

**MEGHALAYA
STATE
PROTOCOL
ON CHILD
LABOUR**

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**GOVERNMENT OF MEGHALAYA
LABOUR DEPARTMENT**

MEGHALAYA STATE PROTOCOL ON CHILD LABOUR

The problem of Child Labour poses a challenge before the State. Child Labour is a social malady and a major obstacle which deprives children of their childhood, their potential and their dignity, causing great harm to their physical and mental development. Considering that it is essentially a socio-economic problem inextricably linked to poverty and illiteracy, it requires concerted efforts not only from the Government but also from all sections of the society.

Keeping in view the complexity of the problem, a comprehensive multi-pronged approach is required. This should cover not only the educational rehabilitation of these children to prevent them from re-entering such exploitative labour situations but also various preventive measures including awareness of labour laws.

Eradication of the problem of child labour can be achieved by addressing the root causes and the factors responsible for this social evil through better co-ordination among the key Government Departments and other stakeholders, stringent enforcement of related legal mechanisms, improved system of rehabilitation and repatriation and ensuring effective and constant vigil on cross-border trafficking. Stringent enforcement of the laws relating to child labour i.e. Child Labour (Prohibition and Regulation) Act, 1986; Bonded Labour System (Abolition) Act, 1976; Juvenile Justice (Care and Protection of Children) Act, 2000; Mines Act, 1952; Factories Act, 1948; Minimum Wages Act, 1948 and The Right of Children to Free and Compulsory Education Act, 2009 is extremely crucial.

I. PREVENTION

The following are essential for an effective strategy for prevention of child Labour:

- (1) **Awareness and sensitization** of concerned officials about their roles and the methods to be adopted for taking proactive steps towards the detection and elimination of child labour.
- (2) **Public awareness** to make people aware of the issues related to child labour and their role and responsibilities in tackling this problem. This would also empower the community members to play an active role in detecting, monitoring, eliminating, and creating awareness on the issues of child labour and would also help in promoting universal education till the age of 14 years.
- (3) The Labour Department should make all efforts to step up **enforcement of the Child Labour (Prohibition & Regulation) Act, 1986** in the feeder as well as recipient areas. Stringent action against the erring employers should deter others from trafficking and employing children for labour. Towards this end, the State Government should create wide awareness on the issue and regularly monitor the enforcement of the Act.

(4) **Investigation** should also focus on identifying the middlemen and agents involved in trafficking of children for labour and action should be taken against them under the relevant legislation. The State should share such information with other States in case of inter state migration and trafficking. Placement agencies should be closely monitored for illegal activities involving domestic child workers.

(5) In case of **cross-border trafficking** (across international boundaries) the State Government should inform the Ministry of Home Affairs for taking up with the country of origin from where children have been trafficked so as to organize their smooth repatriation. Checks on sponsors and people who claim to be the relatives of the children should be carried out. Co-ordination with immigration authorities, transport authorities, and Border Security Force should be inculcated and strict vigil be kept in strategic and sensitive locations.

(6) Steps should be taken for the creation of **Monitoring and Vigilance Committees** at both the source as well as demand areas, to prevent children from entering into labour situations. The functionaries of the Dorbar Shnongs should be actively involved in the Committees as they can play a very important role in the monitoring of these children within the community.

(7) The Government should encourage studies, research activities, data collection, and data dissemination on issues of child labour as a means to facilitate a **Rehabilitation Plan**.

(8) There should be **dissemination of information** on the various existing Schemes whose funds could be utilized for ensuring quality care in Children's Institutions and Homes.

(9) To prevent children from getting into the workforce, the families of these children, who are migrating or are trafficked for labour, need to be effectively covered under **poverty alleviation and income generation schemes and programmes** of the Government through convergence of various such Schemes under different Departments.

(10) The different Government Departments and other stakeholders, including Child Welfare Committees, the State Children's Commission, the State Human Rights Commission, NGOs, etc. should work in **coordination** and develop **common strategies** towards eliminating child labour.

(11) Child care authorities should prepare a **Risk Assessment Document**. The police should work with other agencies and stakeholders to ensure that rescued children are not re-trafficked and re-employed. Support services should be identified for safe accommodation of these victims. UJJAWALA, a scheme run by the Ministry of Women & Child Development, could be effectively utilized for rehabilitation, reintegration and repatriation of migrant Child Labour.

(12) **Traditional and cultural practices** that support child labour and violate the full enjoyment of the rights of every child should be campaigned against.

(13) The State shall ensure that all concerned stakeholders, particularly the officials entrusted with Labour enforcement work are **regularly trained and capacity building exercises** are undertaken, at periodic intervals, in collaboration with NGOs and other institutions, towards creating a well trained work force.

II. RESCUE OPERATIONS

For conducting rescue operations in an effective child friendly manner and towards making the procedure less traumatic for the child, the following measures need to be taken:

(1) **Strategic placement of rescue team members** in pre-planned locations, to locate the actual employer of children in that area, thus preventing the children from being relocated by the employer to evade detection;

(2) **Police personnel**, including women police officers, **shall accompany the rescue team** wherever possible;

(3) **Physical separation of employers/intermediaries and children** to prevent any communication between them, during the rescue, while ensuring that the employers do not threaten the children, or brief them to misguide the team conducting the actual rescue operation. At all stages, care shall be taken to ensure that the child is not exposed to the employer or his agents;

(4) The assigned members of the Rescue Team shall simultaneously **collect evidence** in the form of documents, and other material & forensic evidence to facilitate effective prosecution against the employers under the law. Information must also be collected from the employer towards determining the status and age of the child. The entire operation should be so organized that it does not delay the rescue of the child labourers concerned;

(5) The Rescue Team shall ensure the **safety of the child** as the utmost priority and ensure that they are treated in a humane manner. The personal belongings of the child are to be collected, listed and kept in safe custody to be produced before the Child Welfare Committee/Court.

(6) As far as possible and wherever considered appropriate, a **trained counselor**, Inspector (Factories) and a **doctor** or suitably trained Para-medical with a first aid kit may be included in the team.

(7) The Rescue Team shall ensure that the **details revealing the identity of the children rescued are not divulged to the media** so that provisions under Section 21 of the Juvenile Justice (Care and Protection of Children) Act, 2000 as amended by Amendment Act, 2006 regarding confidentiality are not violated. A draft model press note should be kept ready and should be completed and issued after the rescue operation;

(8) The nodal department (Labour) must make prior **arrangements for transportation** for shifting rescued children to temporary shelter homes/drop-in centres, etc. They should also make adequate arrangements for their food and refreshment.

(9) The **details of every child must be included in the FIR**. In case the rescue is conducted by Labour Department officials alone during the normal course of inspection or on specific complaint, the responsibility of lodging an FIR of cognizable offence under the appropriate criminal law, wherever applicable, will be with the concerned labour department official.

(10) In case the rescued child also happens to be a **bonded labour**, then action must be also initiated simultaneously under the Bonded Labour System (Abolition) Act 1976 through the appropriate authority.

(11) Every rescued migrant or trafficked child labour, including bonded child labour, has to be **presented before the Child Welfare Committee**. However, in case of bonded child labour, they need to be also produced before the Sub-Divisional Magistrate for grant of certificate and other compensations. This would also include the bonded child labour rescued along with the family.

(12) After the rescue operation is carried out, **the Child Welfare Committee, as the competent authority** under the Juvenile Justice (Care and Protection of Children) Act 2000, is empowered to take all actions and decisions with regard to the child, including the decision to release such children as per the provisions of the Act.

(13) In cases where children are found to be working in non-hazardous occupations or processes, provisions of the Child Labour (Prohibition & Regulation) Act, 1986 should be invoked to ensure that the working conditions of such children are well regulated as laid down under the provisions of the Act. **Action should be initiated against the defaulting employers** for violation of the Act, including its regulatory features.

(14) **Provisions of the Factories Act, 1948 / State Factories Rules, 1980 / the Shops & Establishments Act 2003**, may also be invoked, wherever possible, to initiate action against the offending employers.

(15) The **MIS proforma for the monitoring of the action taken** regarding the criminal aspect of human trafficking should be adopted to keep track of the activities undertaken.

III. POST-RESCUE OPERATIONS

The post rescue operations include:

A. Medical Examination

(1) As soon as the rescue operation has been completed, within 24 hours, a medical team shall be dispatched to the place where the children are kept to undertake a medical

examination. However, the admission to any children's home should not be conditional on the requirement of a prior medical examination.

(2) Wherever there are actual signs of injuries, hurt or the likelihood of sexual abuse, the child shall be sent to the prescribed medical authority for further medical examination immediately.

(3) The Medical Officer shall undertake a detailed physical examination and record the findings in writing, drawing particular attention to any signs of physical or sexual abuse or any adverse mental health condition. Wherever considered appropriate, the Medical Officer must keep the child for further observation and also arrange for counseling.

B. Investigation and Collection of Evidence

(1) In addition to the medical examination, the Rescue Team shall promptly collect all forms of evidence that shall be used in the legal proceedings, which shall include documents of employment, attendance registers, and photographs of the workplace, statements of children and other people.

(2) For more effective prosecution and higher conviction rates and securing penalties to perpetrators of crime of trafficking, the cases need to be based on documentary, forensic and material evidence. As far as feasible, the victim must not be used as a witness as more often than not, he/she is easily intimidated. Enforcement agencies have to build fool-proof evidence in investigations against the traffickers to ensure success of prosecutions.

Setting up and use of Fast-track Courts and video conferencing as far as practicable will greatly help in speedy disposal of cases thus increasing the conviction rates which will act as a deterrent to offenders.

C. Production of the Child before the Child Welfare Committee (CWC)

(1) Once the child has been rescued, the child shall be produced before the Child Welfare Committee under Section 32 of the Juvenile Justice (Care and Protection of Children) Act, 2000.

(2) The Labour Department shall coordinate and liaise with the Child Welfare Committee towards facilitating necessary action for best interests of the child in accordance with the Act.

(3) The Child Welfare Committee, which is empowered to take decisions in the best interest of the child, shall be the guardian of the rescued child and shall have the power to secure all relevant information and documentation in order to plan the rehabilitation of the child.

(4) Wherever required, under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 and the Meghalaya Juvenile Justice (Care and Protection of Children)

Rules 2004, assistance from the Probation Officer or the child welfare officer or suitable social worker should be sought.

(5) Having rescued the children from work and produced them before the CWC, the nodal department shall monitor the children till they are restored to their families. If the child belongs to some other State, the child shall be restored to the family by coordinating with the State Resident Commissioners, local administration of the district as well as the CWC of the destination district.

D. Temporary shelter for rescued children

(1) Immediately after rescue, these children should be taken to the drop-in centres or the temporary shelter homes under the control of Social Welfare Department.

(2) Adequate arrangements should be made by the nodal Department for food, clothing and security of these children in the shelter homes in coordination with the Department of Social Welfare/Women & Child Welfare / the NGOs as the case may be.

(3) The rescued children are to be kept in these temporary shelter homes/drop-in centres until arrangements are made for their repatriation to the home States/families as per the decision of the Child Welfare Committee.

E. Legal Action

(1) Once the Police have completed the investigation, a charge sheet shall be prepared and judicial proceedings under the Code of Criminal Procedure, 1973 shall apply:

(2) Care shall be taken to ensure that all provisions that apply, across different Acts/Rules, are incorporated into the Charge sheet/complaint.

(3) Investigation into the FIR of cognizable offences will be carried out by Police having jurisdiction over the case. The Investigating Officer (IO) shall ensure that all relevant evidence including material, forensic, documentary evidence is collected and analyzed to build a proper case for prosecution. The IO shall also ensure that all relevant and applicable provisions of the criminal laws and labour laws are invoked for the case and should also collect and include as evidence relevant reports such as orders of the CWC, home enquiry report conducted under the Juvenile Justice (Care and Protection of Children) Act 2000, and reports prepared by the officials of the shelter homes/counselors/partner NGOs, etc.

(4) Complaints and challans under the labour laws shall be filed by the labour officials. In order to ensure that the case is covered completely, the officials must examine implementation of all applicable labour laws and assess the violations. Necessary action for obtaining compensation/claim/wage arrears on behalf of the rescued child shall also be taken up.

(5) In case it also turns out to be a case of bonded labour, the labour officials shall immediately inform the concerned Executive Magistrate to initiate action under the Bonded Labour System (Abolition) Act, 1976 simultaneously.

(6) As per the directions of the Hon'ble Supreme Court of India, labour officials shall also issue a notice to the defaulting employers to deposit ` 20,000 (Rupees Twenty Thousand) per child in the District Child Labour Rehabilitation cum Welfare Fund.

(7) The Labour Officials would also take appropriate action for deposit of ` 5,000 (Rupees Five Thousand) by the State Government in the Child Labour Welfare & Rehabilitation Fund for every rescued child, in case employment cannot be provided to an adult member of his/her family.

F. Assessment and Verification of the Child's background

(1) The home address of the rescued child shall be verified by the State Resident Commissioner/Labour Department officials of the State to which the child belongs, or the district administration, as the case may be, before these children are repatriated to their home state;

(2) In case of claimants of the child, the CWC shall adopt extreme caution and seek specific documentation, wherever possible, to verify the claims, considering the risks of claims by the employers or their representatives or agents;

(3) Considering the risk of the employees tutoring the child, the CWC shall adopt extreme care and caution and must satisfy itself completely and shall record the reasons in writing for taking a decision.

(4) For children who cannot be repatriated, care shall be taken for specific measures to ensure their effective short term and long-term rehabilitation within the State itself.

(5) The CWC in the home district shall coordinate with the District Collector/District Magistrate towards tracing the child's family and inform the other CWC of the course of action that would be adopted for their restoration and reintegration with their family.

G. Transportation, Restoration and Repatriation of rescued children

(1) The nodal department shall make arrangements to send the child to his family under escort. However, it would be the responsibility of the State of the child's origin to pay for his transportation back to the child's family. The fare for the child as well as the escorts shall be borne by the State of the child's origin.

(2) The State will, as far as possible, keep a reserve pool of such personnel who could be used for escorting these rescued children. These officials would be adequately sensitized so as to ensure the comfort and safety of these children during the transit back to their families and would be responsible for the safety and security of these children until they are handed over to the local authorities of the State of origin.

H. Rehabilitation

After a child is taken away from his place of work, the Government, through the Line Departments, will initiate the rehabilitation process for the child. The process involved must include measures that are sustainable and match both the short term rehabilitation needs as well as long term integration needs of the child and his / her family.

▪ Educational Rehabilitation

1. The Labour Department shall make efforts for the educational rehabilitation of rescued children in their home places under the National Child Labour Project (NCLP) Scheme of the Government in the districts where this Scheme is in operation and under special bridge centres under Sarva Shiksha Abhiyan (SSA) Scheme in the other districts. Counseling and motivating the parents of these children to send them to schools shall also be made.

2. Child labour migrating along with family on a seasonal basis should be enrolled in the Special Schools under NCLP Scheme in the migrated district or the SSA Bridge centres, wherever NCLP Special Schools are not available. The nodal Department along with the District Authorities shall ensure that there is no disruption in their schooling due to migration.

3. Efforts shall also be made by the District Child Labour Society formed under the NCLP Scheme for monitoring and tracking of children enrolled in these Schools to identify cases of drop outs and subsequently, after mainstreaming, to regular education for at least one year so that they do not relapse to exploitative situations. This monitoring and tracking would also help in covering the families of child labour under various poverty alleviation and income generation Schemes of different Departments to economically empower these families.

▪ Economic Rehabilitation

1. As per Para 27 of the Judgement of the Hon'ble Supreme Court in MC Mehta vs. State of Tamil Nadu & Others, 1996, the offending employers must pay an amount of `20,000/- (Rupees Twenty Thousand) per child which is to be deposited in the Child Labour Rehabilitation Cum Welfare Fund by the Labour Officials. The Government must also make a contribution of `5000/- (Five Thousand) per child towards this fund, if no alternative employment for an adult member of the family, is provided. This amount of `25,000/- (Rupees Twenty Five Thousand) must be used solely for the sustenance and wellbeing of the child so removed from employment. The fund will be managed by Child Labour Rehabilitation Cum Welfare Fund Society.

2. Along with the educational rehabilitation of the children, efforts should also be made towards the economic upliftment of their families by covering them under various developmental schemes of the Government in convergence with the other concerned departments. It is, therefore of utmost importance that there is an effective convergence of different income generation and employment generating schemes with the NCLP Scheme. Some such Schemes could be NREGA, Schemes for BPL families, Pension Schemes, Schemes for setting up of SHGs under DRDA, Indira Awas Yojana, Swaran Jayanti Shahari Rozgar Yojana, Swavlamban, Swadhar, etc.

3. The Dorbar Shnongs should invariably be involved in monitoring the rehabilitation efforts in general and tracking these children and their families in particular for their educational and economic rehabilitation. These institutions need to be adequately sensitized for this work through extensive workshops and social mobilization campaigns.

J. Counseling for the Parents

Apart from the rehabilitative measures adopted for the child labour, a multi-layer programme of counseling for the parents must also be taken up by the Social Welfare Department. Through remedial counseling, the underlying problems that form the root cause of child labour can be better understood and translated into concrete steps to tackle the issues involved leading to a gradual solution to eliminate the menace of child labour and other connected social evils.

IV. REPORTS

The different connected departments will compile the details of the activities involved and undertaken with the findings therein and the same must be regularly submitted to the State Commission for Protection of Child Rights with a copy to the Labour Commissioner, who will also place a copy of the same before the Steering Committee on Child Labour.

V. ROLES OF KEY STAKEHOLDERS

1. Labour – Nodal Department:

- a* Conduct regular surveys of areas having high probability of child labour.
- b* Conduct raids with the help of the District Task Force on child labour in case of hot spots having high incidence of child labour.
- c* Actively participate in all rescue operations of child labour.
- d* Initiate action against the employer under the relevant provisions of the Child Labour (Prohibition & Regulation) Act 1986.
- e* Surveillance of the establishment where information has been received that child labour is being used.
- f* Post rescue coordination with NGOs for accommodation, transportation, production of children before the Child Welfare Committee, food, clothing, medical check-up and counseling.
- g* Coordination with Police for providing security during the raid and afterwards. Sensitization of the police of its role and responsibilities during and after the rescue operation.
- h* Involve the Chief Inspector of Factories so as to ensure that the Inspector and Inspector Factories (Medical) are included in the rescue operation.
- i* **The District Task Force, through the Chairperson, will submit the details of any plan of action to be undertaken to the Police. A compilation of the details of children, especially of Inter State Migrant children detected or rescued shall promptly be intimated to the Police to ensure their whereabouts and that of their parents or next of kin. A compilation of all the above information shall also be submitted to the Police Department on a quarterly basis.**
- j* Intimation to the press after the raid.
- k* Ensuring that lady police and lady representative from NGO/Labour and Social Welfare Departments are included while conducting rescue operation for girls.
- l* Enrollment of rescued child labour in Special Schools under NCLP Schools or SSA bridge centres in the home district.
- m* Coordinate with the CWC for speedy repatriation of rescued child labour.
- n* Coordinate with Social Welfare Department, NGOs, etc. for temporary shelter for the rescued children.
- o* Make arrangements for safe transportation of rescued children to home States/families.
- p* Enable safe restoration and rehabilitation of rescued child labour in their home places.
- q* Any other role mentioned in the Protocol.

2. Police:

- a* Provide sufficient police force for Raids
- b* Active participation during the Raids.
- c* Evidence collection during raids and thereafter.
- d* Taking custody of the rescued Child Labour by the Task Force.

- e* Arrest the employers under the relevant provisions of law.
- f* Treat the rescued children with care & respect and hand them safely over to the authorities of the Children's Home.
- g* Escort the children to their home States.
- h* Cases of child labour should be properly pleaded before the Child Welfare Committee.
- i* Booking of middlemen and agents under appropriate criminal laws.
- j* Any other role mentioned in the Protocol.

3. District Administration:

- a* To ensure action under the Bonded Labour System (Abolition) Act, 1976, if applicable.
- b* Arrange for accommodation in temporary shelters of children rescued until they are produced before CWC and repatriated to their homes places.
- c* Instructions be given to subordinate officers/ magistrates to give priority to respond to raid/inspection calls.
- d* Make adequate arrangements for the rehabilitation of child labour in their home places including verification of the information pertaining to their home addresses.
- e* Any other role mentioned in the Protocol.

4. Social Welfare Department:

- a* Extend Childline toll-free 1098 helpline service, wherever available.
- b* Improve infrastructure in Children's Shelter Homes and increase their strength.
- c* Sensitize CWC about the special needs of the child labour and the rehabilitation plan so as to ensure speedy and adequate repatriation and rehabilitation of these children.
- d* Any other role mentioned in the Protocol.

5. Education Department:

- a* Child labour to be accommodated in Residential Bridge Centres under SSA where NCLP special schools are not available.
- b* Providing books and uniforms to the children enrolled in Special schools.
- c* Smooth mainstreaming of children from Special Schools to regular SSA schools.
- d* Identifying child labour in the district level surveys conducted for out of school children.
- e* Rescued children to be admitted in schools without insisting on various formalities and certificates.
- f* Children should be admitted irrespective of the time of the year
- g* Any other help sought by the local administration/labour Department in the rescue and rehabilitation of child labour.
- h* Any other role mentioned in the Protocol.

Health Department:

- a* Doctors/female doctors to accompany in raids if required.
- b* Appropriate instructions to be issued to the hospitals for the medical examination of the rescued child labour.
- c* Psychiatrists to be identified, which could help in counseling the rescued child labour.
- d* Any other role mentioned in the Protocol.
