.
- d. Twelve new beds have been added to the existing ward.
- e. The superintendent was requested to speed up the opening of SMCU.

5.4.5 Uttar Pradesh

A team from NCPDR visited Gorakhpur, Kushinagar and Deoria districts from December 5-8, 2011 in the wake of a large number of children dying of the killer disease, Japanese Encephalitis, as reported in the media. The team visited BRD Medical College Hospital and district hospital in Gorakhpur, district hospital, Padrauna in Kushinagar, and district hospital in Deoria to inquire into the measures taken by the UP Government to combat the disease.

NCPDR Recommendations

- a. All the PHC and Community Health Centres (CHCs) must be strengthened to provide immediate medical assistance to the patients. The district hospitals must be developed as the super specialised hospitals to treat the cases of JE and A.E.S; special high tech virology laboratory must be set up.
- b. Every PHC, CHC and district hospitals shall have citizen charter or list of facilities available for public information.
- c. Ensure approval of the proposals sent by the districts to curb Japanese Encephalitis and Acute Encephalitis Syndrome on a priority basis.
- d. Arrange a team of expert doctors from All India Institute of Medical Sciences (AIIMS), Dr Ram Manohar Lohia Hospital and other national level institutions and send them for the screening of patients so that clear identification of the cases could be done as soon as possible.
- e. Visit of team of doctors on rotation basis from other medical colleges to work in the affected

areas for a short period of time so that they could provide their services as well as train the doctors working in the affected areas under their guidance.

- f. All the vacant posts of doctors and paramedical staff must be filled as soon as possible.

Action Taken Report

An ATR vide letter no. 21F/AES-JE/2012/2975 dated August 23, 2012 was received by the Commission from the Director General, Health and Medical Services, Uttar Pradesh Government comprising the following:

- a. All the PHC and CHCs were strengthened as per the prescribed standard. Ambulance facilities had been ensured in all PHC, CHC and district hospitals.
- b. Citizen Charter had been displayed in all PHC, CHC and district hospitals, giving details of the facilities available.
- c. Rs 481.28 lakh had been sanctioned against the action plan towards eradication of JE/AES in eight districts. Rs 2301.22 lakh had been sanctioned for establishing 10-bedded ICU Ward in 10 hospitals of nine districts.
- d. Efforts were made to depute pediatricians from other districts of the state to the JE/AES affected districts for one month on rotation basis. The experts from national level and other states too had been visiting the affected areas and giving necessary advice from time-to-time.
- e. Experts from national level and other states too had been visiting the affected areas and giving necessary advice from time-to-time.

5.4.6 Karnataka

A team from the Commission visited Devdurga Taluk of Raichur district of Karnataka from February 14-16, 2012 in response to the news report published in The Week dated December 4, 2011 titled "Hunger Pangs: Thousands of Malnourished Children Suffer in Silence and No One Cares."

They visited Anganwadi centres, and the PHCs and CHCs which revealed that the health services were wanting. The lack of care plan for the severely malnourished children resulted in deterioration of their health status. Further the mere provisioning of double ration by the ICDS system did not yield the desired levels of ameliorating the conditions of the affected malnourished children. Based on the findings of the visit, a detailed report and a letter of recommendation were forwarded to the Government of Karnataka.

NCPCR Recommendations

- a. Ensure that the female child who was physically abused by her mother and rescued by the AWW, was provided with support. To avoid recurrence, the child's mother to be counseled; the help of CWC may be availed for this.
- b. Ensure that repairs be undertaken immediately of the two AWCs as identified in the report to avoid any mishap.
- c. Ensure that the child suspected of having ventricular special defect (Congenital Heart

Disease) and in a state of severe malnutrition at the AWC is provided with immediate free medical help and support.

- d. Around 279 children, who had reportedly been identified as severely malnourished but had been denied medical treatment and nutritional care because of the non-availability of BPL/AAY Cards, to be provided with medical and nutritional services free of cost.
- e. Ensure that all malnourished children identified through AWCs were medically and nutritionally managed till they regained normalcy.

Action Taken Report

Compliance report had been received from Director, Department of Women and Child Development (DWCD), Karnataka vide letter no. KT- 13014/28789/10-11 dated 15.06.2012 pertaining to each recommendation issued by the Commission. Some of the areas where action had been taken included the following:

- a. In Shaktinagar AWC, mother of the girl child was under medication and counseling. She had remarkably recovered and was attending to her daily work. She had brought her child for medical check-up which was held on 22.05.2012. The weight gain was found to be normal.
- b. Repair in the two Anganwadi centers, identified in the report, had been undertaken.
- c. The child suffering from ventricular special defect had been referred to Balasanjivini Hospital (Navodaya medical College Hospital, Raichur) for investigation and preliminary treatment. The child had been referred for treatment under Vajapayee Arogya Shree Scheme.
- d. 294 children were being treated in Balasanjivini (Navodaya Medical College) as in patients and 13 admitted to RIMS Medical College. 279 children without Below Poverty Line (BPL)/Antodaya Anna Yojana (AAY) cards had been treated at PHC/Taluka level/District level Hospitals. Medicines had been given under Rs 750 grant which was allotted for each child and referral for further treatment at district hospitals.
- e. All the severely acute malnourished (SAM) children identified had been examined by a pediatrician. Necessary drugs had been given and follow up action has been taken. These children had also been given egg and milk as prescribed by the department.

6. Children's Right to Education

6.1 Introduction

The NCPCR has been mandated to monitor the implementation of Right of Children to Free and Compulsory Education Act, 2009. Building on its work, the RTE Division continued to monitor the RTE Act through social audit, public hearings, complaint redress, building public awareness, and trainings through consultations at national and state levels and contact with the district and sub-district level government and NGOs through state representatives. It also reviewed policies, collated data and conducted studies during this period.

6.2 Social audit

Keeping in mind that monitoring was best achieved through the involvement of people themselves, the Commission initiated a social audit process as a pilot exercise in the 12 states of Delhi, Haryana, Uttar Pradesh, Rajasthan, Bihar, Madhya Pradesh, Assam, Tamil Nadu, Karnataka, Orissa, Maharashtra and Andhra Pradesh.

The social audit process which began in March 2011 was being implemented in collaboration with various civil society organisations, selected for their strong presence on the ground as well as their vast knowledge and expertise in the field of education.

The social audit involved two distinct processes for monitoring the Act (a) a year-end (post-facto) evaluation exercise; and (b) a continuous (concurrent) monitoring exercise. The concurrent exercise involved a continuous, on-going process wherein the entitlements of the Act were monitored on a regular basis. Issues such as attendance of teachers and students, provision of mid-day meals; number of hours the school remains open; hours of teaching every day, classroom processes etc., that need to be monitored consistently to assess the impact on a child's right to education form part of the concurrent process.

The post-facto exercise, on the other hand, evaluated what was done at the end of a given period of time. This process focused on issues that required a certain period of time to be realised, for instance, construction of a room or building or hiring of teachers, which could not be monitored on a daily basis. The post facto social audit involved accessing government information; administering checklists; household survey; focus group discussion with children; community meetings and block/district review meetings.

NCPCR in 2011-12 covered 1537 schools in its social audit process across the 12 states involving school teachers, community, women, BEOs and DMs. A tool for social audit was developed and block level public hearings were conducted in which for the first time there was a convergence of block level officials of all concerned departments to plan for children and their rights. Several district collectors issued circulars for the entire district based on the social audit experience in the block. This brought about an increase in awareness about RTE Act.

Details of Social Audit Groups - RTE (2011-12)

Serial No.	Name of the State	Name of The Origination	District	Block	Schools
1.	Assam	Action North East Trust	Kokrajhar	1. Titaguri 2. Debitola 3. Gossaigaon	35
			Chirang	1. Borabazar	
			Baksa	1. Gabardhana	
2.	Andhra Pradesh	M.V. Foundation	Rangareddy	1. Parigi 2. Tandur 3. Nawabpet	50
			Kurnool	1. Dhone 2. Holagunda	
3.	Bihar	Bharat GyanVigyanS amiti	Kaimur (Bhabhua)	1. Chainpur 2. Bhabua 3. Chand 4. Mohania 5. Kudra	176
4.	Haryana	White Lotus	Nawal	1. Nuh 2. Nagina 3. Punhana 4. Pauri 5. Ferozpur Jharkha	34
5.	Rajasthan	AIMED	Alwar	1. Kot Kasim 2. Umren 3. Ramgarh 4. Kishangarhbas 5. Tijara	268
		Astha Sansthan	Udaipur	1. Salumber 2. Jhadol 3. Girwa 4. Rishabhdev (Kherawada) 5. Kotada	257

Children's Right to Education

Serial No.	Name of the State	Name of The Origination	District	Name of The Block	Number of School covered
7.	Madhya Pradesh	Bharat GyanVigyanS amiti	Sehore	6. Asta 7. Budhini 8. Ichawar 9. Narsulaganj 10. Sehore	76
8.	Maharashtra	Apeksha Homeo Society	Amravati	11. Nandgaon Khandeshwar 12. Tansa 13. Dhamangaon Rly 14. Dharni 15. Chikhaldhara	83
9.	Uttar Pradesh	Nirantar Trust-Sahjani Shiksha Kendra	Lalitpur	16. Mehrauni 17. Madawara 18. Birdha 19. Bar 20. Jakhora	98
10.	Tamil Nadu	Institute for Human Rights Education (People's Watch)	Sivagangai	21. Kalayarkoil 22. Kallai 23. S. Puthur 24. Babankudi 25. Alammadurai	81
11.	Karnataka	South India Cell for Human Rights Education and Monitoring (SICHREM)	Bangalore Urban	26. KR Puram 27. Pulikeshi Nagar 28. Shivaji Nagar 29. Vasanth Nagar 30. Chamaraj Pet	46
12.	Bihar	Joint Operation Social Work Society	Zone - 2 East (East Delhi)	31. ... South Zone	32

6.3 Shiksha samvad

An important aspect of the social audit process has been the response from the administration. In order to increase accountability at the lower levels of government, particularly at the block and district level, the Commission recommended conducting Shiksha samvads (education dialogues) as part of the concurrent social audit process. At the block level, shiksha samvads were held monthly. At the district level, they were held every three months. This process was implemented last year as part of the concurrent monitoring in 12 states.

The objective of the shiksha samvad was to strengthen people's participation and ensure transparency and administrative accountability in redressing grievances locally and within a shorter time frame. This process provided an opportunity to establish a relationship between the administration and the community. It enabled both to come together on a single platform, discuss, review and address issues related to RTE. Some state governments such as Rajasthan, Madhya Pradesh and Andhra Pradesh, agreed to conduct shiksha samvads and issued government orders for the same.

6.4 State representatives

The NCPCR nominated representatives in 15 states to act as the focal points for NCPCR and assist in monitoring the RTE Act. The state representatives are individuals who had been working on issues related to child rights for a number of years. They came equipped with vast experience in policy level work. These representatives helped the Commission in monitoring policy related issues at the state level. They also served as focal points for both the Commission and the citizens in follow-up of complaints related to violation of the RTE Act.

The concept of state representatives has been appreciated as a valuable experiment of integrating reputed persons from civil society with the government as well as an independent child rights institution such as the NCPCR. 26 state representatives were involved in assisting the Commission across 15 states. They helped in conducting of social audit, trainings for gram panchayats and members of SMCs, assisted in public hearings, conducted follow-ups on the same, enquired into violations of RTE and the complaints referred to them by NCPCR, engaged with the state government in formulation of state rules, preparation of training materials and acted as a bridge between the NGOs and the government in their respective states.

6.5 Capacity building

NCPCR conducted training programmes for district coordinators, block monitors and panchayat facilitators of all 12 states on the social audit process. Nearly 500 people were trained from these states. The training programmes provided the monitoring groups with a clear understanding of the RTE Act and the social audit process. The following trainings were conducted:

- i. Training for 80 district coordinators and block monitors from seven civil society organizations from 9 states held in Amravati district, Maharashtra (January 30 - February 8, 2011) on the process of conducting a post facto social audit. Subsequently, the participants went back to their respective states and trained their panchayat facilitators in the same process.
- ii. Training programme on post facto social audit process for block monitors and VCDC facilitators held in Chirang district, Assam (May 5 - 15, 2011).

- iii. Three-day trainings on concurrent monitoring for 31-35 participants each held in Rangareddy, Andhra Pradesh (September 7-9, 2011); Amravati, Maharashtra (September 12-17, 2011); Mewat, Haryana (September 17-19, 2011); Bhabhua, Bihar (from September 28-30, 2011); Madurai, Tamil Nadu (September 24-28, 2011), Delhi for Lalitpur, Uttar Pradesh (0September 28, 2011).
- iv. Training on post facto social audit for block monitors and panchayat facilitators held in Mashulpur, Baksa, Bodoland, Assam (September 18-20, 2011).
- v. Concurrent monitoring training for district coordinators and ward facilitators from Delhi social audit group JOSH, held in Delhi (October 12-14, 2011).
- vi. Six-day training on concurrent monitoring held in Dharamshala, Himachal Pradesh for 30 participants from 5 states of Orissa, Karnataka, Assam, Rajasthan and Himachal Pradesh (October 13-18, 2011).
- vii. Six-day training on post facto social audit process held in Bangalore (December 26-31, 2011).

6.6 Complaints

In 2011-12, the Commission received 1768 complaints from 28 states (most of them being from Delhi, Andhra Pradesh, Maharashtra) on issues relating to admission of children in schools, corporal punishment, detention of children, discrimination, teachers' attendance, 25 per cent reservation for economically weaker sections (EWS) in private schools, charging of excess fees, inadequate infrastructure, etc.

Head-wise complaints received from April 1, 2011 to March 31, 2012

S.no.	Major Head	No. of Complaints Dealt
1	Admission	246
3	Discrimination	11
5	Systemic Issues	91
7	Infrastructure	937
9	Authority	5
11	Miscellaneous	59
	Total	1768

6.7 Public hearings on RTE

The NCPCR, besides having set up other systems and structures for monitoring the RTE Act and using the complaints redressal process, has also addressed issues of violation of the RTE Act through public hearings.

These were held mostly in cases where the NCPCR received complaints en masse [usually brought in by civil society organisations]. The Commission in 2011-12 conducted eight public hearings in, Delhi (April 2011); Varanasi, Uttar Pradesh (December 2011); Vidarbha region, Maharashtra (April 2011); Hyderabad, Andhra Pradesh (May 2011); Bhubaneswar, Orissa (July 2011); Imphal, Manipur (August 2011); Kolkata, West Bengal (October 2011); Ranchi, Jharkhand (February 2012).

Around 300 cases were heard during the public hearing. The state representatives and the collaborating NGOs of social audit group also participated in the public hearings. Children too presented their cases in these hearings. There had been positive responses from the states on several occasions. Although there was initial resistance from the block and district level education officers, this was resolved sooner than later wherein the NGOs' help was sought by the government to resolve issues. More importantly, it raised public discussion and provided a platform for interaction between the government and civil society.

At the end of each public hearing, the Commission wrote to the state and district authorities for action to be taken against each complaint. The concerned authorities sent an ATR which was often verified by RTE state representatives of NCPCR before a case was finally closed.

Some of the issues addressed during such hearings were:

- a. Lack of access to schools/ unavailability of neighbourhoods schools.
- b. Admission-related issues such as denial, charging of fees/funds, demanding documents.
- c. Classroom transactions, especially corporal punishment.
- d. Discrimination/exclusion based on caste, class, disabilities.
- e. Insufficient pupil-teacher ratio as per RTE.
- f. Non-provision of universal entitlements such as textbooks and uniforms.
- g. Poor infrastructure.
- h. Issues related to mid-day meals.
- i. Teacher absenteeism.
- j. Issues related to SMC formation and functioning

Details of RTE Public Hearings (2011-2012)

S. No	Date	State	Place	No. of Testimonies heard	Issues
1	20.04.2011	Delhi	Maharishi Balmiki Vishal Mandir (Park of Block no. 10), block no. 10, Trilokpuri, Delhi-110091	32	Right to Education in East Delhi
2	26.04.2011	Maharashtra	Collector Office, Akashwari Road, Civil Nagar	25	Vidarbha Region Public Hearing on Right to Education

3	27.07.2011	Odisha Bhubaneswar	Jaydev Bhavan" (Suchana Bhavan), Unit- 2, Ashok Nagar, Bhubaneswar	30	Child Labour and other child rights issues
	28.07.2011			29	Right to Education Act
(Suchana Bhavan), Unit-2, Ashok Nagar, Bhubaneswar					
5	17.08.2011	Manipur Imphal	Conference Hall, Kangla Fort, Imphal	29	The rights of vulnerable children affected by HIV/AIDS and drug abuse
	18.08.2011			23	Right to Education, trafficking, child labour, disabilities and other child rights issues
6	20.10.2011	West Bengal Kolkata	Auditorium at "Town Hall", Esplanade Row West, Kolkata,	34	Children's rights to education under RTE
	21.10.2011			18	Child trafficking in South 24 Parganas District
7	17.12.2011	Uttar Pradesh Varanasi	Auditorium, Office of Divisional Commissioner, Varanasi division, Varanasi	36	Child labour and other child rights issues (RTE)
8	23.02.2012	Jharkhand Ranchi	Bam Dayal Munda Kala Kendra" at Mega Sports Complex, Ranchi	27	Children right to education under RTE Act
	24.02.2012			24	Child labour and other child rights issues

6.8 Publicity and awareness

NCPCR's social audit groups have undertaken extensive awareness campaigns on RTE, using various forms of media, including the following:

- a) Pamphlet in 11 languages (Marathi, Hindi, Tamil, Assamese, Bodo, Kannada, Telugu, Bundeli, Oriya, Bengali, and Manipuri) on the RTE Act were developed and distributed in the community, and given to school and district level administrations to be displayed and used.
- b) Traditional forms of communication such as the phad, street plays, songs, and slogans to generate information on the RTE Act, 2009 were used across all the 12 states. Newsletters in Bundeli in Uttar Pradesh and kalajathas in Bihar and Madhya Pradesh were also developed.
- c) In addition to this, NCPCR also developed various publicity and awareness material for communicating information about the Act:

- i) Booklets on the main features of the Act;
 - ii) Frequently Asked Questions (FAQs); and
 - iii) Template for wall writings on specific entitlements of the RTE Act to be displayed on school walls.
- d) The Commission also created a website dedicated to impart basic information about the Act, and NCPCR's work in monitoring the implementation of the RTE Act.

A theatre and communication workshop was also conducted at Vishwa Bharati, Shantiniketan, West Bengal, from November 20-30, 2011. Thirty five artistes from 10 states developed various RTE-related publicity and awareness material to be used as part of a communication campaign across the 12 social audit states. The campaign was launched in Imphal, Manipur and Bhilwada, Rajasthan.

6.9 Conferences and consultations

Issues such as grievance redress, discrimination, child labour and out of school children and role of local authority and private schools have been discussed through conferences and consultations. Consultations on amendment to Child Labour (Prohibition and Regulation Act), 1986 to harmonise it with the RTE Act was held with Ministry of Labour, Ministry of Law, National Advisory Council and some state-level labour departments.

Consultation on Eliminating Corporal Punishment and Ending Violence on Children in all Settings was held on October 3, 2011 New Delhi. Peter Newell, Coordinator, Global Initiative to End All Corporal Punishment to Children was one of the key speakers of the event. The discussion stressed the need for institutional reform and humanising school campuses so that they become healing spaces for children. It also stressed legislation towards protection of children from violence in family settings.

6.10 Studies

A study on the implementation of RTE titled "Towards More Effective Implementation of RTE: A Base Survey of Elementary Education in Bihar & UP, 2011-12" was commissioned by NCPCR through CORD (Collaborative Research and Dissemination).

A study titled "Corporal Punishment: Everyday Reality of India's Children" was also finalised by the NCPCR and circulated for review/comments.

6.11 Expert group meetings

Two expert group meetings were held on June 21, 2011 and March 26, 2012 and the NCPCR benefitted from their advice on various components of the programme. The group suggested harmonisation of the states' RTE rules, documentation of the best practices found during the social audit exercise and institutionalisation of the processes of the social audit programme.

7. Child Rights in Areas of Civil Unrest

“The Bal Bandhu Scheme - A Programme for Protection of Child Rights in Areas of Civil Unrest” which began in 2010 is a pilot programme supported by the Prime Minister’s National Relief Fund (PMNRF) in the states of Andhra Pradesh, Assam, Bihar, Chhattisgarh and Maharashtra.

7.1 Objectives of Bal Bandhu Scheme:

- (i) To intervene in 10 districts in 5 states in areas of civil unrest with the mandate to protect children’s rights, focusing attention on mobilisation of communities through trained local youth volunteers or “Bal Bandhu” (BB), who will act as child defenders.
- (ii) To bring stability in the lives of children in the process of ensuring that all their entitlements to protection, health, nutrition, sanitation, education and safety, are fulfilled through government action;
- (iii) To enhance democracy through community participation and action and renew hope in harmonising the society and stabilising lives while a child’s well-being becomes the focus of all action in the area.

7.2 Engagement of Bal Bandhus

During the year 2011-12, there were 20 BBs in each of the nine blocks of nine districts (out of proposed 10 districts) of five states where the scheme was being implemented. They have been trained as child rights activists. Currently there were 176 BBs engaged under the scheme in five states. The BBs were from the local area/community itself. They had been oriented about the scheme, United Nations Convention on the Rights of the Child (UNCRC), all relevant acts including “The Right of Children to Free and Compulsory Education Act” (RTE Act) and their roles and responsibilities under the Bal Bandhu Scheme Guidelines and programmes and policies on child protection. They had also been provided orientations by the resource persons on community mobilisation. There were two resource persons per district. The roles of resource persons were to monitor, provide overall supervision and facilitate implementation of the scheme at the district level. The overall coordination of the programme was done by the project coordinator located at Delhi.

7.3 Activities of Bal Bandhus

The BBs mobilise community to review the status of children in their villages and access institutions and government schemes such as the schools, Anganwadi centres, ashram shalas, hostels and so on and petition to the government at the block and district level about gaps in functioning of institutions for children. Simultaneously the BBs and resource persons engage with the district and block level officials as also the functionaries of all the local institutions to respond to the petitions made by the community.

The following is the gist of the activities taken up under the Bal Bandhu programme:

- a. Completion of household survey in selected gram panchayats in each block of all children in the 0-18 year age group.
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- b. Monitoring enrolment of children in schools, bringing children back to school, community verification of attendance of children in schools, petitions for reinstating subject-wise teachers in schools, and attending block level trainings as well as orientations.
- c. Training of gram panchayats as per the provisions of the RTE Act.
- d. Facilitating formation of school management committees (SMCs).
- e. Formation of Bal and Balika Adhikar Suraksha Samiti (BASS) in gram panchayats and encouraging these to make regular petitions on several matters concerning children and their rights.
- f. Assessment of the functioning of ashram schools and social welfare hostels with support from community and through interaction with the functionaries.
- g. Improvement in the conditions of schools as well as AWCs since the teachers become regular and the quality of ahaar (food) better.
- h. Holding of youth meetings/rallies in every village on child rights. Preparation of a list of non-functional AWCs in the block and sharing it with the district administration.
- i. Meeting and working with the Accredited Social Health Activist (ASHA) workers, tola sevaks in Bihar, Anganwadi Workers (AWWs) and school teachers.

7.4 State visits to review the implementation of the Scheme

Visits were undertaken by the Chairperson, Member In-charge, Member Secretary and concerned Consultants of the Commission to review the progress of implementation of the scheme in the states between January 2011 and March 2012.

During these visits, meetings were held with the community members, sarpanchs, ward members, Anganwadi workers and helpers, school teachers, and parents and guardians of children as well as with the BBs and resource persons to gauge the issues on the ground. Subsequent meetings were held with the state and district administration where the issues and grievances of the community were shared. The administration was encouraged to set up mechanisms for timely redress of these issues and to hold regular review meetings with the BBs and resource persons for the effective implementation of the Bal Bandhu Scheme.

7.5 The outcomes of the Bal Bandhu Scheme are as follows:

- a. 4,787 community meetings had been held to discuss child rights issues.
- b. 155 block level and 104 district level meetings with officials had been held to review the implementation of the scheme and address child rights issues in the villages.
- c. Children totaling 14889 had been enrolled to schools.
- d. 963 schools and 931 Anganwadi had been made functional.
- e. Enrollment of children to Residential Bridge Course/ashramshalas and other residential institutions have been made for 2,497 out of school children.
- f. About 13,257 children provided with support during exams; and

- g. 176 youth from the community trained in child rights, community mobilisation and taken for an exposure visit to child-friendly areas.
- h. Local child rights support groups called Bal Adhikar Sanghatans in Assam, Bal Adhikar Surakshit Sangh at Bihar, Chattisgarh and Maharashtra, Child Rights Protection Forum at Andhra Pradesh formed to mediate on behalf of the children with parents, employers, functionaries and the authorities.

7.6 Trainings held

S. No.	Training Group	District	State	Date/s
1	Headmasters and teachers	East Champaran	Bihar	26-29 th March 2012
3	Members of SMCs in 20 VDCs	Kokrajhar	Assam	16-19 th March 2012
4	Members of SMCs in 20 VDCs	Chirang	Assam	12-15 th March 2012
5	District level officers of the education department	Sheohar	Bihar	12-15 th March 2012
6	District level officers of the education department	Rohtas district	Bihar	4 th March 2012
7	School teachers	Rohtas district	Bihar	27 th Feb-1 st March 2012
8	School teachers	Chirang district	Assam	15-18 th February 2012
9	District level officers of the education department	Gadchiroli	Maharashtra	11-12 th December 2011
10	District level officers of the education departments	Dantewada district	Chhattisgarh	11-13 th October 2011

7.7 Trainings on Child Rights held

S. No.	Child Rights Trainings conducted for	District	State	Date/s
1	Bal bandhus and Resource Persons	Jamui	Bihar (Patna)	18 th and 19 th June 2011
2	Bal bandhus and Resource Persons	Rohtas	Bihar (Patna)	18 th and 19 th June 2011
3	Bal bandhus and Resource Persons	East Champaran	Bihar (Patna)	25 th and 26 th June 2011
4	Bal bandhus and Resource Persons	Sheohar	Bihar (Patna)	25 th and 26 th June 2011
5	Bal bandhus and Resource Persons	Chirang	Assam (Guwahati)	9 th and 10 th July 2011
6	Bal bandhus and Resource Persons	Kokrajhar	Assam (Guwahati)	9 th and 10 th July 2011

7.8 Government support

In the project areas affected by violence, the district and block officials had been more than forthcoming in extending a supportive hand. They had often come up with innovative ideas to participate in children's rights. A few examples from the field:

- In **Gadchiroli, Maharashtra**, the Tribal Development Department helped 112 failed tribal children re-appear for their 10th class exams, by provision of coaching classes in a residential setup for 2.5 months (January- March 2012). This was done in addition to fee waiver, all arranged for by the Department. Of the 104 children who appeared for the 10th class exam in March this year, 57 children had reportedly cleared the exam.
- In **Kokrajhar, Assam**, 28 child labourers were released with the intervention of the principal secy., Bodoland Territorial Council and Labour Inspector. Also, 27 child marriages were prevented in the block with the aid of an active police force. Further, in the recent communal crisis, the Assam government had been very responsive to the health and educational needs of children.
- In **Chirang, Assam**, the district level officials convened a monthly **District Development Committee (DDC) meeting**, wherein issues were tabled concerning schools, Anganwadi centres, child marriages and child labour. These were taken up by the District Commissioner. The concerned official accountable had to respond what action had been taken to address the issue. Regular follow-ups took place.
- **Sarpanches/village heads of East Champaran district of Bihar**, overwhelmed with the changes in institutions, had taken up issues of child rights. They now regularly monitored Anganwadi centres and schools. Further, the SDO, DEO, BRP ensured that schools conducted morning assemblies on time, Anganwadi workers and teachers discharge their duties, and there was no misuse of power.
- Similarly, **Sheohar district of Bihar** had been witness to a change with education officers regularly monitoring schools, and ensuring children receive their entitlements – mid-day meals, scholarship, uniform, which is proven by the fact that the attendance in schools had gone up from 30 per cent to 60 per cent now.

7.9 Special intervention

- **In Jamui and Rohtas:**
 1. Special grant received from Ministry of Home Affairs (MHA) for Rohtas for facilitating the education of 33 girls of KGBV who had passed class 8th, to avoid their dropout.
 2. The same intervention was being practiced in Jamui district where 67 girls were studying in 9th standard in KGBV, funded by NCPCR.

7.10 Documentation of the Scheme

Documentation and reporting on the implementation of the scheme has been integral to its functioning. Reports were received from the districts and used as inputs into end of year assessment of the scheme. Quarterly review meetings held with the resource persons provided an opportunity to report on the work at the district levels.

7.11 Pilot programme for Protection of Child Rights (PPPCR)

A pilot programme for protection of child rights was launched in the state of Jammu and Kashmir in November 2011 in Sumbal and Rajwar educational zones of Bandipora and Kupwara districts respectively with due approval from the Chief Minister of the State of J&K and the PMO. This pilot was supported from the PM's National Relief Fund. A team from the Commission visited the State of Jammu and Kashmir on January 3, 2011. It travelled for three days through Srinagar, Bandipora, Kupwara and Jammu districts. The team held meetings with the community and discussed issues pertaining to health and education of children in the state.

As part of the programme, the NCPCR held winter schools in both Rajwar and Sumbal from mid-January to first week of March. It was successful in attracting children to school during these months. The students were taught with the help of play way methods and no "stick or cane" was ever used.

8. Complaints of Child Rights Violations dealt by NCPCR (2011-2012)

State Name	Nos. of Complaint		
	Others	RTE	Total
Andaman and Nicobar Islands	1	0	1
Andhra Pradesh	71	780	851
Arunachal Pradesh	3	1	4
Assam	2	12	14
Bihar	17	8	25
Chandigarh	4	0	4
Chhattisgarh	9	4	13
Dadra and Nagar Haveli	0	0	0
Daman and Diu	0	0	0
Delhi	121	517	638
Goa	1	1	2
Gujarat	11	2	13
Haryana	18	20	38
Himachal Pradesh	3	0	3
Jammu and Kashmir	0	2	2
Jharkhand	9	0	9
Karnataka	9	6	15
Kerala	10	2	12
Lakshadweep	0	0	0
Maharashtra	26	132	158
Mizoram	0	0	0
Meghalaya	5	0	5
Nagaland	2	1	3
Nagaland	2	1	3
Puducherry	0	0	0

Complaints of Child Rights Violations dealt by NCPCR (2011-2012)

State Name	Nos. of Complaint		
Rajasthan	12	6	18
Tamil Nadu	50	15	65
Uttar Pradesh	187	62	249
West Bengal	26	99	125



9. Other Issues

9.1 Children affected/infected with HIV/AIDS

On receipt of a number of complaints pertaining to orphan and vulnerable children infected and affected by HIV/AIDS in the state of Manipur from Manipur Network of Positive People (MNP+), the Commission held a public hearing in Imphal on August 17, 2011. Twenty three children from various districts of the state were heard.


Since each child's case as well as his/her requirement was unique, the Commission issued child-wise recommendations to the concerned departments of the state government such as Women Development and Child Welfare, Social Welfare, Health and Family Welfare, NRHM, School Education and SSA, the State AIDS Control Society and concerned district collectors to take action.

NCPCR's Recommendations

- a. A complete health check-up was to be conducted and the nutritional requirements of every child met by Manipur AIDS Control Society (MACS).
- b. Doctors and the nurses were advised to listen to children and spend quality time with them in order to assess their requirements.
- c. All children were to be covered under public distribution system (PDS) and should receive a ration card, as directed to the Social Welfare Department.
- d. All children to be included under the supplementary nutrition programme (SNP) and the SABLA scheme for nutrition by the Social Welfare Department.
- e. All children to be covered under the financial assistance scheme for "dependent children" by the Social Welfare Department.
- f. Grandparents of orphaned children to receive old-age pension.
- g. District Protection Officer, Imphal West and District Legal Services Authority should help children claim their right to deceased father's property.

9.2 Child participation in reality shows

In response to NCPCR's "Guidelines to regulate Child Participation in TV serials, Reality Shows and Advertisements", the Ministry of Information and Broadcasting placed a copy of the said guidelines on its website (www.mib.nic). It also transmitted the same to National Broadcasting Association (NBA), (Indian Broadcasting -Foundation) IBF, Multi-Service Operators (MSO) Alliance and Cable Operators Federation of India (COFI) with a request to circulate the same among their member television channels and to place on their websites also. The same was communicated to the Commission vide letter no. 3105/63/2011-BC-III dated November 28, 2011.



9.3 Protection of child rights in Jagatsinghpur District, Odisha caught in tension relating to land alienation

An investigation team of NCPCR was constituted to look into the alleged misuse of the children in the anti-Posco movement by tribal communities against acquisition of their land by the company. The team visited Jagatsinghpur district of Odisha between July 3 and 5, 2011. It also visited the transit camp at Badagabapur, primary schools at Balitutha, Dhinkia and Gobindapur, and the place of agitation involving children. As a result of the NCPCR intervention, the police vacated the schools. All schools were currently functioning in the area.

9.4 Child marriage

Providing a fillip to its pledge to end child marriage, a team from NCPCR met Archbishop Desmond Tutu, Gro Brundtland and Mary Robinson, "The Elders", on February 7, 2012. "The Elders" are a group of eminent people from around the world working on human rights and peace, brought together by Nelson Mandela to bring renewed focus on the issue of child marriage where the girls have no say in when and who they will marry. This group included Desmond Tutu, Ela Bhatt, Graca Machel, Gro Harlem Brundtland, Lakhdar Brahimi, Jimmy Carter, Kofi Annan, Martti Ahtisaari and Mary Robinson.

A national consultation to discuss the pressing concern of child marriage was organised by NCPCR on December 5, 2011, with participants from government, non-government sector and independent consultants. The need for a multi-pronged strategy, legal literacy with regard to the Prevention of Child Marriage Act (PCMA), 2006, sensitisation of all stakeholders, registration of marriage, defining roles and responsibilities of duty bearers, and preparation of a data bank by the state were some key issues which were discussed.

Two regional consultations were held in Bangalore and Hyderabad on December 23, 2011 and January 7, 2012 respectively. A number of key issues pertaining to the social evil of child marriage were identified and aimed to resolve.

9.5 Protection of child rights in North-East (NE)

NE Cell in the NCPCR started functioning w.e.f 01.12.2011. The Cell was required to deal with the issues concerning promotion and protection of children's rights in NE states in particular to look after the following areas of child rights in the NE region:

1. Monitoring the constitutionally guaranteed fundamental right of all children for access to free and compulsory education under Right to Education (RTE) Act, 2009.
2. Monitoring steps taken for elimination of child labour.
3. Monitoring measures taken for prevention of trafficking of children from North-East to other States; rescue/release/repatriation of the trafficked children and their rehabilitation through education, nutrition, health care and skill training etc.
4. Preventing/minimising incidence of substance abuse.
5. Monitoring promotion and protection of rights of all children who are infected/affected by HIV/AIDs.

Besides discharging the above mandated functions, the Cell made significant contribution in the following areas:

To monitor compliance by all the state governments/UTs (35) with the direction issued by the Hon'ble Supreme Court in Writ petition (Crl) No 102 of 2007 Re. Exploitation of children in orphanages in the state of Tamil Nadu.

This involved correspondence and vigorous follow up with the states/UTs (35). All states/UTs (35) were reminded to file their affidavits stating their position correctly and precisely on the issues raised by the Hon'ble Supreme Court in their orders in the above mentioned case.

Vacation of school buildings occupied by armed/paramilitary security forces

There were 10 states as on 1.12.11 in which schools were being occupied by the forces. The matter was followed with them. All of them have confirmed that they were no more occupying schools for use by the armed/paramilitary security forces.

Action plan

An action plan was prepared for "Monitoring of Promotion and Protection of Child Rights" in North-Eastern states. The preparation of this action plan involved meeting with all the resident commissioners of the NE states posted at Delhi, getting feedback from them, meeting with all concerned secretaries of the GOI and also writing to all the concerned secretaries of NE states, Chief, National Drug Dependence Treatment Centre, Ghaziabad and (Director General) DG - Narcotics Control Bureau and concerned heads in the United Nations Development Programme (UNDP), UNICEF, UNOC and Joint United Nations Programme on HIV/AIDS (UNAIDS) to have access to the secondary data for being incorporated in the action plan for NE states. The action plan sent to chief secretaries of all NE states and all concerned ministries/departments of the Gol.

All central universities in NE were addressed to assist the Commission in creating a conducive environment for the implementation of the provisions of Right to Education Act 2009, prevention of trafficking, prevention of substance abuse and HIV/AIDS. Positive responses from them had been received.

Trafficking of children from NE to outside

A high priority was accorded to the plight of innocent children being made victims of wanton cruelty, exploitation and neglect by the traffickers and other vested interests who abet such trafficking. In the month of December, 2011 itself letters to all states/UTs were sent with the details of trafficked children. In all, records of 279 trafficked children had been entered into with details such as the name of the child, father's name, sex, age, name of the originating and destination state to facilitate monitoring.

9.6 Research Advisory Committee

A research advisory committee (RAC) was constituted by the Commission during the year 2011-12 vide order dated 04.05.2011 for promoting research in the field of child rights.

During the year, research study on "Making RTE more Effective: Baseline Survey of Elementary Education in Bihar & U.P. - 2011-2012" was commissioned and Research for "Review of Existing Legislation from Child Rights/Child Jurisprudence Perspective", approach paper on "Legislative Reform for Children" was prepared and submitted.

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10. Information, Education and Communication Efforts

NCPCR has been striving hard to ensure child rights by monitoring the implementation of policies and programmes meant for promotion and improvement of the status and opportunities of the children by influencing the governmental policies. Upholding the principles of survival, protection, development and participation rights of the children, the Commission has ensured that all policies, programmes and actions pertaining to children's welfare were towards the best interest of the children. In order to achieve the same NCPCR has undertaken extensive awareness, by involving all the stakeholders, through various programmes, including Foundation Day, Vatsalya Mela, World Day against Child Labour, Exhibitions, etc.

10.1 World Day against Child Labour

NCPCR organised the World Day against Child Labour on **June 12, 2011** in Mumbai, Maharashtra. Over 650 people, including representatives of the government, child rights organisations, civil society, international and national non-governmental organisations and the media came together to pledge their support for children's right to education and the elimination of child labour. The programme was organised by NCPCR in collaboration with UNICEF and International Labour Organisation (ILO). The chief guest, Hon'ble Chief Minister of Maharashtra Shri Prithviraj Chauhan, stressed the importance of education for all children in the light of the RTE Act and expressed commitment of his state government to promote education for all and ensure elimination of child labour.


10.2 Vatsalya Mela

NCPCR took part in the Vatsalya Mela from **November 14-19** and distributed educative and informative material on subjects such as corporal punishment, RTE Act and other issues relating to children. Handouts, bookmarks and badges on these subjects were distributed to the visitors, including children. Queries from children, parents, school authorities and the public on the functioning of the Commission were entertained by NCPCR officers and staff.

On the last day of the *mela*, the Commission also organised a panel discussion on child health and nutrition. The experts emphasised the need to inculcate healthy dietary practices to combat the problem of child obesity and malnutrition. This year, the themes for the fair were declining sex ratio, empowerment of adolescent girls and spreading awareness on malnutrition.

10.3 Foundation Day of NCPCR

Like every year, NCPCR celebrated its fifth Foundation Day at the India Islamic Cultural Centre on **March 5, 2012**. The day saw the release of a set of guidelines on "Eliminating Corporal Punishment in Schools" by Smt. Krishna Tirath, Hon'ble Minister of State (Independent Charge), Ministry of Women and Child Development, Government of India.



The Foundation Day Lecture “Child’s Right to Education: Fulfilling National and International Obligation” was delivered by Mr Kishore Singh, UN Special Rapporteur on Right to Education.

10.4 News letter

Advocacy on child rights and dissemination of information regarding the major activities of NCPCR had also been done through its newsletter, INFOCUS.



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CONSOLIDATED FINANCIAL STATEMENT

National Commission for Protection of Child Rights
5th Floor, Chanderlok Building 36, Janpath, New Delhi - 110 001

BALANCE SHEET AS AT 31ST MARCH 2012

(Amount in Rs.)

<u>CORPUS/CAPITAL FUND AND LIABILITIES</u>	<u>Schedule</u>	<u>Current Year</u>	<u>Previous Year</u>
CORPUS/CAPITAL FUND	1	63,183,221.17	43,781,890.80
RESERVES AND SURPLUS	2	-	-
EARMARKED/ENDOWMENT FUNDS	3	767,000.00	280,000.00
SECURED LOANS AND BORROWINGS	4	-	-
UNSECURED LOANS AND BORROWINGS	5	-	-
DEFERRED CREDIT LIABILITIES	6	-	-
CURRENT LIABILITIES AND PROVISIONS	7	4,715,679.00	1,655,653.00
TOTAL		68,665,900.17	45,717,543.80
<u>ASSETS</u>			
FIXED ASSETS	8	8,689,239.00	7,897,292.00
INVESTMENTS - FROM EARMARKED FUNDS	9	-	-
INVESTMENTS - OTHERS	10	-	-
CURRENT ASSETS, LOANS, ADVANCES ETC.	11	59,976,661.17	37,820,251.80
MISCELLANEOUS EXPENDITURE (to the extent not written off or adjusted)		-	-
TOTAL		68,665,900.17	45,717,543.80
SIGNIFICANT ACCOUNTING POLICIES AND NOTES ON ACCOUNTS	24 25		

CONSOLIDATED FINANCIAL STATEMENT			
National Commission for Protection of Child Rights			
5th Floor, Chanderlok Building 36, Janpath, New Delhi - 110 001			
<u>INCOME AND EXPENDITURE ACCOUNT FOR THE PERIOD YEAR ENDED</u>			
			(Amount in Rs.)
INCOME	Schedule	Current Year	Previous Year
Income from Sales / Services	12	-	-
Grants / Subsidies	13	163,638,474.00	83,483,000.00
Fees/ Subscriptions	14	-	-
Income from Investments (Income on Invest from earmarked Funds transferred to Funds)	15	-	-
Income from Royalty, Publication etc.	16	-	-
Interest Earned	17	1,526,188.00	602,267.00
Other Income	18	8,240.00	5,149.00
Increase/(decrease) in stock of Finished goods and works-in-progress	19	-	-
TOTAL (A)		165,172,902.00	84,090,416.00
EXPENDITURE			
Establishment Expenses	20	41,332,837.00	16,939,305.00
Office & Other Administrative Expenses etc.	21	85,326,776.63	43,404,694.00
Expenditure on Grants, Subsidies etc.	22	17,208,010.00	1,820,500.00
Interest	23	-	-
Depreciation (Net Total at the year-end) (Corresponding to Schedule 8)		1,903,948.00	1,762,600.00
TOTAL (B)		145,771,571.63	63,927,099.00
Balance being excess of Income/(Expenses) over Expenditure/Income (A-B)		19,401,330.37	20,163,317.00
Transfer to Special Reserve (Specify each)			
Transfer to / from General Reserve			
BALANCE BEING SURPLUS/(DEFICIT) CARRIED TO CORPUS / CAPITAL FUND		19,401,330.37	20,163,317.00
SIGNIFICANT ACCOUNTING POLICIES	24		
AND NOTES ON ACCOUNTS	25		

Consolidated Financial Statement

CONSOLIDATED FINANCIAL STATEMENT					
National Commission for Protection of Child Rights					
5th Floor, Chandernagore Building 36, Janpath, New Delhi - 110 001					
RECEIPTS AND PAYMENTS FOR THE YEAR ENDED 31ST MARCH, 2012					
(Amount in Rs.)					
RECEIPTS	Current Year	Previous Year	PAYMENTS	Current Year	Previous Year
			(I) Expenses:		
(I) Opening Balances:			a) Establishment Expenses	38,982,164.00	18,126,195.00
a) Cash in hand (Including Imprest)	13,400.00	135,752.00			
b) Bank Balances			b) Office & Other Administration Expenses	102,534,786.63	45,225,194.00
(i) In current accounts (unspent bal.)					
(ii) In deposit accounts			c) TDS & Other payable amount of last year	(719,353.00)	(282,079.00)
(iii) Savings accounts	27,101,188.80	8,572,195.80			
Adjustment of previous year advance			(II) Payments made against funds for various projects:		
			Out of Earmarked/Endowment funds		
(II) Grants Received:			(Unicef India)	155,000.00	258,835.00
a) From Government of India:-			Naxal Management Division	33,000.00	-
For Capital & Revenue Expenses	163,638,474.00	83,483,000.00			
b) From State Government					
c) From other sources (Unicef India)	230,000.00	388,835.00			
d) From Naxal Management Division	445,900.00	-	(III) Investments and deposit made:		
			a) Out of Earmarked/Endowment funds	0	0
(III) Income on Investments from:			b) Out of Own Funds (Investments-others)	0	0
a) Earmarked/Endow. Funds	-	-			
b) Own Funds (Oth. Investment)	-	-	(IV) Expenditure on Fixed Assets & Capital Work-in-Progress:		
			a) Purchase of Fixed Assets	2,706,010.00	111,146.3
			b) Exp. On Capital Work-in-progress	0	0
(IV) Interest Received:			(V) Loans & Advances:		
a) On Bank deposits	1,525,646.00	602,267.00	a) To the Government of India	0	
b) Loans, Advances etc.	542.00	-	b) To the State Government	0	
			c) To others	4,665,523.00	1,254,982.00
			d) Recovered & paid to parent office		
(V) Other Income (Specify):			(VI) Finance Charges (Interest):		
RTI Fee Received	4,740.00	1,849.00			
Sale of old News papers and Magzines	3,500.00	-	(VII) Other Payments (Specify):		
Tender Money	-	-	Refund of Grant to Panchayati Raj		
Security Money Received	-	-	Deposit With NDMC		300,040.00
Security Deposit (Phone) Return	-	-	Deposit With MTNL		
Misc.	-	3,300.00			
			(VIII) Closing Balances:		
(VI) Amount Borrowed:			a) Cash in hand (Including Imprest)	60,821.00	13,400.00
Sale of Assets	10,115.00	-	b) Bank Balances:-		
			(i) In current accounts		
			(ii) In deposit accounts		
			(iii) Savings accounts	44,544,654.17	27,101,188.80
TOTAL	192,972,606.80	83,187,198.80	TOTAL	192,972,606.80	83,187,198.80

Audit Certificate for the Financial Year 2011-12



सत्यमेव जयते

कार्यालय महानिदेशक लेखा परीक्षा (केन्द्रीय व्यय)
Office of the Director General of Audit, (Central Expenditure)
इन्द्रप्रस्थ इस्टेट, नई दिल्ली-110 002
Indraprastha Estate, New Delhi -110 002

पत्र संख्या: ए.एम.जी.-1/4-10/एस.ए.अथ./एन.सी.पी.सी.आर./2012-13/

दिनांक:

सेवा में,

सचिव,
भारत सरकार, महिला एवं बाल विकास मंत्रालय,
कमरा नम्बर 681, ए-विंग, शास्त्री भवन,
नई दिल्ली-110001.

विषय : राष्ट्रीय बालक अधिकार संरक्षण आयोग, नई दिल्ली के वर्ष 2011-12 के लेखाओं पर
पृथक लेखापरीक्षा प्रतिवेदन।

महोदय,

मैं, राष्ट्रीय बालक अधिकार संरक्षण आयोग, नई दिल्ली के वर्ष 2011-12 के प्रमाणित वार्षिक
लेखों की प्रति, वार्षिक लेखों पर पृथक लेखापरीक्षा प्रतिवेदन तथा लेखापरीक्षा प्रमाणपत्र की प्रति
संसद के सदन पर रखने के लिए प्रेषित कर रहा हूँ।

यह प्रतिवेदन संसद के समक्ष प्रस्तुत कर दस्तावेज की दो प्रतियाँ उस तिथि को दस्तावेज हुए,
जब वे संसद को प्रस्तुत किए गए थे, इस कार्यालय तथा भारत के नियंत्रक एवं महालेखापरीक्षक का
कार्यालय, 9-दीन दयाल उपाध्याय मार्ग, नई दिल्ली-110024 को भेजी जाएं।

कृपया यह सुनिश्चित किया जाए कि पृथक लेखापरीक्षा प्रतिवेदन को संसद के दोनों सदनों के
समक्ष प्रस्तुत करने से पहले वार्षिक लेखाओं को शासी निकाय (Governing body) द्वारा
अनुमोदित अवश्य करा लिया जाए तथा यह भी सुनिश्चित करें कि वर्ष 2011-12 के लेखापरीक्षा
प्रतिवेदन एवं लेखापरीक्षा प्रमाण पत्र को संसद के सदन पर रखने से पहले सभी पूर्ण वर्षों के
लेखापरीक्षा प्रतिवेदन एवं लेखापरीक्षा प्रमाणपत्र संसद के सदन पर प्रस्तुत किये जा चुके हों।

लेखापरीक्षा प्रतिवेदन का हिन्दी अनुवाद एवं इससे जारी करने से सम्बन्धित सभी कार्यों को
आपके निकाय द्वारा किया जाना ही अपेक्षित है। पृथक लेखापरीक्षा प्रतिवेदन का हिन्दी अनुवाद जारी
करते समय निम्नलिखित अस्वीकरण (disclaimer) अंकित करें।

"प्रस्तुत प्रतिवेदन मूल रूप से अंग्रेजी में लिखित पृथक लेखापरीक्षा प्रतिवेदन का हिन्दी
अनुवाद है। यदि इसमें कोई विसंगति परिलक्षित होती है तो अंग्रेजी में लिखित प्रतिवेदन मान्य होगा।

अनुलग्नक: 2थोपरि

भवदीय,

उप निदेशक

ACCOUNTS

HS
11/29/12

14 DEC 2012

पत्र संख्या: ए.एम.जी.-V4-19/एस.ए.आर./एन.सी.पी.सी.आर./2012-18/789 दिनांक:

प्रति, श्री लक्ष्मी वर्मा, सदस्य सचिव, राष्ट्रीय बालक अधिकार संरक्षण आयोग, पांचवां तल, चन्द्रलोक भवन, 36, जनपथ, नई दिल्ली-110001 को राष्ट्रीय बालक अधिकार संरक्षण आयोग के प्रमाणित वार्षिक लेखे की प्रति, वार्षिक लेखों पर पृथक लेखापरीक्षा प्रतिवेदन तथा लेखापरीक्षा प्रमाणपत्र आवश्यक कार्यवाही हेतु अग्रेषित की जाती है। कृपया प्रमाणित वार्षिक लेखों पर जारी पृथक लेखापरीक्षा प्रतिवेदन की हिन्दी की एक प्रति शीघ्र इस कार्यालय को भेजी जाए।

संसद को प्रस्तुत दस्तावेजों की दो प्रतियाँ उस तिथि को दर्शाई हुए जब वे संसद को प्रस्तुत किए गए थे, इस कार्यालय को तथा भारत के नियंत्रक एवं महालेखापरीक्षक का कार्यालय, 9-दीन दयाल उपाध्याय मार्ग, नई दिल्ली-110124 को भेजी जाएं।

अनुलग्नक: यथोपरि


उप निदेशक

Separate Audit Report of the Comptroller and Auditor General of India on the Accounts of National Commission for Protection of Child Rights for the year ended 31 March 2012

We have audited the attached Balance Sheet of National Commission for Protection of Child Rights as at 31 March 2012, Income & Expenditure Account and Receipts & Payment Account for the year ended on that date under Section 19(2) of the Comptroller & Auditor General's (Duties, Powers & Conditions of Service) Act, 1971 read with Section 29(2) of the National Commission for Protection of child Rights Act, 2005. These financial statements are the responsibility of the National Commission for Protection of Child Rights management. Our responsibility is to express an opinion on these financial statements based on our audit.

2 This Separate Audit Report contains the comments of the Comptroller & Auditor General of India (CAG) on the accounting treatment only with regard to classification, conformity with the best accounting practices, accounting standards and disclosure norms, etc. Audit observations on financial transactions with regard to compliance with the Law, Rules & Regulations (Propriety and Regularity) and efficiency-cum-performance aspects, etc., if any are reported through Inspection Report/CAG's Audit Reports separately.

3 We have conducted our audit in accordance with auditing standards generally accepted in India. These standards require to plan and perform the audit for obtaining reasonable assurance about whether the financial statements are free from material misstatements. An audit includes examining, on a test basis, evidences supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by managements, as well as evaluating the overall presentation of financial statements. We believe that our audit provides a reasonable basis for our opinion.

4 Based on our audit, we report that:

- i. We have obtained all the information and explanation, which to the best of our knowledge and belief were necessary for the purpose of our audit.
- ii. The Balance Sheet, Income & Expenditure Account and Receipt & Payment Account dealt with by this report have been drawn up in the Common Format of Accounts approved by the Ministry of Finance.

iii. In our opinion, proper books of accounts and other relevant records have been maintained by the Commission as required under Section 29(1) of the National Commission for Protection of Child Rights Act, 2005 in so far as it appears from our examination of such books.

iv. We further report that:

A. Grant-in-Aid

Out of ₹ 1636.38 lakh (₹ 1011.28 lakh received from Ministry of Women & Child Development as Grant-in-aid under Plan, ₹ 375.55 lakh from Ministry of Human Resource Development under Right to Education Scheme, ₹ 199.95 lakh from Prime Minister National Relief Fund under Bal Bandhu Scheme, ₹ 49.60 lakh under Pilot programme for protection of Child Rights in Jammu & Kashmir) ₹ 393.82 lakh was received in March 2012. It had ₹ 273.94 lakh Unspent Balance of previous year (Plan ₹ 77.97 lakh, RTE ₹ 78.92 lakh and BBS ₹ 117.05 lakh. It had also an internal receipt of ₹ 15.35 lakh (Plan ₹ 6.12 lakh, RTE ₹ 3.70 lakh, BBS ₹ 5.14 lakh and JKPP ₹ 0.39 lakh). Out of total funds available, the Commission utilised ₹ 1484.67 lakh (₹ 928.99 lakh Plan, ₹ 331.01 lakh RTE, ₹ 218.87 lakh BBS and ₹ 5.80 lakh JKPP) leaving an unspent balance of ₹ 441.00 lakh (₹ 166.38 lakh Plan, ₹ 127.16 lakh RTE, ₹ 103.27 lakh BBS and ₹ 44.19 lakh JKPP)

B. Management letter: Deficiencies which have not been included in the Audit please Report have been brought to the notice of the NCPCR through a management letter issued separately for remedial/corrective action.

v. Subject to our observations in the preceding paragraph, we report that the Balance Sheet, Income & Expenditure Account and Receipt and Payment Account dealt with by this report are in agreement with the books of accounts.

vi. In our opinion and to the best of our information and according to the explanations given to us, the said financial statements read together with the Accounting Policies and Notes on Accounts, and subject to the significant matters stated above and

other matters mentioned in Annexure to this Audit Report give a true and fair view on conformity with accounting principles generally accepted in India.

- a. In so far as it relates to the Balance Sheet of the State of affairs of the National Commission for Protection of Child Rights are as at 31 March, 2012 and
- b. In so far as it relates to Income and Expenditure Account of the surplus for the year ended on that date

For and on behalf of the C&AG of India


Director General of Audit
(Central Expenditure)

Place: New Delhi

Date:

Annexure

1. Adequacy of Internal Audit System

The internal audit was conducted by the Ministry but report was awaited

2. Adequacy of Internal Control System

The management's response to audit objection is not effective, as 15 audit paras for the 2007-2009 to 2009-11 were outstanding.

3. System of physical verification of fixed assets

Physical verification of fixed assets is under process.

4. System of physical verification of inventory

The physical verification of inventory like books and publications, stock of papers, stationery and other consumable items is under process.

5. Regularity in payment of statutory dues

No payment over six months in respect of statutory dues was outstanding


Dy. Director 14/2

ANNEXURE

A Brief Note on Section 498A - Child Rights Perspective (Submitted to the Committee on Petition of Rajya Sabha)

1. The NCPCR had received many complaints pertaining to denial of custody and/or access to children by either of the parents who were in a family dispute. The complaints usually were from one of the parents who had no access to the child. It emphasised that the child was not being treated well and so needed protection from a non-congenial atmosphere. It also focused on deprivation of the child from one of the parents. Whereas a child who is separated from one or both parents needs to be facilitated to maintain personal relations and direct contacts with both parents on a regular basis, except if it is contrary to the child's best interest (as stipulated under Article 9(3) of the UN Convention on the Rights of the Child, 1989 to which India is a signatory on 11.12.1991).

2. In cases of domestic violence the child too was often subjected to abuse. At times, the child was not only a witness to such acrimony but also manipulated to take sides. The tension and dispute filled with violence and insinuations among the parents has a harmful impact on the child. It could result in anxiety, depression, social withdrawal, aggressive behaviour, lack of attention and insecurity. This inability to cope with tensions cuts across all age groups of children between 0-18 years.

3. Under such circumstances it becomes necessary to provide for support structures and services for such category of children, including the following:

- (i) A professional assessment by a trained psychologist on the nature of family environment of either of the parents, availability of trust and safety for the child has to be made based on which the child would be given in care and custody of the parent concerned.
- (ii) At the same time, in order not to deprive the child of either of the parents there has to be a mechanism of conducting custody and access assessments of the parents.
- (iii) The affected children need to be heard and consulted in camera by the concerned family courts and district courts adjudicating family disputes such as divorce, legal separation, custody and visitation rights of parents/spouses.
- (iv) The "best interest of the child" (both in short term and long term) should be the "primary consideration" in deciding the custody and access of children involved in divorce/legal separation to their parents.
- (v) The family courts and district courts adjudicating the divorce, legal separation and custody matters should have at their disposal sufficient number of professionally qualified and trained counselors to counsel the parents and children involved on a sustained basis in order to try for amicable settlement/compromise among the contesting parents in the interest of their children. Only when such mediation was not yielding results, the custody and access issue of children involved may be decided by the competent courts keeping in view the short term/long term required for the mental, emotional, educational and social development of the children involved.
- (vi) The Child Welfare Committees (CWCs) constituted under Juvenile Justice (Care and Protection of Children) Act, 2000, the Probation Officer and the District Child Protection

Committees (DPCs) as envisaged under J.J. Act should be roped in the supporting structures/services as outlined above for assisting the family court /district court in arriving at child-friendly decisions as well as in monitoring and follow up of the progress of children involved in order to ensure that they are in direct and regular contacts with both the parents without being manipulated/intimated by either and more so to ensure that they are regular in schools and having effective school participation.

4. As per the data compiled by the National Crime Record Bureau (NCRB), 1007 (copy enclosed) children have been booked under 498A of IPC during 2007-09. It was the considered view of this Commission that such children be treated as "victims" and children in need of care and protection and not as "children/juvenile in conflict with law". This was purely because they had no control over the causes/grounds on which Section 498A had been slapped on them. They should not suffer because of the offences allegedly committed by their fathers or by their family members/relatives under Section 498A.

5. Hence, whenever any child was apprehended by the police, such child must be handed over to the juvenile/child welfare office of the concerned police stations or special juvenile police unit (SJPU), as envisaged under Rule 11 of the Juvenile Justice (Care and Protection of Children) Rules, 2007. The juvenile/child welfare officer shall thereafter, produce the child before the Child Welfare Committee at the earliest but within 24 hours. The child welfare committee shall arrange for counselling and interim care of the children in a child-friendly environment.

6. It shall be the responsibility of state to provide foster care, kinship care, sponsorship and other "non-institutional services" for the children who are made destitute due to the imprisonment of their parents under Section 498A. The state shall engage adequate number of professionally qualified/trained social workers and case workers who can follow-up the cases of such children on long-term basis and furnish report regarding their well-being to the child welfare committee, district child protection committee and concerned family/district court.

7. A need was also felt to harmonise 498A with the Juvenile Justice Act as the children under these circumstances would be deemed as children in need of care and protection as follows:

- (a) Where minor children of the husband or the relatives of the husband of such woman were involved, they shall not be subjected to imprisonment, but shall be put under the care and protection mechanism so as to ensure non-violation of their rights. Such children shall be produced before CWC/JJB, for referral to non-institutional care on the principle of best interest of the child. Institutionalisation of the child shall be undertaken only as the last resort.
- (b) Where the only bread earner in the family was punished with imprisonment, any minor children left to fend for themselves shall be produced before CWC/JJB to ensure proper care and protection under non-institutional care including appropriate foster care as may be deemed necessary on the principle of best interest of the child. Institutionalisation of the child shall be undertaken only as the last resort.

In addition to its brief note on "Section 498A - Child Rights Perspective" submitted to vide its D. O. Letter No. 33/04/2011 / NCPCR (PD) / 1.254, dated 22.7.2011 and its oral evidence on 25.7.2011, NCPCR would like to submit the following additional views for the consideration of the Committee on the Petition :

- (i) The children should not be arrested or charge-sheeted under Section 498A in any circumstances, in the light of para 4 of the written submission of NCPCR to the Committee on July 22, 2007.

- (ii) The matters of children whose cases were pending before magistrates and/or juvenile justice boards should be reviewed by the Chief Judicial Magistrate/Chief Metropolitan Magistrate or District Judge concerned in the light of the provisions under Section 14(2) of the Juvenile Justice (Care and Protection of Children) Act 2000.
- (iii) The concerned magistrate should solicit a detailed report from the probation officer, child welfare committee, district legal aid services authority or the district officer in-charge of child protection/child welfare on the impact of his/her order on his children dependants, before sentencing an adult under Section 498A. This proposition was in no way intended to interfere with the judicial proceedings, but intended to ensure that while attempting to deliver justice to a woman, great injustice was not done to the children affected in the process, especially, who became destitute/impooverished due to the care giver/bread winning members of their families being in prison. Wherever applicable, the concerned magistrate may stipulate in his/her order a "care plan" for the children of prisoners who might be sentenced under Section 498A of IPC, based upon his/her assessment of the situation, with inputs from the probation officer, child welfare committee, district legal aid services authority and the district officer in-charge of child protection/child welfare.
- (iv) Since a child needed to have regular contact with both the parents [as required under Article 9(3) of the UN Convention on Rights of the Child to which India is a signatory], Section 498A of IPC should in no circumstances be allowed to be used for depriving the child from access /regular contacts with both the parents.