



**Ministry of Home Affairs  
Government of India**

**Compendium of Advisories  
on  
Human Trafficking  
&  
Crimes against  
Women, Children,  
Senior Citizens & SC's/ST's**

**November, 2013**





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भारत सरकार  
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## **PREFACE**

As per Seventh Schedule of the Constitution of India, 'Police' and 'Public Order' are State subjects and as such the primary responsibility of prevention, detection, registration, investigation and prosecution of crimes against Women, Children, Senior Citizens, Scheduled Castes and Scheduled Tribes lies with the State Governments and Union Territory Administrations.

However, the Union Government attaches highest importance to the matter of prevention and control of crimes against every citizen of the country.

In this endeavour, Ministry of Home Affairs has been issuing advisories to all State Governments and Union Territories to undertake a comprehensive review of the effectiveness of the administrative and police machinery in tackling the problems of vulnerable citizens and to take appropriate measures aimed at increasing the responsiveness of the law and order machinery.

With the objective of increasing the accessibility of administrative decisions and directions to the all concerned and general public at large, it was decided to bring out a compilation of advisories, so as to serve as a one stop reference point for all directives in recent times. All the recently issued advisories are also available at Ministry of Home Affairs website [www.mha.nic.in](http://www.mha.nic.in).

**(S. Suresh KUMAR)**

**Joint Secretary (Centre – States)**

**New Delhi the 7<sup>th</sup> November, 2013**



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**F.No.15011/20/2012-ATC (CF-145675)**  
**GOVERNMENT OF INDIA/BHARAT SARKAR**  
**MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA**  
**CENTRE STATE DIVISION**

New Delhi, 11<sup>th</sup> September, 2013

**CORRIGENDUM**

**SUBJECT: Standard Operating Procedure to handle Trafficking of Children for Child Labour – measures to be taken for rescue of trafficked child labourers' and action against the traffickers/employers.**

Sir/Madam,

I am directed to refer to this Ministry's letter of even number dated 12<sup>th</sup> August, 2013 on the subject mentioned above and say that following corrections may be made in the SOP:

- a. On page 2, point No. 3(v), line 1, the case is PUDR Vs Union of India, and not PUDR Vs Supreme Court as written.
- b. In the Annexure on page 6, point No. 2 (a) regarding Section 370 may be deleted.
- c. In the Annexure on page 7, point No. 4(b), Section 26 is now a non bailable offence (and not only in Delhi), as it prescribes a punishment of upto 3 years.

  
(Dr. Praveen Kumari Singh)

Director (SR)

Tel. No. 23438133

To  
The Chief Secretaries &  
The Principal Secretary/Secretary (Home)  
All State Governments and Union Territories

Copy also to:

- i. The DGs of all State Governments/UTs
- ii. National Commission for Protection of Child Rights
- iii. Director General BPR&D
- iv. Director NCRB

**F.No.15011/20/2012-ATC (CF-145675)**  
**GOVERNMENT OF INDIA/BHARAT SARKAR**  
**MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA**  
**CENTRE STATE DIVISION**

New Delhi, 12<sup>th</sup> August 2013

**SUBJECT: Standard Operating Procedure to handle Trafficking of Children for Child Labour – measures to be taken for rescue of trafficked child labourers' and action against the traffickers/employers**

1. The trafficking of children for economic exploitation, bonded labour, forced labour, physical/sexual abuse and misuse is a heinous crime. The trafficking of children are vulnerable and need care and protection. After they are rescued they also need to be rehabilitated. It is, therefore, necessary that effective steps be taken for investigating of cases relating to trafficking of children for child labour and/or forced labour.
2. Please refer to our MHA Advisory on trafficking and combating human trafficking in India F.No.15011/6/2009-ATC(Advisory) dated 9<sup>th</sup> September, 2009 to all States and UTs.
3. The following paragraphs supplements the previous advisory :-
  - i) The Article 23 of the Indian Constitution prohibits trafficking in human beings and forced labour and other forms of forced labour.
  - ii) As per Section 2 (K) of the Juvenile Justice (Care and Protection of Children) Act, 2000(hereinafter referred to as JJ Act) juvenile or child means a person who has not completed 18 years of age. Section 2 (D) of the JJ Act defines "a child in need of care and protection" in detail.
  - iii) The trafficked child could suffer from any or all the handicaps stated in Section 2 (D) of the JJ Act and is clearly in need of care and protection. Sections 23, 24, 25, 26 of the JJ Act which deals with various forms of exploitation of the child are declared to be a cognizable offence under the JJ Act.
  - iv) The Criminal Law Amendment Act, 2013 has amended the Indian Penal Code on the specific offence of trafficking. Section 370 defines trafficking in detail. It is to be noted that the consent of victim is immaterial in determination of the offence of trafficking and the offence as already stated are cognizable.



v) The Supreme Court in PUDR Vs Supreme Court in **1982 3SCC235** has elaborated on the issue of forced labour. Therefore, service without wages or with paltry wages; denial of choice of alternative avocations, denial of right of movement are all to be considered as forced labour. The trafficked children from the any one of these conditions are not only to be retrieved but the offender has to be charged as having committed a cognizable offence.

vi) The trafficked children are often those children who have gone missing. Wherever there are more than one case relating to trafficked children or forced labour, Section 155 (4) of CrPC makes it very clear that the case shall be deemed to be cognizable notwithstanding that the other offences charged are non-cognizable.

4. As regards missing children, the Supreme Court in the case of Bachpan Bachao Andolan Vs. Union of India and Others dated 10.05.2013, defined missing child in detail. It also stated that the child missing shall be treated within the meaning of JJ Act in need of care and protection as per the JJ Act. The Supreme Court has also stated that all cases of missing child will be prima facie treated as cognizable act (until proved otherwise) and a FIR filed accordingly. The registration of FIR should be stressed not only with reference to JJ Act but all Acts wherever children are the victims. Trafficked child upon recovery should be counseled by a social worker and proper investigation launched against the offenders/traffickers.

5. The AHTU shall take all necessary steps to investigate all the cases relating to trafficked persons with special emphasis on investigating crimes relating to trafficked children and women and treat the same as being part of organized crime and target the economics of crime syndicates. This may be done through cancellation of licences of establishments/factories, sealing, attachment and confiscation of property etc. During and after the rescue of the child, the SOP for investigating the crime relating to crime on trafficking for forced labour; developed by UNODC-MHA may be effectively utilized. The protocol for prevention, rescue, repatriation and rehabilitation issued by the Ministry of Labour and Employment in 2008 may be followed.

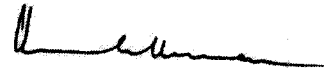
6. The rescue team should be multi-disciplinary and should comprise representative of Police or Labour, SDM or his representative, NGO/complainant, lady police/volunteer, and member of child welfare committee. Under no circumstance should any interaction between the child and the employer/trafficker be allowed. The children rescued must be sent immediately to child welfare committee and action taken under the JJ Act 2000. The Labour Department should be held responsible for filing of FIR and to initiate other necessary proceedings against the offender. The repatriation of the child should be a prime objective in the investigation to ensure that the child goes back to safety. The police shall take all necessary precaution for the safety of the child and/or other witnesses wherever cases of organized trafficking is investigated. The statement of victim should be

recorded under Section 164 of CrPC and charge sheet be filed soon after investigation. There should also be an inquiry for home verification under the JJ Act before repatriation and child welfare committee in the home district shall be responsible for the wellbeing of the child. Before the repatriation of the child, efforts should be made by the Police to obtain as much information from the child about his/her traffickers as possible. This information must be uploaded to the district/state database on trafficked children and traffickers/employers. The Labour Department should initiate proceeding for immediately recovery of the fine of Rs.20,000 to be recovered from the employer under the Supreme Court guidelines of M.C. Mehta Vs. State of Tamil Nadu 1996 (6 SCC 756). After recovery, the said amount shall go to the Rehabilitation Cum Welfare Society of Child Labour in the native district of the child for his/her socio-economic and educational rehabilitation. The Department of Labour shall also initiate proceeding for the recovery of the back wages of the child as per the Minimum Wage Act, 1948.

7. The various provisions of law applicable at various stages of trafficking of child labourers' are in the table attached as **Annexure-A**.

8. The aforementioned measures are only indicative and the States/UTs may consider any additional measures for dealing with the crime of human trafficking and child labour. This Ministry may also be kept apprised of any special measures/mechanisms introduced in their respective jurisdictions so that the same could be circulated to other State Governments and UT Administrations for consideration/adoption. States/UTs may consider translating this SOP into regional languages for dissemination.

The receipt of the SOP may be acknowledged.



(S.Suresh KUMAR)

Joint Secretary to Govt. of India,  
Ministry of Home Affairs,  
Tel. No. 23438100

To  
The Chief Secretaries &  
The Principal Secretary/Secretary (Home)  
All State Governments and Union Territories

Copy also for information and necessary action to:

- i. The DGs of all State Governments/UTs.
- ii. National Commission for Protection of Child Rights
- iii. Director General BPR&D
- iv. Director NCRB

- v. Director CBI
- vi. Director, IB
- vii. Director General BSF
- viii. Director General ITBP
- ix. Director General SSB
- x. Ministry of Women and Child Development
- xi. Ministry of Labour
- xii. Ministry of Social Justice and Empowerment
- xiii. Nodal officers Human Trafficking



**(S. Suresh KUMAR)**

**Joint Secretary to Govt. of India**

| Sl. No. | Situation of the child  | Statute   | Offence (Provision)                               | Section     | Classification                   | Punishment                  |
|---------|---|---|---|-------------|----------------------------------|-----------------------------|
|         |   | 2000  | t of a child for hazardous employment             | 26          | Bailable (Non-Bailable in Delhi) | and fine                    |
| 2.      | By paying some money to the parents as consideration or as advance  | a) Indian Penal Code, 1860                        | Buying of a person as a slave                     | Section 370 | Bailable and non-Cognizable      | Upto 7 years and fine       |
|         |   | b) The Bonded Labour System (Abolition) Act, 1976 | Punishment for advancement for bonded labour      | Section 17  | Bailable and Cognizable          | Upto 3 years and fine       |
| 3.      | Giving away the procured (Trafficked child) to the employer for monetary consideration for the purpose of employment. | a) Indian Penal Code 1860                         | Selling a minor for the purposes of Prostitution. | Section 372 | Non Bailable and Cognizable      | Upto 10 years and fine      |
| 4.      | Employing   | a) Child Labour                                   | Employing the child in                            | Section     | Non-Cognizable                   | Upto 1 year. Repeat offence |

| Sl. N o. | Situation of the child  | Statute  | Offence (Provision)  | Section     | Classification                                  | Punishment   |
|----------|---|--|--|-------------|---|--|
|          | g the child   | (Prohibit ion and Regulati on Act, 1986            | prohibited occupations and processes                           | 3/14        | and Bailable                                    | upto 2 years and fine upto 20,000 (Min. 10,000 and max. 20,000 as per Supreme Court Guidelines |
|          |   | b) JJ Act, 2000                                    | Procuring child/juvenil e for hazardous employmen t            | Section 26  | Cognizable and Bailable (Non-Bailable in Delhi) | Upto 3 years and fine  |
| 5.       | a) Not allowing the child to move freely, return home as per his/her will | Indian Penal Code, 1860                            | Wrongful confinemen t of a kidnapped or abducted person/chil d | Section 368 | Cognizable and non Bailable                     | Upto 10 years and fine   |
|          | b) Not paying wages or paying less than the minimum                       | a) The Bonded Labour System (Abolitio n) Act, 1860 | Enforcing forced or bonded labour                              | Section 16  | Bailable and Cognizable                         | Upto 3 years and fine  |

| Sl. N o. | Situation of the child | Statute              | Offence (Provision) | Section     | Classification          | Punishment                |
|----------|------------------------|----------------------|---------------------|-------------|-------------------------|---------------------------|
|          | wage                   | b) Indian Penal Code |                     | Section 373 | Bailable and cognizable | Upto 10 years and fine    |
|          |                        |                      |                     | Section 374 | Bailable and Cognizable | Upto max. 1 year and fine |

In all of the above Situations it may also be noted that Section 370 of the Indian Penal Code shall be applied in situations where an Act, Means and End (i.e., a form of exploitation) exists as elaborated below:

| Statute           | Section   | Act        | Means                                     | End (Exploitation)           |
|-------------------|---|------------|---|------------------------------|
| Indian Penal Code | 370<br>Whoever for the purpose of exploitation, | Recruits   | Using threat                              | Physical Exploitation        |
|                   |   | Transports | Using force or any other form of coercion | Sexual Exploitation          |
|                   |   | Harbours   | Abduction                                 | Slavery                      |
|                   |   | Transfers  | Practicing fraud, or deception            | Practices similar to slavery |
|                   |   | Receives   | Abuse of power                            | Servitude                    |
|                   |   |            | Inducement                                | Forced Removal of Organs     |

**MOST IMMEDIATE**

No. 14051/14/2011-F.VI  
Government of India  
Ministry of Home Affairs  
(Foreigners Division)

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Dated 1<sup>st</sup> May, 2012

**OFFICE MEMORANDUM**

Sub: Advisory on preventing and combating human trafficking in India - dealing with foreign nationals.

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The undersigned is directed to refer to this Ministry's Office Memorandum No. 15011/6/2009-ATC (Advisory) dated 09.09.2009 on the above mentioned subject (copy enclosed). It has come to the notice of this Ministry that foreign nationals are associated in some instances of human trafficking among women and children.

2. Further to the detailed procedure outlined in the above mentioned Office Memorandum, it has been decided with the approval of the competent authority that in cases of foreign nationals who are apprehended in connection with human trafficking, the State Governments / UT Administrations may follow the following procedure : -

- (i) Immediately after a foreign national is apprehended on charges of human trafficking, a detailed interrogation/investigation should be carried out to ascertain whether the person concerned is a victim or a trafficker.
- (ii) The victims and the persons actually involved in human trafficking should be treated differently by the police authorities. This is in line with the SAARC Convention which advocates a victim-centric approach.
- (iii) Missions/Posts in India may be informed of the arrest/detention of the foreign national by the concerned state or other authorities through CPV division in the Ministry of External Affairs(MEA) or the concerned territorial Division in MEA.

- (iv) It is seen that in general, the foreign victims of human trafficking are found without valid passport or visa. If, after investigation, the woman or child is found to be a victim, she should not be prosecuted under the Foreigners Act. *If the investigation reveals that she did not come to India or did not indulge in crime out of her own free will, the State Government / UT Administration may not file a charge sheet against the victim. If the chargesheet has already been filed under the Foreigners Act and other relevant laws of the land, steps may be taken to withdraw the case from prosecution so far as the victim is concerned.* Immediate action may be taken to furnish the details of such victims to the Ministry of External Affairs (Consular Division), Patiala House, New Delhi so as to ensure that the person concerned is repatriated to the country of her origin through diplomatic channels.
- (v) During the interim period, pending repatriation, the victim may be taken care of in an appropriate children's home, or "Ujjawala" home or appropriate shelter home either of the State Government concerned or of any NGO aided by the Government of India / State Government.
- (vi) If the investigation reveals that the person is actually a trafficker, he/she may be charge-sheeted under the Immoral Trafficking Prevention Act and the Foreigners Act and due process of law should be followed in such cases.
- (vii) In order to ensure better conviction rates of perpetrators of the crime of trafficking, prosecution should be based on documentary, forensic and material evidence. State Governments are advised to encourage the law enforcement agencies to investigate the cases in a manner that they are able to build fool proof cases against the traffickers, so that convictions can be guaranteed. Use of fast-track courts and video conferencing to the extent possible also need to be ensured. Please refer to para 7 of the enclosed Advisory dated 9.9.2009.



3. All other instructions contained in this Ministry's Advisory dated 09.09.2009 including reporting to the Anti Human Trafficking Nodal Cell in MHA will be applicable in the case of foreign nationals associated with human trafficking, whether they are women or children(children means both boys and girls upto 18 years of age).

4. You are requested to issue suitable directions to all concerned under intimation to this Ministry.

5. The receipt of this Office Memorandum may kindly be acknowledged.

(G.V.V. Sarma)  
Joint Secretary to the Govt. of India

To

The Chief Secretaries/Principal Secretaries/ Secretary (Home) of all State Governments and Union Territory Administrations.

Copy for information and necessary action to:-

- (i) The DGs / IGs (In-charge of Prisons) /- All State Governments/ UTs
- (ii) Sri Sandeep Goel, Joint Commissioner(Crime), 3<sup>rd</sup> Floor, Police Station Kamla Market, Delhi.
- (iii) Ministry of Women and Child Development(Smt. Aditi Ray, Senior Economic Advisor), Shastri Bhavan, New Delhi.
- (iv) Secretary, Ministry of Labour, Shram Shakti Bhavan, New Delhi
- (v) Secretary, Ministry of Social Justice & Empowerment, Shastri Bhavan, New Delhi.
- (vi) Secretary, Ministry of Overseas Indian Affairs, Akbar Bhavan, New Delhi.
- (vii) Ministry of External Affairs:
  - (a) Addl. Secretary(PV)      (b) JS(Consular)      (c) JS(BSM)
- (viii) Chairperson, National Commission for Women, 4, Deen Dayal Upadhyaya Marg, New Delhi.
- (ix) Chairperson, National Commission for Protection of Child Rights, 5<sup>th</sup> Floor, Chandralok Building, Janpath, New Delhi.
- (x) Chairperson, National Human Rights Commission, Copernicus Marg, New Delhi.
- (xi) Director General, NCRB, R.K.Puram, New Delhi.
- (xii) Director General, BPR&D, New Delhi.
- (xiii) Director General, Border Security Force, New Delhi.
- (xiv) Director, CBI, New Delhi..
- (xv) AS(CS) / JS(CS) / JS(UT) / JS(NE) / JS(K), MHA, North Block, New Delhi.

(G.V.V. Sarma)  
Joint Secretary to the Govt. of India

F.NO.15011/27/2011-ATC  
GOVERNMENT OF INDIA/BHARAT SARKAR  
MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA  
NORTH BLOCK, NEW DELHI  
CS DIVISION

New Delhi, the 30 April, 2012

OFFICE MEMORANDUM

**Subject: Advisory on Human Trafficking as organized crime.**

Human Trafficking (HT) is a serious crime and a gross violation of human rights. It is very often linked with organised crime and is considered as one of the most profitable criminal activities worldwide. Combating and preventing HT requires special skills and effort to prevent, investigate and prosecute offenders. Generally a group of offenders in HT crimes ranges from the spotter, recruiter, agents of recruiters, transporter, harbourer, brothel manager, brothel keeper, exploiters, etc at the lower rung and organized crime syndicates above which need to be investigated at source, transit and destination.

2. In May 2011, Government of India ratified the United Nations Convention against Transnational Organized Crime (UNTOC) and one of its three protocols includes the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children. The UNTOC is the first comprehensive and global legally binding instrument to fight transnational organized crime and as such has provided for a universally accepted definition of “organized criminal group” and also lists the offences which are transnational in nature. Though there is currently no central legislation in India with regard to organized crime, Maharashtra has enacted the MCOCA 2000 and some States have adopted the same and other states can also do likewise. Legal action against trafficking in India is being taken under the IPC and the Immoral Traffic Prevention Act (ITPA), 1986 and MCOCA against those involved in HT.

3. Organised Crime involves any continuing unlawful activity by an individual, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence or threat of violence or intimidation or coercion, or other unlawful means, with the objective of gaining pecuniary benefits, or gaining undue economic or other advantage for himself or any other persons or promoting insurgency.

4. The present advisory is intended to provide guidelines to law enforcement agencies on the manner and modalities regarding the crime which should be implemented in conjunction with a MHA Advisory dated 09.09.2009. F.No.15011/6/2009-ATC-(Advisory).

5. Central Bureau of Investigation (CBI), Government of India, is the national Nodal Authority to receive and respond to all requests for all inter-state and cross border

assistance as a single point of contact and to act as liaison between the Ministry of External Affairs and other State parties on matters relating to the Convention as well as the Protocols. One unit in Special Crime Division of CBI has been designated as AHTU to provide specialized assistance in the area of HT of children and women for the purpose of begging, prostitution, pornography, forced labour in industries & other forms of exploitation. Criminal Intelligence Cell (CIC), CBI which receives data on gangs involved in kidnapping from all States/UTs in India has been subsumed into this Unit. To ensure that all links in a HT chain are identified and prosecuted as per law, the State/UT police agencies can also take assistance of AHTU, CBI for capacity building as well as for investigation of cases having international ramifications. The agency has also activated a helpline number (011-24368638), where any person, having inputs about gangs and syndicates involved in HT can give information.

6. The following **key action points** need to be addressed by States/UTs for effectively dealing with the organized crime aspect of human trafficking.

- a) **Anti Human Trafficking Units (AHTUs):** All states are urged to utilize the AHTUs as a key machinery to deal with the crimes of HT in a holistic manner. Police officers in the AHTU should collect/disseminate/utilize intelligence on offenders; maintain database of offenders as well as their hierarchical structure, place of operation, segments of supply chain and allied places of exploitation; partner with NGOs and local communities to unearth information relating to HT and above all carry out a professional investigation.
- b) **Sensitisation of Law Enforcement Agencies:** Police / Border Guards / Railway Police / Immigration officers, Prosecutors and Judiciary may be sensitized through training / seminars and workshops for the effective implementation of the ITPA, the IPC (Sections 3A, 107-117, 120A, 120B, 551), the Prevention of Corruption Act, 1988, (Sections 7-11, 13, 17, 20) and other relevant state legislations. This should be with the specific purpose of dealing with the organized aspect of trafficking.
- c) **Special Police Officers (SPO):** U/s 13 of the ITPA, the State Government may appoint SPOs and 'Non-official advisory bodies' to advise the SPOs for dealing with offences under the ITPA.
- d) **Local Intelligence Units (LIU):** State Governments may consider setting up LIUs in all districts against organized crime to gather intelligence and ensure that it is disseminated. Priority should be given to the database on traffickers and their networks. Their profiling and surveillance can be an effective tool for intelligence collection and for prevention of trafficking.

- e) **Helplines:** State police agencies may set up helplines and special desks in the police stations and control rooms to address this issue on a real time basis.
- f) **SOPs:** The protocol on Inter-State rescue and Post-Rescue activities and Standard Operating Procedures for Investigation etc. developed jointly by the MHA and UNODC for conducting joint investigations and operations which also facilitate exchange of information about traffickers and their mode of operation, routes etc should be implemented. These resource materials should be translated and re-printed by the states into local languages for wider use and dissemination.

## **7. INVESTIGATION OF ORGANISED HUMAN TRAFFICKING CASES**

Only relentless law enforcement pressure can diminish the possibility of unattached criminal elements forging alliances with big crime figures, constitute criminal networks and thereby spawn the phenomenon of organised crime. Organised crime can only be combated by a deft mix of good intelligence, proper and exhaustive investigation and national and state level coordination.

## **8. SUMMARY OF GUIDELINES FOR INVESTIGATION.**

An organised criminal group is structured in a hierarchical manner so that the kingpins are insulated from law enforcement. Conviction of kingpins is difficult because of rules of evidence: witnesses are not willing to depose for fear of their lives and informers fail assist law enforcement agencies as documentary evidence is not available. For counter these difficulties which hinder proper investigation and prosecution of cases, the following measures are beneficial – inter-agency coordination, use of undercover agents, early completion of investigation and speedy trials, access to common databases for enforcement, witness protection, confiscation of crime proceeds, training of investigation officers and use of Mutual Legal Assistance Treaty (MLAT) for assistance in investigation from other countries.

**9.1 Ingredient of Offence:** Each ingredient of an offence made out in a case must be clearly identified and must be matched against the relevant pieces of available evidence as well as the legal admissibility of each piece of evidence along with linking it with one or more ingredients.

### **9.2 Investigation at source, transit and destination:**

- a) Evidence collection at the source to ascertain the true identity of a victim, identify and whereabouts of the local gang members and their contacts (links), the modus operandi used for recruitment/engagement of a victim, complicity of the family and others (if any).
- b) Evidence collection through transit is required to establish transfer of a victim, routes and modes of transportation used, identify accomplices and the methods used to control a victim through the transfer.

- c) Evidence collection at the destination to establish the nature of exploitation, methods employed by exploiters to control a victim, impact of exploitation on a victim, places used for exploitation, identification of gang members operating the business, property and assets of a gang and individual members, complicity of officials (if any).

**9.3 Corroborative evidence:** Medical reports should be used to establish the nature of exploitation and its impact on victims. Age estimation of a child victim is necessary to book offenders under more stringent provisions; DNA/finger prints and such other test reports may be obtained to establish the identity of a person (victim/accused); call record analysis of gang members to establish contact between relevant persons (victim/accused/others), travel documents/tickets used by traffickers to establish movement of victims/accused and forensic reports of items seized from a scene of crime (SOC) such as blood stains, instruments, weapons, registers, property papers etc. are other forms of evidence which should be used to establish relevant facts for a case.

**9.4 Independent reports from other agencies:** An Inquiry report submitted under Section-10A (b(i) or 17(2) or 19(3) ITPA, would be highly relevant and useful in cases involving adult female victims of trafficking for commercial and sexual exploitation. Similarly, inquiry report submitted u/s 33 JJ Act in case of child victim or Income Tax department assessment or any other official agency in relation to the activities/assets of an accused or the gang or a Counsellor's report about the condition of a victim would be of utility.

**9.5 Sequence of events:** The sequence of events from 'source to destination' should be reconstructed with all available information to identify the missing links of information and their legal admissibility. Each SOC should also be individually reconstructed to identify the missing links of information/evidence. The role of predators/accomplices such as Procurers/Spotters, Recruiters, Transporters of the victims, Financiers and other exploiters such as clientele, pimps, brothel owner and managers should be investigated from a conspiracy angle.

#### **9.6 Defeating Organised Gangs:**

- a) A clear plan of action should be chalked out to collect relevant evidence to prove existence of a gang, the identities and activities of its gang members, nexus with other gangs and public officials, if any and identify the trail of illegal and ill-gotten money (proceeds of crime).
- b) Deciphering the communication linkages through link analysis.
- c) Specific and general 'intelligence' about a gang should be developed to make a prima facie assessment about the lines of investigation with respect to the activities of a gang.
- d) Relevant 'surveillance' methods may be employed to develop specific information including the identity, the activities and the level of complicity of gang members in the case and otherwise.

- e) The case history of every crime committed by every gang member should be collected from the concerned districts to prepare a dossier of the gang to be used to book a gang under relevant laws such as the UP Gangster Act.

#### **9.7 Parallel Financial Investigation into Money Laundering**

It would be virtually impossible to establish and manage an organized HT network without creating audit trails such as advertising, rentals, transportation, communication, mapping of exploiter profits and financial transactions. Any of the following four aspects relating to money laundering need to be established during the course of investigation. Assistance of financial experts should be taken:

- a) Conversion or transfer of crime proceeds for the purpose of concealing their illicit origin;
- b) Concealment or disguise of crime proceeds;
- c) Acquisition, possession or use of crime proceeds;
- d) Contributing indirectly to the commission of the offences outlined above, including participation in and conspiring or attempting to commit the offences in question.

9.8 Efforts should be made to identify each and every moveable and immoveable asset of a gang and each of its members including benami properties by verifying documents and analyzing the source of funds. Each business or establishment run by gang members should be scrutinized to assess the investment made into the business/establishment, its source of funding, profits made and utilization/re-investment of profits, possible tax evasion, violation of financial rules and regulations including the ones relating to foreign exchange.

#### **9.9 Confiscation of Proceeds:**

It will be essential to deprive the criminal gangs of their ill gotten wealth. The laws relating to confiscation of proceeds of crime are available in several statutes. As per the facts of the case being investigated the relevant law is to be invoked.

- a) Sections 102, 105 and 452 of Cr.P.C
- b) Sections 111 to 121 of the Customs Act, 1962 ;
- c) Chapter V A of the Narcotic Drugs and Psychotropic Substances Act, 1985;
- d) The Criminal Law [Amendment] Ordinance, 1944 (Ordinance XXXVIII of 1994)
- e) Foreign Exchange Regulation Act, 1973 (Section 63) ; and
- f) Smugglers and Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976.
- g) Unlawful Activities (Prevention) Act, 1967
- h) Invoke provisions of ITPA alongwith IPC, ITPA with MCOCA (wherever in force), ITPA with Goa Children's Act, 2003 (applicable in Goa) etc.

- i) Action be initiated under the provisions of the Prevention of Money Laundering Act, 2002 for offences committed u/s. 5, 6, 8 and 9 of ITPA; The Enforcement Directorate is to be informed during the investigation of the predicate offences.

#### **9.10 Collection and sharing of criminal intelligence**

As with any other form of organized crime, successful investigation of trafficking in persons requires the need to identify and gather evidence from other jurisdictions in the course of investigations, be it inter-state or cross-border trafficking. Hence, joint pro-active operations/serious investigations in the region or transit or destinations sites can exploit evidential opportunities to gather collaborative evidence at recruitment and transportation phases of the crime. It is necessary that while investigating the crime of human trafficking, the following needs to be considered at all stages of human trafficking:

- a) Sharing criminal intelligence with other police agencies (different police stations, districts, states, CBI etc.) on traffickers and all other accomplices.
- b) Sharing crime data with other police agencies and CBI regarding vulnerable places and vulnerable people.

#### **9.11 Transfer of evidence from another country:**

For transfer of evidence from another country Letter of Request (LR) u/s 166A Cr.P.C. or invoking MLAT must be resorted to by contacting the IPCC Division of the CBI.

10. The aforementioned measures are only indicative and the States/UTs may consider any additional measures for dealing with the organized crime of human trafficking. This Ministry may also be kept apprised of any special measures/mechanisms introduced in their respective jurisdictions so that the same could be circulated to other State Governments and UT Administrations for consideration / adoption. States/UTs may consider translating this Advisory into regional languages for dissemination.

The receipt of the Advisory may be acknowledged.

Sd/-

**(S.Suresh Kumar)**  
Joint Secretary to Govt. of India,  
Ministry of Home Affairs,  
North Block, New Delhi – 110001  
Tel. No. 23093410

To  
The Chief Secretaries &  
The Principal Secretary/Secretary (Home)  
All State Governments and Union Territories



Copy also for information and necessary action to:

- i. The DGs of all State Governments/UTs.
- ii. National Commission for Protection of Child Rights
- iii. Director General BPR&D
- iv. Director NCRB
- v. Director CBI
- vi. Director, IB
- vii. Director General BSF
- viii. Director General ITBP
- ix. Director General SSB
- x. Ministry of Women and Child Development
- xi. Ministry of Labour
- xii. Ministry of Social Justice and Empowerment
- xiii. Nodal officers Human Trafficking

Sd/-

**(S. Suresh Kumar)**  
Joint Secretary to Govt. of India

**F.NO.15011/60/2011**  
**GOVERNMENT OF INDIA/BHARAT SARKAR**  
**MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA**  
**NORTH BLOCK NEW DELHI/CS DIVISION**

New Delhi, the 31<sup>st</sup> January 2012

**OFFICE MEMORANDUM**

**Subject: Advisory on missing children-measures needed to prevent trafficking and trace the children-regarding.**

1. The issue of missing and untraced children, based on police records, is a matter of deep concern to the Government of India. It requires a concerted and systematic attention of Central and State Governments. As missing children are exposed to high risk situations, they are vulnerable and fall prey to crimes of exploitation, abuse, including human trafficking. It is, therefore, necessary that effective steps be taken for effective investigation of cases relating to missing children and tracing of these children. This advisory is in continuation of the advisories dated 09.09.2009, 14.7.2010 02.12.2011 and 4.1.2012 issued by this Ministry to all the States / UTs on similar/related issues of crimes against children.
2. A missing child is defined as a person below 18 years of age whose whereabouts are not known to the parents, legal guardians or any other person who may be legally entrusted with the custody of knowing the whereabouts/well being of the child whatever may be the circumstances/causes of disappearance. The child will be considered missing and in need of care and protection, until located and/or his/her safety/well being is established.
3. The legal provisions as existing in the Juvenile Justice (Care and Protection of Children) Act, 2000 and other laws, several rulings of the Hon'ble Supreme Court of India and High Courts and the recommendations of NHRC, inter alia, emphasize the immediacy of prompt action by law enforcement agencies following disappearance of the child, especially minor girls to maximize chances of tracing/recovery.
4. The guidelines of NHRC which has already been communicated to the States/UTs with respect to missing children should be implemented and their monitoring ensured (refer website [www.nhrc.nic.in/ Reports/misc/MCR Report.doc](http://www.nhrc.nic.in/Reports/misc/MCR%20Report.doc)).
5. The Hon'ble Supreme Court of India has issued guidelines in respect of missing children on 14/11/2002 (WP (Cri) No.610 of 1996) in Horilal Vs Commissioner of Police, Delhi and Sampurna Behura vs. Union of India & Ors dated 12/10/11(WP (Civil) No.473 of 2005). These instructions should also be complied with and monitoring ensured.
6. An officer not below the rank of a DIG should be declared Nodal Officer for every state/UT for handling the cases of missing children.

7. Supervision of investigation of such cases by senior police officers of the level of Dy.SP/Addl.SP may be ensured.
8. When, any heinous crime or organized crime on missing children, such as, victims of rape, sexual abuse, child pornography, organ trade etc, is reported, and then the investigation of such cases should be taken over by the CID of the States/UTs to expedite the investigation and to ensure prosecution of the offenders.
9. State Crime branch should maintain close links with District Missing Children Unit (DMCU) and ensure that uploading of data and matching of missing children with UIDBs/Children found is carried out effectively.
10. The Missing Persons Squad (MPS) will match the information regarding missing children with the data available with the MPS and if matched it should be communicated to the concerned police station. A monthly report should be sent to DMCU.
11. When the missing person is traced through search or rescue from places of exploitation, the police control room, District Missing Persons Unit (DMPU) and Missing Persons Squad (MPS) should be informed immediately for updating the record and for discontinuing the search.
12. Whether these missing children land up in Begging Rings, Prostitution, Pedophilic Net and Organ Trade or end up getting exported for Camel Jockeying etc., it is always an Organised Crime. Profile of all traffickers who facilitate such trafficking should be maintained at PS level in Gang Registers.
13. The State CID should use data mining to analyse patterns, gather intelligence and to build profiles which have inter state ramifications, ascertain angles of trafficking, organized crime, number age/sex profile and maintain liaison with other central agencies dealing with the matter.
14. All police officers and men, especially the team of officers handling investigation into these cases need to be trained and sensitized on an ongoing basis to the issues concerned. The issues of missing children, human trafficking along with JJ Act may be made part of syllabus in the state police training colleges to sensitize the police force. The training should focus on imparting knowledge of the substantial and procedural laws, court rulings, administrative procedures, skills in child-friendly investigations, including interviewing, interrogation, scientific data collection, presentation in the court of law, networking with the prosecutors, facilitating victims/witness protection programmes etc.
15. As there is considerable overlap in the problems of missing children and trafficked children, AHTUs should play an active role.
16. The Superintendent of Police in the districts and Commissioners of Police in the metropolitan areas should review each case of missing children/persons during their monthly crime review meetings to find out the actual number of missing children, number of children traced/untraced, children, the reasons for child disappearance/missing and its links to human trafficking and to take stringent action

against the perpetrators of the crime. They should also take strong measures for successful prosecution of the offenders in the court of law.

17. In cases where children and women have been smuggled illegally out of the country, the investigation agencies should utilize Interpol channels to communicate with member countries and if need be, have appropriate Interpol Notices issued through CBI/Interpol wing, in order to trace the victims.
18. An exercise to check all the unclaimed and unidentified children who are kept under safe custody in various shelter homes of the government/non-governmental agencies may be undertaken and details may be matched with the available missing children data base in the country as most of the children lodged in these shelter homes are indeed missing children. Missing Persons Bureau in the state should have a centralized data on children lodged in these shelter homes run by the government/non-governmental agencies in the state with mechanism to update the data on regular basis. This data along with the photographs of the children should be digitized and regularly sent to NCRB and NCRB will upload this data in their website [www.ncrb.gov.in](http://www.ncrb.gov.in) for pan-India search by other state police/stake holders.
19. A number of children reportedly die after disappearance/missing and their dead bodies remain unidentified. States/UTs should also consider making it mandatory for the investigating officers and provide the necessary infrastructure to have the DNA profiling of all such unidentified dead bodies for future comparison and identification. DNA profile of the nearest blood relative through informed consent should be done if child is not found for 3 months. Both the DNA data base may be maintained at the state MPS for future comparison and matching.
20. Similarly, in order to curtail offences of child sex abuse, in all cases of pornography, cyber crimes etc. under investigation, efforts should be made to correlate the pictures of the child with the details of missing children and vice-versa.
21. The data available in each missing children file should be uploaded to the computer maintained at the police station for this purpose. It will be the responsibility of each I.O. to ensure that efforts made towards tracing the missing children is also uploaded on the computer, which would be linked to national database and via CCTNS, eventually. CCTNS should update it promptly on the proposed 'Khoya Bachpan' website.
22. The SHO/Inspector of the police station will ensure that the computerized record of missing children is maintained up-to-date and the same is sent to DCRB and from there to SCRB. The State and District/City police Control Room/local Police net, ZIP NET, [www.trackthemissingchild.gov.in](http://www.trackthemissingchild.gov.in) should be updated immediately. It would be useful to access data on missing children through other websites maintained by [www.childlineindia.org.in](http://www.childlineindia.org.in) and [www.stoptrafficking.in](http://www.stoptrafficking.in) to mention a few.
23. NCRB is mandated to function as a national repository of crime and criminal related data in the country and the States /UTs should evolve a mechanism to share the data on missing children and human trafficking cases to NCRB in the prescribed proforma of NCRB on monthly basis for analysis and study to find the emerging trends in these sensitive issues.

24. NCRB should devise methods of uploading the data on a real-time basis not only of missing persons but also with respect to traced and un-traced persons as well as linking the database with those of rescued persons from different places including children rescued from exploitative or forced labour.
25. The universal number 1098 for reporting of missing children 24x7 is being run in some States / UTs, but there is no uniformity. It needs to be made effective and operational if not done earlier. There should be at least one dedicated police personnel at this helpline on 24x7 basis with proper monitoring mechanism. In the meantime BPR&D would explore further possibilities of integrating 1098 with 100 to make it toll free.
26. Responsible and competent NGOs be earmarked as Nodal NGOs in States for assisting the law enforcement agencies in this regard. The NGOs who have done work in this field with commitment be supported by the law enforcement agencies and synergy be established so that they could work in tandem.
27. When training the police, they must be oriented to undertake all preventive steps including steps to identify children in distress, watch of suspicious persons, special attention at transit points viz. border areas, ICPs, railway stations, bus stations, airports, ports etc., identify vulnerable population/places and take steps to address the vulnerability on time.
28. BSF/ITBP/SSB personnel in outposts on borders should be trained to look-out for trafficked children on the borders. They should be sensitized to question and detect unaccompanied minors/children or accompanying adults with suspicious behaviour during pursuant checking of vehicles/public transport.
29. The law enforcement agencies may involve representatives of Panchayati Raj Institutions and the community at large, such as, Village Watch & ward/ Municipal Committees/Neighbourhood Committees/Resident Welfare Associations etc.. This will enable the community to get fully involved along with the administration/police in identification, tracing & recovery of missing and trafficked children and arrest of accused persons.
30. Community awareness programmes on the issue of missing children and its links with human trafficking may be undertaken by the District administration. Periodic interface with Public and Safety Awareness Campaign should be conducted in schools and vulnerable areas, jointly by the district administration. Schools must be encouraged to issue Identity cards to children.
31. The activities of various departments and agencies in the States /UTs need to be integrated through a nodal agency. These includes Home Department, Police Department, Social Welfare Department, Women and Child Welfare Department, Juvenile Justice Department, Child Welfare Committees, Labour Department, Health Department, Tourism Department as well as other agencies like State Human Rights Commission, State Women's Commission, State Commission for Child Rights, Railways, RPF, BSF, SSB, ITBP etc. State governments may institutionalize a coordinating mechanism among all these agencies through an SOP clearly mandating the roles and responsibilities of each of these agencies.

32. In places, where vulnerable groups of children are found in large numbers, a mechanism should be evolved in partnership with NGOs and social workers, where by apart from rendering counseling to them, awareness-raising activities are also carried out.
33. The protocols and SOPs developed by UNODC in the Joint Project of MHA-UNODC, during 2006-2008, including protocol on interstate transfer of rescued victims may be effectively utilized (refer [www. unodc.org/india](http://www.unodc.org/india)).
34. The States/UTs may bring out an SOP for guidance of all concerned.

The receipt of this letter may kindly be acknowledged immediately.

Sd/-  
**(B. Bhamathi)**  
Additional Secretary to Govt. of India,  
Ministry of Home Affairs,  
North Block,  
New Delhi – 110001  
Tel. No. 23092514

To,  
The Chief Secretaries &  
The Principal Secretary/Secretary (Home)  
All State Governments and Union Territories

Copy also for information and necessary action to:

- i. The DGs of all State Governments/UTs.
- ii. National Commission for Protection of Child Rights
- iii. Director General BPR&D
- iv. Director NCRB
- v. Director CBI
- vi. Director General BSF
- vii. Director General ITBP
- viii. Director General SSB
- ix. Ministry of Women and Child Development
- x. Ministry of Labour
- xi. Ministry of Social Justice and Empowerment

Sd/-  
**(B. Bhamathi)**  
Additional Secretary to Govt. of India,  
Ministry of Home Affairs,  
North Block,  
New Delhi – 110001  
Tel. No. 23092514

**F.NO.15011/ 41/2010-ATC**  
**GOVERNMENT OF INDIA/BHARAT SARKAR**  
**MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA**  
**NORTH BLOCK NEW DELHI /CS DIVISION**

Dated the 12<sup>th</sup> January, 2011

To,  
The Chief Secretaries,  
All State Govts/UTs

**Subject: Advisory regarding enrollment of police officials in certificate course in Anti Human Trafficking launched on 10<sup>th</sup> December, 2010 by Union Home Minister in IGNOU in partnership with Ministry of Home Affairs.**

Ministry of Home Affairs, in partnership with Indira Gandhi National Open University (IGNOU) has recently launched a web-based certificate course on human trafficking. The Union Home Minister inaugurated the launch event on 10<sup>th</sup> December, 2010 as part of the observance of National Human Rights Day.

In this connection, it may be recalled that MHA had drawn the attention of State Governments vide its letter dated 10<sup>th</sup> November, 2010 about the launch of the course in advance of the event. The advertisement for the course has been made available on the website of MHA and IGNOU. It is understood that IGNOU has been receiving requests for enrolment from some of the States since the launch.

The State Governments are encouraged to widely disseminate information about the course to all Government officials and the NGOs to increase enrolment to the course.

While it is desirable that all police officials are encouraged to apply for the course, the course may be made mandatory for those police and other Government officials and NGOs functioning as part of anti human trafficking unit, to begin with.

It is requested that this advisory may be circulated to all concerned.

Yours faithfully,

(K.K. Pathak)  
Joint Secretary to the Government of India  
Ministry of Home Affairs  
North Block, New Delhi-110 001  
Tele: 23092630

**Copy for information and necessary action to:**  
The DGPs - All State Governments / UTs.

(K.K. Pathak)  
Joint Secretary to the Govt. of India

**F.NO.15011/ 6/2009-ATC (Advisory)**  
**GOVERNMENT OF INDIA/BHARAT SARKAR**  
**MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA**  
**NORTH BLOCK NEW DELHI /CS DIVISION**

**Dated the 10<sup>th</sup> September, 2010**

**To,**  
**The Chief Secretaries,**  
**The Principal Secretary / Secretary (Home)**  
**State Governments of West Bengal, Orissa, Jharkhand, Bihar, Uttar Pradesh, Madhya Pradesh**  
**and New Delhi**

**Subject:     Advisory on Preventing and Combating Human Trafficking during**  
**Commonwealth Games.**

1. Trafficking in persons, particularly in women and children for various purposes, such as, commercial sexual exploitation, forced labour, domestic servitude, begging etc. is an organized crime that gravely violates basic human rights. Increasing reports of such criminal activity by certain fraudulent placement agencies by making false promises of getting employment in Delhi during the Commonwealth Games, is a matter of deep concern. The victims are mostly those who are promised work in Delhi ahead of the Commonwealth Games by fraudulent placement agencies, but instead likely to be trafficked. Minor girls are the main targets. Some of them are even injected with oxytocin to attain puberty at a younger age.
2. A few minor girls, who were brought to the capital from certain States in the Eastern part of India, were recently rescued from New Delhi railway station by the police in collaboration with NGOs. They fell into the trap of middlemen who brought them here on the pretext of giving them jobs. Strict action is urgently required against those involved in such trafficking, both in the source, transit and destination areas in the States/UTs.
3. 'Police' and 'Public Order' being State subjects, the primary responsibility for preventing and combating the crime of human trafficking lies with the State Governments. However, Ministry of Home Affairs issued an Advisory dated 9.9.2009 to States/UTs to deal with the crime of trafficking in a holistic manner and to evolve an effective and comprehensive strategy encompassing prevention, rescue, relief and rehabilitation of victims, besides taking deterrent action against the violators of law. The Advisory had listed special measures to prevent trafficking, such as identification of women and children at risk, development of victim profiling, carrying out of checks on sponsors and persons who claim to be the relatives of children identified as being at risk of trafficking, etc. Ministry of Women & Child Development also runs shelter homes, such as Short Stay-Homes and Swadhar Homes for women in difficult circumstances, including trafficked victims.
4. Ministry of Home Affairs has already approved and circulated to the State Governments a comprehensive Scheme for establishment of integrated Anti Human Trafficking Units and capacity-building of responders, including Training of Trainers, for strengthening the response of law enforcement agencies to human trafficking in India. The first instalment of funds has also been released to the States for this purpose under the scheme. These units may be made functional to combat trafficking.
5. An effective coordination is required to check the spread of this crime in collaboration with multiple agencies i.e. Delhi Police, Ministry of Women and Child Development, Ministry of Labour and Employment, Ministry of Tourism, Ministry of Railways, State Governments and UT Administrations as well as NGOs, to prevent the crime and mobilise all such efforts to do so. There is a need for exchange of information between these stakeholder ministries and civil



society constituents to ensure that such activities do not go unchecked in any garb, including that of labour migration. Police Agencies may set helplines and Special Desks in the Police Stations and Control Rooms as well as officers of senior formation to address this issue on a real time basis.

6. Ministry of Women and Child Development, State Govts/UTs and NGOs must undertake large scale public awareness campaigns to make the potential target/ vulnerable groups aware of such activities including the traps laid by traffickers. The campaigns should also address the issues of demand, so that individuals and agencies involved in propagating demand are brought to book.
7. Detailed instructions may be issued to all police formations, especially SP/DCP and Station House Officers, to sensitize and alert the beat constables to lookout for cases of suspected trafficking at all transit points/ places like railway stations, bus stands, taxi stands, public places, isolated hotels/ guest house/ streets etc. All such cases noticed must be reported to the Control Room for immediate action/ rescue operation. As far as possible, NGOs of the locality working in the area of anti-trafficking should also be closely associated with such rescue and relief operations. SOPs are already available in this connection and they must be strictly adhered to for adopting a gender, child and victim sensitive approach.
8. The receipt of this letter may kindly be acknowledged immediately.

Yours faithfully,

(Dr. Nirmaljeet Singh Kalsi)  
Joint Secretary to the Government of India  
Ministry of Home Affairs  
North Block, New Delhi-110 001  
Tele: 23092630

**Copy for information and necessary action to:**

- i. Commissioner Police, Delhi with the request to immediately establishing the Anti-Trafficking cells in all sensitive Police Districts in Delhi in the wake of Commonwealth games and work closely with all the Central Ministries concerned, the State Governments and NGOs.
- ii. The DGPs - All State Governments / UTs for information and necessary action.
- iii. Ministry of Women and Child Development (Mrs. Sangeeta Verma, Advisor & Additional Secretary, MWCD) Shastri Bhawan, New Delhi.
- iv. Ministry of Labour, Shram Shakti Bhavan, New Delhi.
- v. Ministry of Social Justice and Empowerment, Shastri Bhawan, New Delhi.
- vi. Ministry of Overseas Indian Affairs (Shri Ranbir Singh, Protector), New Delhi.
- vii. Director General, BPR&D, New Delhi.
- viii. Director General Border Security Force, New Delhi
- ix. Director, CBI, New Delhi.
- x. JS (NE) /Director (Delhi), MHA, North Block, New Delhi.

(Dr. Nirmaljeet Singh Kalsi)  
Joint Secretary to the Govt. of India

**F.NO.15011/6/2009-ATC (Advisory)**  
**GOVERNMENT OF INDIA/BHARAT SARKAR**  
**MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA**  
**NORTH BLOCK NEW DELHI /CS DIVISION**

New Delhi, the 09.09.2009

**OFFICE MEMORANDUM**

**Subject:       Advisory on Preventing and Combating Human Trafficking in India**

**Introduction:**

The Trafficking in Human Beings (THB) is a crime committed in order to target, lead or drive a human being into an exploitative situation with the aim to make profits. Such exploitation may take many forms, for example commercial sexual exploitation, child labour, forced labour, bonded labour or illegal organ removal etc. The country is witnessing cross-border as well as internal (intra-country) trafficking.

**Human Trafficking and Indian Laws:**

Trafficking in Human Beings (THB) is prohibited under the Constitution of India under Article 23 (1). Following specific legislations deal with Trafficking in Human Beings (THB)

- Laws relating to trafficking in women and children being administered by the MWCD (wcd.nic.in)
  - i. Immoral Traffic (Prevention) Act, 1956,
  - ii. Prohibition of Child Marriage Act (PCMA), 2006.
- The “Bonded Labour System (Abolition) Act, 1976”, being administered by Ministry of Labour and Employment (labour.nic.in), provides for abolition of the system of bonded labour and the rehabilitation of released labourers. Child Labour (Prohibition and Regulation) Act, 1986 is also being administered by Ministry of Labour.
- Further, commercial dealing in human organs is a punishable offence under the Transplantation of Human Organs act, 1994, being administered by Ministry of Health and family Welfare (mohfw.nic.in). The appropriate authorities appointed under the Act are responsible and empowered to check the illegal activities of human organs traffickers.
- Specific Sections in the IPC, e.g., Sections 372 and 373 dealing with selling and buying of girls for the purposes of prostitution.

‘Public Order’ and ‘Police’ as per the 7th Schedule of the Constitution of India, are State subjects and, as such, detection, registration, investigation and prevention of crime is primarily the responsibility of the State Governments. However, Central Government supplements the efforts of the State Governments by providing policy guidelines, financial assistance for modernization of the State Police Forces in terms of weaponry, communication, equipment, mobility, training and other infrastructure under the Scheme of Modernization of State Police Forces

A working Group comprising of Directors General of Police of some of the affected States was constituted in 2004 by MHA to study the issues relating to cross border trafficking. The recommendations of this group were sent to the State Governments and they were advised to

evolve a comprehensive strategy for effectively dealing with the problem of trafficking. Also an **“Integrated National Plan of Action to Prevent and Combat Trafficking in Human Beings Specially Women and Children”** ([nhrc.nic.in/planofaction.doc](http://nhrc.nic.in/planofaction.doc)), which has been worked out through a consultation process of all related Ministries and other stakeholders, has been adopted by Government of India in the Ministry of Women and Child Development. This plan deals with all aspects of prevention, rescue, registration of cases, investigations, prosecution, conviction, cross border trafficking issues, rehabilitation, repatriation and reintegration of victims etc. Based on these the recommendations of DGPs and the integrated action plan stated above the State Governments may evolve a holistic approach towards combating Trafficking in Human Beings (THB), encompassing all aspects of prevention, rescue and rehabilitation. Convergence should be adopted between various state departments and stakeholders for effective of handling of crime of Trafficking in Human Beings (THB).

Following key points of advice have been worked out in collaboration with the related Ministries of Women and Child Development, Labour and Employment, and Health and family Welfare where the assistance/ action by the State Government/ Police would be required for the effective implementation/ enforcement of laws relating to Trafficking in Human Beings (THB):

**1. Constitution of the State Advisory Committee for Preventing and Combating Trafficking of Women and Children for Commercial Sexual Exploitation.**

According to the Supreme Court order dated 2/05/09 (Vishal Jeet Vs Union of India), every State Government should set-up a State Advisory Committee for Preventing and Combating Trafficking of Women and Children for Commercial Sexual Exploitation. Ministry of Women & Child Development (MWCD) has already issued an advisory in this regard to all the State Governments.

**2. Implementation of Immoral Traffic (Prevention) Act (ITPA), 1956.**

- 2.1. Since ITPA is the main Act that can be used to book trafficking for commercial sexual exploitation, its implementation is essential for counter-trafficking. Under Section 23, the State Government may, by notification in the Official Gazette, **make rules for carrying out the purposes of the Act.** Such rules may be formulated, notified and intimated to MWCD with a copy to MHA.
- 2.2. Under Section 13, the State Government may **appoint ‘Special Police Officers (SPOs)’** and the ‘Non-official advisory bodies’ to advise the SPOs for dealing with offences under the Act.
- 2.3. Under Section 21, the State Governments may set-up ‘Protective homes’ and ‘Corrective institutions’ for ensuring proper implementation of the provisions of the Act. **The information regarding these homes may be circulated to all Police Stations and officers dealing with the trafficking cases.**
- 2.4. Under Section 22-A, the State Government may, by notification in the Official Gazette, and **after consultation with the High Court, establish one or more Courts** for providing speedy trial of the offences under the Act.
- 2.5. It is generally noticed that sections 8 and 20 of ITPA, which focuses on the victims, are more often invoked as a result of which the victim is re-victimized and the exploiters are not punished. It is, therefore, advised that sections 3, 6 and 7 which pertains to pimps, brothel owners, clients who are actual perpetrators of the crimes need to be invoked rather than sections 8 and 20. **Law enforcement agencies need to adopt a victim centric approach in the investigations.**

3. **Implementation of Juvenile Justice Act (JJ Act), 2000:** Juvenile Justice Act provides comprehensive mechanism for care and protection of children including rehabilitation and social integration of children. Therefore, its implementation is essential to address trafficking of children. Following provisions of the Act are concerned with the Home Department/ Police and require action by the State Governments:
  - 3.1. Under Section 62-A, the State Government shall constitute 'Child Protection Units' for the State and districts to fulfill its responsibilities as stipulated under the Act.
  - 3.2. Under Section 63, in each police station, at least one police officer may be designated as the 'Juvenile or Child Welfare Officer' to handle a juvenile or child in coordination with the police.
  - 3.3. Under Section 68, the State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.
4. **Implementation of Prohibition of Child Marriage Act (PCMA), 2006:** Prohibition of Child Marriage Act (PCMA) was enacted in 2006 repealing Child Marriage Restraint Act, 1929. It is reported that traffickers in some pockets in the country are exploiting evil custom of child marriage to target innocent girls for trafficking. Therefore, it is essential to implement the Act to address this modus operandi of traffickers.
  - 4.1. As per PCMA, State Governments under Section 19 (1), may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.
  - 4.2. Under Section 16, the State Government may appoint 'Child Marriage Prohibition Officers' to fulfill the mandate as stipulated in the Act. State Governments may intimate the MWCD about the status of appointment of Prohibition Officers and Rules.
  - 4.3. The State Governments are to maintain MIS and send quarterly information on number of cases registered under PCMA and convictions.
  - 4.4. On receiving a complaint about child marriage, police are required to follow the procedure laid down in the Code of Criminal Procedure, 1973, which include registering an FIR and carrying out investigation.
  - 4.5. The offences under PCMA are cognizable and non-bailable, hence, immediate arrest of offenders is necessary.
  - 4.6. Extra vigilance should be maintained during festivals such as 'Akshya Tritha' to ensure that no child marriage takes place.
5. **Capacity building of the State machinery:** Implementation of the legal provisions in relation to applicable Acts- CLPRA, BLSA, IPTA, JJA and IPC involves not only police but many other officials dealing with the Criminal Justice System - notably the executive magistrates, the labour officials, CWC members and in-charges of Homes. Therefore, the State government may initiate a time bound action plan to build the required capacity of the state investigation and prosecution machinery in this regard. Some of the key areas identified for capacity building are listed below.
  - 5.1. Identification of victims of trafficking for the purpose of commercial sexual exploitation, child/bonded/forced labour and for illegal organ removal.
  - 5.2. Recognition of all applicable legal provisions of the law to a case of trafficking (not just one Act or two) by law enforcement machinery.

- 5.3. Understanding of legal and administrative provisions for inter-state and cross border investigation.
- 5.4. Understanding of legal provisions for closure of places of exploitation.
- 5.5. Understanding of legal provisions for confiscation of proceeds of crime.
- 5.6. Understanding of the mechanism in place for victim support and assistance.
- 5.7. Integrated actions on prosecution, prevention and protection by building linkages with other Government departments and agencies, including NGOs.
- 5.8. For capacity building the Bureau of Police Research and Development (BPR&D) ([www.bprd.gov.in](http://www.bprd.gov.in)), at the behest of MHA, has prepared a **training manual on Human Trafficking Handbook for Investigators** and this has been circulated to the States for use in the police Training Institutes. All the training materials have also been uploaded on BPR&D website. BPR&D has already translated the training material in Hindi, Telugu and Marathi languages. 12 Resource Books on ‘Training and Investigation on Anti-Human Trafficking’ prepared as a result of pilot project between MHA and UNODC ([www.unodc.org/india/ind\\_s16.html](http://www.unodc.org/india/ind_s16.html)) have also been uploaded on BPR&D website. These resource materials should be used by State Governments for the capacity building of all agencies involved in prevention of human trafficking.
- 5.9. Also MWCD, in collaboration with National institute of Public Co-operation and Child Development (NIPCCD) and UNICEF, has developed manuals for training of stakeholders such as ‘Judicial Handbook on Combating Trafficking of Women and Children for Commercial Sexual Exploitation’, ‘Manual for Medical Officers for dealing with Child Victims of Trafficking and Commercial Sexual Exploitation’, counseling services for Child survivors of trafficking’, Counseling services for Child survivors of trafficking’, Social workers.
- 5.10. States may organize training/workshops/awareness campaign to sensitize their SHOs/Dy. SP/ACP and other law enforcement agencies towards the crime, safety and security of women and children.
- 5.11. The **Compendium of Best Practices in handling cases of human trafficking** ([www.unodc.org/india/ind\\_s16.html](http://www.unodc.org/india/ind_s16.html)) **has already been circulated** to all the State Governments and UT Administrations for information and appropriate use.

## 6. Prevention of Trafficking:

- 6.1. It has been noticed that people, especially women and children are vulnerable to trafficking during ‘distress migration’ and from ‘disaster prone areas’- such as during floods, earthquakes, crop failures, riots, terrorist activities etc. Therefore, it is important to establish extra vigilance in this regard around transit points and at borders- inter-district/inter-state and international.
- 6.2. Police should work closely with immigration authorities, Border Security Force (BSF), Railways and other transport authorities, provincial/ territorial and municipal agencies, with Social Services, child welfare authorities and with any NGOs involved in service delivery for spotting and rescuing the victims.
- 6.3. Effective patrolling and vigil at locations prone to trafficking such as highways, dhabas, railway stations and bus stations for suspicious movement of traffickers and victims and monitoring, through involvement of village community, the suspicious/unnecessary movements of strangers in the villages.

- 6.4. Pro-active policing through information exchange with representatives from the local Government, community, NGOs with a view to raise awareness and garner active support of the community.
- 6.5. Periodical checks on transporters to prevent physical transportation of the trafficked persons.
- 6.6. Prevention at the demand area by understanding/ addressing new forms of demand. For example, placement agencies providing domestic child labourers.
- 6.7. Facilitating inter-State collaboration by sharing data on missing children/ kidnappings and suspected offenders. Development of victim and offender profiles on an inter-agency basis.
- 6.8. Sensitization programmes/workshops for police officers/railway police force and prosecutors on various legislations mentioned above in relation to trafficking. State nodal officers may hold periodical meetings to review and monitor the efforts taken to prevent and combat the crime of trafficking.
- 6.9. In case of child trafficking, following provisions also need to be kept in view:-
  - 6.9.1. Identification of children at risk, (e.g. following raids on off-street sites, responding to referrals from other agencies, NGO or members of the public, following up reports of missing children).
  - 6.9.2. Report instances of children in need of protection to relevant child protection agencies. For this purpose the Police Stations could be sensitized.
  - 6.9.3. The development of victim profiling with other agencies.
  - 6.9.4. Undertaking joint interviews with social workers of children identified as victims or potential victims to assess risk and assist in the development of protection plans.
  - 6.9.5. Carry out checks on sponsors and people who claim to be the relatives of children identified as being at risk of trafficking.
  - 6.9.6. Participating in local child protection networks with related organizations (immigration, social services, NGOs, health, education) to develop joint approaches to the issue at local level and contribute to wider forums as appropriate.
  - 6.9.7. If children disappear, initiate missing person's procedures, investigate circumstances and circulate information/ undertake investigations, linking with other agencies as required.
  - 6.9.8. Ministry of Labour & Employment has developed a detailed protocol for prevention, rescue, repatriation, rehabilitation and reintegration of migrant and trafficked child labour. The protocol has been issued to all State Governments for implementation.

## **7. Investigation & Prosecution:**

- 7.1. Standard operating procedures for Investigation have been developed under the pilot project between MHA and UNODC as mention in para 5.8 above, which can be used for effective investigation in trafficking related crimes.
- 7.2. One of the effective means of securing better conviction rates of perpetrators of crime

of trafficking is to base the case on documentary, forensic and material evidence. At present, most of the time, the victim is being used as a witness and more often than not, he/she can easily be intimidated. State Governments are advised to encourage the law enforcement agencies to build full proof investigation against the traffickers, so that, convictions can be guaranteed.

7.3. Use of fast track courts and video conferencing to the extent possible.

## **8. Rescue and Rehabilitation**

- 8.1. Police should work with other agencies and stakeholders to ensure that those who are rescued or who choose to return are not re-trafficked; this should include a risk assessment of the danger to returning victims (child care authorities would prepare risk assessment for children).
  - 8.2. Identifying support services and referring victims/ potential victims to specialist NGO's and safe accommodation, where these are available. The Ministry of Women and Child Development runs short stay homes Swadhar shelter homes for women in difficult circumstances ([wcd.nic.in/Comscheme.doc](http://wcd.nic.in/Comscheme.doc)). These cater to trafficked women/girls rescued or runaway from brothels or victims of sexual crimes who are disowned by family or who do not want to go back to respective family for various reasons. The schemes provide for shelter, food, clothing for women and children below the age of 18 years, counseling, clinical, medical, legal and other support, training and economic rehabilitation and helpline facilities.
  - 8.3. A new scheme - UJJAWALA ([wcd.nic.in/Comscheme.doc](http://wcd.nic.in/Comscheme.doc)) – a comprehensive scheme for prevention of trafficking, rescue, rehabilitation, reintegration and repatriation of the victims of commercial sexual exploitation has been launched on 04.12.2007 by the Ministry of women and Child Development which should be effectively used by the State Governments.
9. MHA has already established an Anti Trafficking Cell (ATC) under the Director (SR) which deals with the following major subject matters:
- 9.1. All matters pertaining to the criminal aspect of trafficking in human beings especially of women and children, which is the fastest growing organised crime and an area of concern.
  - 9.2. To act as the Nodal cell for dealing with the criminal aspect of Human Trafficking in India, hold regular meetings of all States and UTs, communicating various decisions and follow up on action taken by the State Governments.
  - 9.3. To interface with other Ministries like MWCD, MSJE, MEA, MOIA, MOLE, MOL, MOT and NCRB regarding the criminal aspect of human trafficking.
  - 9.4. All matters relating to the UNODC, UNIFEM, their meetings, conferences, conventions, reports etc. in the context of the criminal aspect of Human Trafficking.
10. The Anti Trafficking Nodal Cell of MHA has developed an MIS proforma for the monitoring of the action taken by various State Governments regarding the criminal aspect of human trafficking as well as crime against women. The State Governments are requested to send quarterly information on 1<sup>st</sup> January, 1<sup>st</sup> April, 1<sup>st</sup> July and 1<sup>st</sup> October of the year in the prescribed proforma.
11. You are requested to issue suitable directions to all concerned under intimation to this Ministry. It is further requested that action taken in this regard may be regularly / periodically

reviewed by the State Governments and UT administrations and a report indicating the present status sent to this Ministry within a month.

12. This advisory is being issued in consultation with the Ministry of Women and Child Development and Ministry of Labour and Employment.

The receipt of this letter may kindly be acknowledged immediately.

Yours faithfully,

-Sd-

(Nirmaljeet Singh Kalsi)

Joint Secretary to the Government of India

Ministry of Home Affairs, North Block

New Delhi - 110001

**Tel. No. 23092630**

To,

**The Chief Secretaries &**

**The Principal Secretary / Secretary (Home)**

**All State Governments and Union Territory Administrations – for information and necessary action.**

**Copy for information and necessary action to:**

- i. The DGs / IGs (In-charge of Prisons)/ - All State Governments / UTs for information and necessary action.
- ii. Ministry of Women and Child Development (Mrs. Manjula Krishnan, Advisor & Joint Secretary, MWCD, Ms. P. Bolena, Joint Secretary) Shastri Bhawan, New Delhi.
- iii. Ministry of Labour (Shri S.K. Dev Verman, Jt. Secy.), Shram Shakti Bhavan, New Delhi.
- iv. Ministry of Social Justice and Empowerment (Sh. D.V.S. Ranga, Joint Secretary), Shastri Bhawan, New Delhi.
- v. Ministry of Overseas Indian Affairs (Shri G. Gurucharan, Jt. Secy.), New Delhi.
- vi. Ministry of External Affairs, (Joint Secretary SAARC and Joint Secretary UNES) South Block, New Delhi.
- vii. Chairperson, National Commission for Women, 4, Deen Dayal Upadhyaya Marg, New Delhi-110 002.
- viii. Chairperson, National Commission for Protection of Child Rights, 5<sup>th</sup> Floor, Chandralok Building, Janpath, New Delhi-110 001.
- ix. Chairperson, National Human Rights Commission, Copernicus Marg, New Delhi.
- x. Director General, NCRB, RK Puram, New Delhi.
- xi. Director General, BPR&D, New Delhi.
- xii. Director General Border Security Force, New Delhi
- xiii. Director, CBI, New Delhi.
- xiv. JS (UT)/ JS (NE) /JS (K), MHA, North Block, New Delhi.
- xv. Under Secretary (Parliament), MHA, North Block, New Delhi.

-Sd-

(Nirmaljeet Singh Kalsi)

Joint Secretary to the Govt. of India



**No. 15011/129/2010 (CF-104307) – SC/ST CELL**  
**GOVERNMENT OF INDIA**  
**MINISTRY OF HOME AFFAIRS**  
**(CENTRE STATE DIVISION)**

New Delhi, the 30<sup>th</sup> August, 2013

To

- 1) The Chief Secretaries of all State Governments/UT Administrations
- 2) Administrator of Dadra Nagar Haveli, Daman & Diu and Lakshadweep

**Subject: Protection of Life and Property of Senior Citizens**

Sir,

An advisory dated 24<sup>th</sup> October 2005 had been previously sent by the Home Ministry regarding the implementation of the National Policy on Old People (NPOP 1999)<sup>1</sup>. The advisory advises States/UTs to ensure that life and property of senior citizens (i.e those beyond 60 years) is fully protected.

2. In recent decades, the supporting mechanisms of the family and the responsibility of the young to look after the elderly have weakened due to underlying societal changes such as emigration of the young, lower fertility levels, increased life expectancy and the appearance of the nuclear family etc. A study conducted by the BPR&D (September 2009) of the four metros showed that there are a number of problems in the manner of providing safety and security to elderly. The revised National Policy on Senior Citizens 2011 (NPSC)<sup>2</sup> has also adopted a fresh approach regarding the issues related to the elderly. A National Conference on Ageing had been organised by the Ministry of Social Justice and Empowerment (MOSJE) on the 6<sup>th</sup>-7<sup>th</sup> November, 2012 in this regard. Based on the deliberations there the Ministry of Social Justice and Empowerment has drawn upon a set of recommendations for a more effective implementation of various programmes for the welfare of the senior citizens.

4. The MOSJE had taken up the enactment of the **Maintenance and Welfare of Parents and Senior Citizens Act, 2007**. The Act envisages that the State Governments shall prescribe a **comprehensive action plan** for providing protection of life and property of senior citizens [Section 22(2)].

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<sup>1</sup> [http://mha.nic.in/uniquepage.asp?ID\\_PK=466](http://mha.nic.in/uniquepage.asp?ID_PK=466)

<sup>2</sup> <http://socialjustice.nic.in/pdf/dnpssc.pdf>

5. In view of the particular vulnerability of the elderly to crime, special crime control measures for elderly include:

- a) **Review existing Policing Arrangements:** Police set-up of each metro/state headquarter should be urgently reviewed to reorganise it to make it better to face its current and future challenges and to meet the expectations of the people. This will automatically improve security for all including elderly. At present, the police in some of the Police Stations in metro/state headquarter are over stretched. The Police Headquarters should ensure that each Police Station has a Security Scheme for the protection of the elderly in the context of local requirements which should be updated regularly. These should, *inter alia*, provide for patrolling, both during day and night. Police should get extra functional and supervisory staff needed for enforcing the scheme. Police should maintain and regularly update the data base about the elderly and obtain a feedback about security arrangements in force for the elderly. Police personnel should also be given training and re-orientation in dealing with and taking care of elderly. Security and placement agencies should be co-opted and encouraged to provide guards and domestic help having skill for taking care of the elderly. They should be cleared from security angle so that well-to-do senior citizens, who are at greater security risks, can have qualified and reliable personal and security staff. Police should organise special drives for verification of the antecedents of servants, drivers and other domestic help as also of tenants. Each police head quarters and each district police office of the metro/state headquarter should have a Senior Citizen Cell and Toll-Free Help-lines and an interactive Web-Site to enable easy interaction should be available. Enquiries should be held to fix responsibility for lapses whenever serious incidents of crime against elderly take place and suitable remedial measures/ action should be instituted/ taken in the light of the result of these enquires. At the same time, police personnel and members of the public who help in prevention and detection of crime against elderly should be handsomely rewarded/ recognised.
- b) **Strengthening Community Policing:** More effective development of police-public relationships is necessary. Issues like registration with police of senior citizens living alone for exercising extra vigilance in relation to them, strengthening of the beat police system, more frequent visits of beat constables, police patrol vans and volunteers from local communities, enrolled as special police officers for those who are living alone or with spouses, foot patrolling both during daytime and night etc. should be taken up. There should be more frequent interaction between the police

and the residents of the area. Police could setup Community Liaison Groups which can organize volunteers to pay regular visits to senior citizens to attend to their emotional needs and to run errands for them. Neighbourhood Watch Schemes can be setup involving RWAs, Senior Citizen's Welfare Associations, Senior Citizen's Neighbourhood Societies which should evolve and enforce neighbourhood watch schemes.

- c) **Engaging the Resident Welfare Associations (RWAs):** Sensitisation of people/RWAs regarding safety measures is necessary. RWAs could play an active role in resolving minor disputes in which senior citizens are involved; they should convince senior citizens to follow police advisories concerning safety and security matters, verification of antecedents of their domestic help and tenants, and registration with police and they should also help senior citizens to organise their own groups for solving their problems mutually. RWAs could arrange for better local area security. They could regulate entry of outsiders including casual workers, vendors and tradesmen in their premises more effectively. RWAs could provide a panel of security verified electricians, plumbers and other tradesmen for service in their premises and have arrangements with registered firms/ placement agencies for providing reliable domestic help to the houses in their premises.
- d) **Creation of Self Help Groups:** Mobilisation of members of the public, RWAs, NGOs, youth clubs, and women groups could help senior citizens to organise their own groups/ organisations involving persons from different walks of life like doctors, lawyers, security experts, etc. so that their expertise can be of use to them in solving their problems mutually and for providing emotional support to lonely citizens; and State Governments could partly fund senior citizens groups/ organisations by encouraging setting up of senior citizens organisations.
- e) **Need for greater awareness:** There is a need to introduce Literacy Programmes for older persons, which would reduce their vulnerability to exploitation. This would also help in strengthening their knowledge of their rights, access to entitlements and services, capacity to overcome discrimination and ability to resist violence through appropriate Do's and Don'ts. Information and education material (IEC) relevant to the lives and security of older people should be developed and translated in local languages and widely disseminated. School Curricula should include

material that inculcates sensitivity and values, which promote proper attitude for care and respect for elderly and develop skills for giving care and emotional support to elderly and aids the sensitisation of the younger generation.

7. All the States/UTs are advised to consider adopting the measures elucidated above and any additional measure that is required for the effective management of crime against the elderly. An template for the monitoring of the action plan has been provided in the **Annexure** to this advisory for which information may be sent on a quarterly basis. Action taken may kindly be intimated. The receipt of the letter may please be acknowledged.

Yours faithfully,

**(S Suresh KUMAR)**  
**Joint Secretary (CS)**  
Telefax: 23438100  
E mail: jscs@nic.in

Copy also for information and necessary action to:

- i. All State Governments and Union Territories Principal Secretary/Secretary (Home)
- ii. The DGs of all State Governments/UTs.
- iii. Director General BPR&D
- iv. Secretary, Ministry of Social Justice and Empowerment

**(S. Suresh KUMAR)**  
**Joint Secretary to Govt. of India**

**MONITORING OF ACTION PLAN**  
**FOR SAFETY AND SECURITY OF OLDER PERSONS**

| S.No. | Measures (Suggested)  | Monitoring Indicators<br>(to be indicated Quaterly)  |
|-------|---|--|
| 1.    | Identification of crime prone pockets/localities inhabited by older persons   | For a list of registered Senior Citizens upto the last date of the quarter. Information may please be given in <b>Format A</b> . |
| 2.    | Sensitization workshops for police personnel regarding safety and security of older persons   | No. of workshop held by different districts in the quarter may be indicated.   |
| 3.    | (a) Registering old persons (single or couple) living alone under each police station of identified crime prone area                              | Police Station wise list of registered Senior Citizens (upto the last date of the quarter) is to be given in <b>Format B</b> .   |
|       | (b) Senior Police Officers to periodically inspect the registers related to older persons in police stations to ensure they are regularly updated | No. of inspections done district-wise are as follows:  |
| 4.    | (a) Regular visits of the beat staff along with a Community / NGO members to the residences of older persons living alone.                        | No. of visits made under each police station is to be given in <b>Format C</b> .   |
|       | (b) Senior Police Officers to also periodically interact with older persons living alone  | No. of meetings held district/zone-wise in the last quarter are as follows:  |
| 5.    | Set up Senior Citizens' Special Cell at State and District Police Headquarters to coordinate and monitor safety and security of older persons     | Date of notifications and date f from which functioning started to be given.   |
| 6.    | Set up 24x7 Senior Citizens' toll free Helpline(s) (DGP to decide number of Helplines required based on population of senior citizens             | Toll free no. started and call outcomes could be given.  |
| 7.    | Establish Community Policing Programmes in areas with high proportion of older persons  | Details of the programmes initiated and their activities could be given  |

| <b>S.No.</b> | <b>Measures (Suggested)</b>  | <b>Monitoring Indicators<br/>(to be indicated Quaterly)</b>  |
|--------------|--|--|
| 8.           | Issue Dos & Don'ts Guidelines for older persons to be followed by them for home security measures, while dealing with salespersons, while going out shopping or walking or to the bank etc and distribute leaflets of guidelines and / or advertise through media. | Police should issue the same and publicise through their web-sites as well as thro' media interaction. Status of issue of 'Do's and Don'ts'. |
| 9.           | Organize sensitization programmes for older persons about police helplines, Dos & Don'ts guidelines, legal aid facilities, etc available specially for them.   | No. of meetings held district/zone-wise in the last quarter are as follows:  |
| 10.          | Identification of reputed NGOs experienced in the field and consulting and coordinating with them whenever necessary.  | No. of NGOs identified and their activities in the quarter   |
| 11.          | SHOs to regularly visit old age homes if any, within his jurisdiction to apprise himself of problems being faced by the inhabitants.   | No. of visits made to the old age homes (number)   |
| 12.          | Prompt attendance to complaints by older of harassment, deception etc. and cases of crimes against them.   | No. of complaints received, no. disposed, no. referred to other authorities etc.   |
| 13.          | Senior Police Officers to periodically inspect progress of investigations of cases of complaints by older persons or crimes against them.  | No. of inspections done district/zone-wise in the last quarter are as follows:   |
| 14.          | Establish advisory bodies of prominent senior citizens at State / District level which would periodically interact with the police regarding safety and security of older persons  | Date of notification and date(s) of meetings held by the advisory boards   |

**FORMAT A****DISTRICT/ZONE WISE SENIOR CITIZENS IN \_\_\_\_\_ AS ON \_\_\_\_\_**

| <b>SL<br/>NO</b> | <b>DISTRICT/ZONE</b> | <b>TOTAL NO. OF SR. CITIZENS</b> |
|------------------|----------------------|----------------------------------|
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|                  |                      |                                  |
|                  |                      |                                  |

**AGE-WISE CLASSIFICATION OF SENIOR CITIZENS**

| <b>SL<br/>NO</b> | <b>DISTRICT/ZONE</b> | <b>TOTAL NO. OF SR. CITIZENS</b> |
|------------------|----------------------|----------------------------------|
|                  |                      |                                  |
|                  |                      |                                  |
|                  |                      |                                  |
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**FORMAT B****POLICE STATION WISE SENIOR CITIZENS IN \_\_\_\_\_ DISTRICT/ZONE AS ON \_\_\_\_\_**  
**\_\_\_\_\_ DISTRICT/ZONE**

| <b>SL<br/>NO</b> | <b>POLICE STATION</b> | <b>TOTAL NO. OF SR. CITIZENS</b> |
|------------------|-----------------------|----------------------------------|
|                  |                       |                                  |
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|                  |                       |                                  |
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**FORMAT C**

**POLICE STATION WISE VISITS OF BY BEAT STAFF TO SENIOR CITIZENS IN \_\_\_\_\_ DISTRICT/ZONE AS  
ON \_\_\_\_\_**

**\_\_\_\_\_ DISTRICT/ZONE**

| <b>SL<br/>NO</b> | <b>POLICE STATION</b> | <b>TOTAL NO. OF SR. CITIZENS</b> | <b>VISITS BY BEAT CONSTABLES</b> |
|------------------|-----------------------|----------------------------------|----------------------------------|
|                  |                       |                                  |                                  |
|                  |                       |                                  |                                  |
|                  |                       |                                  |                                  |
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**F.No.15011/66/2012-SC/ST-W (CF-156113)**  
**GOVERNMENT OF INDIA/BHARAT SARKAR**  
**MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA**  
**Centre State Division**

**5<sup>th</sup> Floor, NDCC-II Building**  
**Jai Singh Road,**  
**New Delhi, 30th August 2013**

**To**

- 1) The Chief Secretaries of all State Governments/UT Administrations**
- 2) Administrator of Dadra Nagar Haveli, Daman & Diu and Lakshadweep**

**Subject: Measures to be taken to prevent acid attacks on people and for treatment and rehabilitation of survivors**

The Supreme Court case WP(Crl.)129 of 2006 Laxmi vs. U.o.I and States and UTs concerns a PIL filed by a girl who is acid attack survivor who wanted an end to such attacks.

2. As per the directions of the Supreme Court, Draft Model Poison Rules 2013 were formulated by the Ministry based on the Poison Rules of States of Karnataka, Punjab, Maharashtra and Kerala. The Supreme Court after reviewing the Model rules passed an order on the 18/7/2013 (which would have already been communicated to the States/UTs) further gave a series of directions to the Central Government and to States/UTs (**Annexure A**). The list of acids identified are those which have a pH of 0-2 and are strongly acidic and those which are strongly alkaline between pH of 11.5 to 14 and have the ability to cause dermal corrosion. There are other poisons which are not corrosive but are nevertheless toxic to life which may be identified separately and added to the Schedule by the State/UT.

3. A copy of the Poisons Act, 1919 (Act 12 of 1919) is enclosed for guidance (**Annexure B**). The Act now extends to the entire country excluding Jammu and Kashmir. It may be mentioned that the item no.19 in List III (Concurrent List) of the 7<sup>th</sup> Schedule to the Constitution deals with 'Drugs and poisons, subject to the provisions of entry 59 of List I with respect to opium' and hence States are empowered to legislate on this issue and it is well within the competence of the State to amend Section 6 and enhance the punishments if need be and insert a sub-section to make the offences committed under the Act cognizable and non-bailable.

4. In compliance to the directions given by the Supreme Court in its order dated 18/07/2013, a copy of the revised Model Poison Rules 2013 (**Annexure C**) is also enclosed. It may be borne in mind that the **revision/adoption** of the content of the Model Poison Rules should be done within three months from the date of communication of the

Rules by MHA. Since the Rule making power is exclusively with the States u/s 2 of the Poisons Act, hence States would need to exercise this power accordingly.

5. In the interim period, the following actions would need to be taken immediately in the State/UT where rules to regulate sale of acid/corrosive substances is **not operational** to regulate the existing sales through wide publicity in the media including local language:

(i) Banning over the counter sale of acid/corrosives unless the seller maintains a logbook/register recording the sale of acid which will contain the details of the person(s) to whom acid(s) is/are sold and the quantity sold. The log/register shall also contain the address of the person to whom it is sold.

(ii) A sale will be made only when the buyer produces a photo ID issued by the Government which also has the address of the person and proves that he/she is above 18 years of age.

(iii) The logbook/register should also specify the reason/purpose for procuring acid.

(iv) All stocks of acid must be declared by the seller with the concerned Sub-Divisional Magistrate (SDM) within 15 days and in case of undeclared stock of acid, it will be open to the concerned SDM to confiscate the stock and suitably impose a fine on such seller up to Rs. 50,000/-.

(v) The concerned SDM may impose a fine up to Rs.50,000/- on any person who commits breach of any of the above directions. Educational institutions, research laboratories, hospitals, Government Departments and the departments of Public Sector Undertakings, who are required to keep and store acid/corrosive shall maintain a register of usage of acid and the same shall be filed with the concerned SDM.

(vi) A person shall be made accountable for the possession and safe keeping of acid in their premises. The acid shall be stored under the supervision of this person and there shall be compulsory checking of the students/ personnel leaving the laboratories/place of storage where acid is used. A draft advertisement (**Annexure D**) is enclosed for consideration.

6. States/UTs which have framed or are in the process of framing VCS would also need to implement the direction of the Supreme Court whereby acid attack victims should be paid compensation of at least Rs. 3 lakhs by the concerned State Government/Union Territory as the after care and rehabilitation cost. Out of this a sum of Rs 1 lakh shall be paid to such victim within 15 days of the occurrence of such incident (or being brought to the notice of the State Government/ Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs. 2 lakhs should be paid as expeditiously as may be possible and positively within two months thereafter. States/UTs would need to make changes in the VCS if already notified or incorporate this direction in the proposed VCS. This may be done as soon as possible and intimated to

the MHA. A standard operating procedure (SOP) may be developed which will clarify the procedure by which the victim compensation would be disbursed.

7. All Central Govt. hospitals and establishments had already been directed to treat acid attack victims free of cost. As Health is a State subject, the MoHFW has already circulated an advisory dated 2/5/2013 (**Annexure E**) regarding the provision of free medical treatment and rehabilitation to acid attack victims. Acid attack victims need to undergo a series of plastic surgeries and hence 1-2 beds at the Apex State Tertiary Hospital could be earmarked for the treatment of acid attack victims so that the victims need not run from pillar to post to get these operations performed expeditiously. In addition, private hospitals which have availed the facility of concessional land for setting up the hospital could also be persuaded to earmark 1-2 beds for treatment of under-privileged victims of acid attacks which the State Government can identify for treatment. Apart from the medical facilities, the State should also extend social integration programs to the victims for which a NGO(s) could be funded to exclusively look after their rehabilitative requirements. It is also requested that the contents of section 357C of the Cr.P.C and 166B of the IPC be also brought to the notice of all medical institutions functioning in public or private sector to ensure strict compliance.

8. All the States/UTs are advised to take immediate steps to implement the measures for reduction of acid attacks and treatment and rehabilitation of acid attack survivors as well as any other measure as may be deemed fit.

The receipt of this letter may please be acknowledged.

Yours faithfully,

(S Suresh KUMAR)  
Joint Secretary (CS)  
Tel. 23438100  
E mail: jscs@nic.in

Copy also for information and necessary action to:

- i. All State Governments and Union Territories - Principal Secretary/Secretary (Home)
- ii. The DGs of all State Governments/UTs.
- iii. Director General BPR&D
- iv. Secretary, Ministry of Woman and Child Development
- v. Ld.Solicitor General of India

(S. Suresh KUMAR)  
Joint Secretary to Govt. of India

**SUBSTANCE OF SUPREME COURT DIRECTIONS IN ITS ORDER DATED 18/07/2013**

The directions given inter-alia were as follows:

- The Central Government will circulate the Model Rules to regulate sale of acid and other corrosive substances framed under the Poisons Act, 1919 to all the State Governments and Union Territories within a week from today.
- The Model Rules will include, inter alia, the form of acids (liquids or crystalline and its concentration) that can be stored and sold, issue of licenses, procurement by individuals, educational and research institutions, hospitals, industries, Government Departments and departments of Public Sector Undertakings.
- The States and Union Territories which have not yet framed rules will do well to make rules to regulate sale of acid and other corrosive substances in line with the Model Rules framed by the Central Government. The States, which have framed rules but these rules are not as stringent as the Model Rules framed by the Central Government will make necessary amendments in their rules to bring them in line with the Model Rules. The Chief Secretaries of the respective States and the Administrators of the Union Territories shall ensure compliance of the above expeditiously and in no case later than three months from the receipt of the draft Model Rules from the Central Government.
- The Centre and States/Union Territories shall work towards making the offences under the Poison Act, 1919 cognizable and non-bailable.
- In the States/Union Territories, where rules to regulate sale of acid and other corrosive substances are not operational, until such rules are framed and made operational, the Chief Secretaries of the concerned States/Administrators of the Union Territories shall ensure the compliance of the following directions with immediate effect:
  - i) Over the counter, sale of acid is completely prohibited unless the seller maintains a log/register recording the sale of acid which will contain the details of the person(s) to whom acid(s) is/are sold and the quantity sold. The log/register shall contain the address of the person to whom it is sold.
  - (ii) All sellers shall sell acid only after the buyer has shown:
    - a) a photo ID issued by the Government which also has the address of the person.
    - b) specifies the reason/purpose for procuring acid.
  - (iii) All stocks of acid must be declared by the seller with the concerned Sub-Divisional Magistrate (SDM) within 15 days.
  - (iv) No acid shall be sold to any person who is below 18 years of age.
  - (v) In case of undeclared stock of acid, it will be open to the concerned SDM to confiscate the stock and suitably impose fine on such seller up to Rs. 50,000/-

(vi) The concerned SDM may impose fine up to Rs.50,000/- on any person who commits breach of any of the above directions.

- The educational institutions, research laboratories, hospitals, Government Departments and the departments of Public Sector Undertakings, who are required to keep and store acid, shall follow the following guidelines:

(i) A register of usage of acid shall be maintained and the same shall be filed with the concerned SDM.

(ii) A person shall be made accountable for possession and safe keeping of acid in their premises.

(iii) The acid shall be stored under the supervision of this person and there shall be compulsory checking of the students/ personnel leaving the laboratories/place of storage where acid is used.

- The concerned SDM shall be vested with the responsibility of taking appropriate action for the breach/default/ violation of the above directions.
- Acid attack victims shall be paid compensation of at least Rs. 3 lakhs by the concerned State Government/Union Territory as the after care and rehabilitation cost. Of this amount, a sum of Rs 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/ Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs. 2 lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter. The Chief Secretaries of the States and the Administrators of the Union Territories shall ensure compliance of the above direction.
- The Chief Secretaries of the States and Administrators of the Union Territories shall take necessary steps in getting this order translated into local language and publicise the same appropriately for the information of public at large.

**THE POISONS ACT, 1919**

**(Act No. 12 of 1919)**

**[3<sup>rd</sup> September 1919]**

An Act to consolidate and amend the law regulating the importation, possession and sale of poisons

Whereas it is expedient to consolidate and amend the law regulating the importation,

**1. Short title and extent. -**

(1) This Act may be called the Poisons Act, 1919.

(2) It extends to the whole of India:

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to the-importation into India of any specified poison.

**2. Power of the State Government to regulate possession for sale and sale of any poison. -**

(1) The State Government may by rule regulate within the whole or any part of the territories under its administration the possession for sale and the sale, whether wholesale or retail, of any specified poison.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) The grant of licences to possess any specified poison for sale, wholesale or retail and fixing of the fee (if any) to be charged for such licences;

(b) The classes of persons to whom alone such licences may be granted;

(c) The classes of persons to whom alone any such poison may be sold;

- (d) The maximum quantity of any such poison, which may be sold to any one person;
- (e) The maintenance by vendors of any such poison of registers of sales, the particulars to be entered in such registers, and the inspection of the same;
- (f) The safe custody of such poisons and the labelling of the vessels, packages or coverings in which any such poison is sold possession for sale; and
- (g) The inspection and examination of any such poison when possessed for sale by any such vendor.

**3. Power to prohibit Importation Into India of any poison except under licence.** -The Central Government may, by notification in the Official Gazette, prohibit, except under and in accordance with the conditions of a licence, the importation into India across any customs frontier defined by the Central Government of any specified poison, and may by rule, regulate the grant of licences.

**4. Power to regulate possession of any poison in certain areas. -**

- (1) The State Government may by rule regulate the possession of any specified poison in any local area in which the use of such poison for the purpose of committing murder or mischief by poisoning cattle appears to it to be of such frequent occurrence as to render restrictions on the possession thereof desirable.
- (2) In making any rule under subsection (1), the State Government may direct that any breach thereof shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, together with confiscation of the poison in respect of which the breach has been committed, and of the vessels, packages or covering in which the same is found.

**5. Presumption as to specified poisons.** -Any substance specified as a poison in a rule made or notification issued under this Act shall be deemed to be a poison for the purposes of this Act.

**6. Penalty for unlawful importation, etc.-Whoever-**

- (a) Commits a breach of any rule made under Section 2, or

- (b) Imports without a licence into India across customs frontier defined by the Central Government any poison the importation of which is for the time being restricted under Section 3, or
- (c) Breaks any condition of licence for the importation of any poison granted to him under Section 3,

Shall be punishable, -

(i) On a first conviction, with imprisonment for a term which may, extend to three months, or with fine which may extend to five hundred rupees or with both, and

(ii) On a second or subsequent conviction, with imprisonment for a term, which may extend to six months, or with fine, which may extend to one thousand, rupees, or with both.

(2) Any poison in respect of which ail offence has been committed under this section, together with the vessels, packages or coverings in which the same is found, shall be liable to confiscation.

#### **7. Power to issue search warrants. -**

- (1) The District Magistrate, the Sub-divisional Magistrate and, in a presidency-town, the Commissioner of Police, may issue a warrant for the search of any place in which he has reason to believe or to suspect that any poison is possessed or sold in contravention of this Act or any rule thereunder, or that any poison liable to confiscation under this Act is kept or concealed.
- (2) The person to whom the warrant is directed may enter and search the place in accordance therewith, and the provisions of the Code of Criminal Procedure, 1898 (5of 1898), relating to search warrants shall, as far as as may be, be deemed to apply to the execution of the warrant.

#### **8. Rules. -**

- (1) In addition to any other power to make rules herein before conferred the State Government may make rules generally to carry out the purposes and objects of this Act except Section 3.
- (2) Every power to make rules conferred by this Act shall be subject to the condition of the rules being make after previous publication.



(3) All rules made by the Central Government or by the State Government under this Act shall be published in the Official Gazette and on such publication shall have effect as if enacted in this Act.

(4) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(5) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature].

#### **9. Savings. -**

- (1) Nothing in this Act or in any licence granted or rule made thereunder shall extend to, or interfere with, anything done in good faith in the exercise of his profession as such by a medical or veterinary practitioner.
- (2) Notwithstanding anything hereinbefore contained, the State Government may by general or special order declare that all or any of the provisions of this Act except Section 3 shall be deemed not to apply to any article or class of articles of commerce specified in such order, or to any poison or class of poisons used for any purpose so specified.
- (3) The authority on which any power to make rules under this Act is conferred may, by general or special order, either wholly or partially-
  - (a) Exempt from the operation of any such rules, or
  - (b) Exclude from the scope of the exemption provided by sub-section (1) any person or class of persons either generally or in respect of any poisons specified in order.

#### **10. Repeal of Act 1 of 1904 [Repealed by the Repealing Act 1927]**

**THE MODEL POISONS POSSESSION AND SALE RULES, 2013**

**NOTIFICATION**

No.G.S.R.

In exercise of the powers conferred by section 2 and 8 of the Poison Act, (Act 12 of 1919), the Central Government hereby makes the following rules for sale of specified poisons, namely:-

**1. SHORT TITLE AND COMMENCEMENT:**

- (1) These rules may be called the Poisons Possession and Sale Rules, 2013.
- (2) They shall extend to whole of the country.
- (3) They shall come into force on the date of publication in the Official Gazette.

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

- (a) "Act" means the Poisons Act, 1919.
- (b) "Dealer" means a person holding license under these rules
- (c) "Licensing authority" means the District Magistrate or any other officer authorized by the State Government under sub-section (1) of Section 7 to grant a license.
- (d) "Licensee" means a holder of a license;
- (e) "notification" means a notification published in the Official Gazette
- (f) "Form" means a form appended to these rules;
- (g) "Schedule" means the Schedule appended to these rules;
- (i) "Sale" means any sale by one licensed dealer to another or by a licensed dealer to any educational institution or to any research or medical institution or hospital or dispensary under a qualified medical practitioner (Registered Medical Practitioner) or any recognized public institution or industrial firm requiring poisons for its own use) or to Government Departments or Public Sector Undertakings or to an individual for personal use

**3. The poisons specified in the Schedule shall be deemed to be poisons for the purposes of these rules.**

**4. LICENSE FOR POSSESSION OR SALE:** - No person, not exempted under the provisions of the Act shall sell or possess for sale any poison specified in the Schedule except under a license in Form A granted or renewed in that behalf by the licensing authority.

5. EXHIBITION OF RULES ON THE PREMISES: - A copy of these rules shall always be displayed in prominent position at the place of Business specified in the license granted under rule 4.

6. APPLICATION FOR GRANT OR RENEWAL OF LICENSE:

(1) Every person desiring for the grant of license or renewal of a license shall make a written application to the licensing authority in Form B and such application shall bear a court fee stamp of ten rupee and provided that any application for renewal of a license which is made less than three months prior to the date of the expiry of the license shall bear a court fee stamp of five hundred rupees.

(2) Applications for duplicate licenses, when the original is lost or destroyed shall be made in writing and shall bear a court fee stamp of five hundred rupees.

(3) In the case of any change in the place of business of the licensee, a fresh application for license shall be made to the licensing authority and such application shall bear a court – stamp of five hundred rupees.

(4) The licensee shall prominently display the license in the place of business.

7. DURATION OF LICENSE: Subject to the provisions of rules 8 and 9, a license granted or renewed under these rules shall remain in force for five years from the date of issue.

8. DISCRETION OF LICENSING AUTHORITY: A license may be cancelled or revoked at any time. The grant/renewal/cancellation/revocation of a license shall be in the discretion of the licensing authority.

Provided that the licensing authority shall give an opportunity to the party concerned to show cause if any against the action proposed to be taken and shall record in writing the reasons for refusing to grant or renew a license or for cancelling or revoking a license.

Provided that the applicant for a license or a licensee whose license has been refused renewal or has been cancelled/revoked and is aggrieved by an order of the Licensing Authority can file an appeal with the Appellate Authority notified by the State Government.

9. TERMINATION OF LICENSE: A license shall terminate on the death of the licensee or on the transfer of his business, or if granted to a firm or company, on the winding up or the transfer of the business of such firm or company.

Provided that, if the business carried on by the licensee as such of the firm or company is transferred as a going concern and the transferee applies for a fresh license, with court fee stamp of hundred rupees, within fourteen days of the date of transfer, the subsisting license shall continue to be in force until a new license has been granted or the application for fresh license is rejected by the licensing authority.

10. DISPOSAL OF STOCK ON TERMINATION, REVOOCATION OR CANCELLATION OF LICENSE: In the event of revocation or cancellation of the license under rule 8 or in the event of the termination of license under rule 9, the stock of poison may be sold to any other license holder within a period of three months from the date of such termination, revocation or cancellation of the license, after which the remaining poison may be destroyed under the orders of the licensing authority. In the case referred to in rule 9, the proceeds of the sale, if any, shall be made over to the legal representative of the deceased license holder or his transferee or, liquidator of the dissolved firm or company of the transferee of the firm or company, as the case may be.

11. POWER TO INSPECT POISONS AND REGISTERS: Any Executive Magistrate or a Police officer of the rank of Sub-Inspector and above or a Medical Officer appointed by the State Government or an Inspector appointed under Section 21 of the Drugs and Cosmetics Act, 1940 (Central Act 23 of 1940) may at any time visit and inspect the premises of the license holder where a poison is kept for sale and may inspect all poisons found therein and the registers.

12. LICENSE TO WHOM GRANTED:

(1) A license shall be granted only to a person who in the opinion of the licensing authority is competent to conduct business in poisons.

(2) The license issued to a firm or company shall always be in the name of the proprietor or proprietors of the company or a responsible person to be nominated by such proprietor or proprietors for the purpose, or in the case of a public company, in the name of its manager.

(3) The name or names so given may be altered or amended by the licensing authority on a written application from the firm or company and such application shall bear a court fee stamp of hundred rupees.

13. SALE OF POISON:

(1) Every sale of poisons, shall, as far as practicable, be made by the license-holder in person or where the license-holder is a firm or a company, through or under supervision of, an accredited representative or such firm or company.

(2) A person holding license for possession and sale of poisons granted under these Rules shall store and sell from the premises specified in the license.

14. PERSONS TO WHOM POISONS MAY BE SOLD: A license holder shall not sell any poison to any person, unless the latter is personally known to him, or identified to his satisfaction by producing a photo identity card which has his address or substantiate it with a document giving his address. He shall also ascertain before selling any poison the name, telephone and address of the purchaser and the purpose for which the poison is purchased. He shall not sell any poison to any person who appears to him to be under the age of eighteen years, or to any person who does not appear to him to be in full possession of his faculties.

15. REGISTER OF SALES OF POISONS :- (1) Every license holder shall maintain a register in which he shall enter correctly all sales of poison other than those used by a Chemist, Druggist or Compounder dispensing or compounding in compliance with the prescription of a qualified medical or veterinary practitioner. The following details shall be entered in such register in respect of such sale, namely:

(a) Serial No; (b) Name of poison, (c) Quantity sold, (d) Date of sale; (e) Name and address of the purchaser, serial number of the photo-identity card produced and the name of the issuing authority (f) Purposes for which the poison was stated by the purchaser to be required, (g) Signature of purchaser (or thumb impression if illiterate or in the case of purchase by post date on which the letter was written and reference to the original in the file in which it is preserved, (h) Signature of a person identifying the purchaser if any (or thumb impression, if illiterate); and (i) Signature of Dealer.

(2) In a separate portion of the register he shall be enter in separate columns for each poison, the quantity of each poison sold daily, and those entries shall be filled up from day to day.

(3) The signature in the register prescribed under item (i) of sub rule (15) shall be that of the license –holder himself, or, when the license holder is a firm or company, that of an accredited representative of such firm or company and shall be written at the time of sale

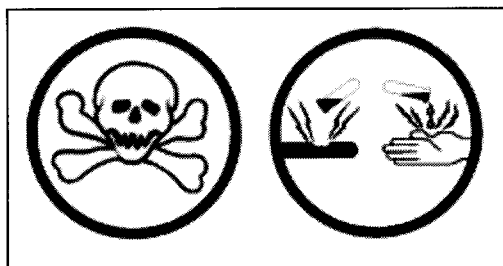
or dispatch to the purchaser. Such signature shall be held to imply that the signatory had satisfied himself that the requirements of rule 14 have been fulfilled.

(4) All letters or written orders referred to under item (g) of the above register shall be preserved in original by the license holder for a period not less than two years from the date of the sale.

(5) The daily balance of stock should be entered in the register.

**16. CUSTODY OF POISONS KEPT FOR SALE AND LABELLING OF RECEPTACLES IN WHICH THEY ARE KEPT:** All poisons kept for sale under these rules by any license-holder shall be kept securely in a box, almirah, room or building (according to the quantity maintained) which shall be secured by lock and key and in which no substance shall be placed other than poisons possessed in accordance with a license granted under the Act, and each poison shall be kept securely within such box, almirah, room or building in a separate closed receptacle of glass, metal or earthenware. Every such box, almirah, room or building and every such receptacle shall be marked with the word "POISON" in red letters, both in English and in the local language and in the case of receptacles containing separate poisons, with name of such poison.

**17. POISONS SOLD TO BE SECURELY PACKED AND LABELLED:** When any poison is sold, it shall be securely packed in a closed receptacle or container (according to the quantity); and every such receptacle or packet shall be labeled by the licensee with a red label bearing in English and in local language giving the name of the poison and the name and address of the licensee. The following universal warning symbols shall also be displayed on the



receptacle.

**18. SECURITY, STORAGE & INCIDENT MANAGEMENT OF ACIDS/CORROSIVE SUBSTANCES BY USERS (EXCEPT INDIVIDUALS)**

A standard operating procedure (SOP) outlining the measures undertaken for security, storage and incident management of acids/corrosive substances shall be prepared and displayed prominently in the premises of the user.

(1) Security of acid/corrosive substances.

(a) A person shall be made accountable for possession and safe keeping of acid in the premises.

(b) The storage of acid/corrosive shall be under the supervision of this person.

(c) The storage of acid/corrosive shall be under double lock system to ensure more security.

(d) A register of usage of acid shall be maintained and the same shall be filed with the concerned SDM every quarter.

(e) There shall be compulsory checking of the students/personnel leaving the laboratories/place of storage where acid/corrosive is used/stored.

(2) Storage of acids/corrosive substances.

(a) The chemicals should be stored in plastic or other suitable containers.

(b) All storage containers should be labeled to indicated the identity of the chemicals and the hazards involved and the precautions to be taken.

(c) Incompatible chemicals should not be stored together.

(d) The inventory of corrosive chemicals should be kept to a minimum.

(e) Protective gloves, aprons, safety glasses and face shields should be worn where appropriate

(f) Acids should be diluted with care – always add acid to water, never add water to acid.

(3) Incident Management

(a) Skin contact: Quickly take off contaminated clothing, shoes and leather goods (e.g. watchbands, belts). Quickly and gently blot or brush away excess chemical. Immediately flush with lukewarm, gently flowing water for at least 30 minutes. DO NOT INTERRUPT FLUSHING. If it can be done safely, continue flushing during transport to hospital. Immediately call a Poison Centre or doctor. Treatment is urgently required. Transport to a hospital.

(b) Eye contact: Avoid direct contact. Wear chemical protective gloves if necessary. Quickly and gently blot or brush chemical off the face. Immediately flush the contaminated eye(s) with lukewarm, gently flowing water for at least 30 minutes, while holding the eyelid(s) open. If a contact lens is present, DO NOT delay flushing or attempt to remove the lens. Neutral saline solution may be used as soon as it is available. DO NOT INTERRUPT FLUSHING. If necessary, continue flushing during transport to hospital.

(c) Ingestion: Have victim rinse mouth with water. If vomiting occurs naturally, have victim lean forward to reduce risk of aspiration. Have victim rinse mouth with water again. Immediately call a Poison Centre or doctor. Treatment is urgently required. Transport to a hospital.

(d) Inhalation: Take precautions to ensure your own safety before attempting rescue (e.g. wear appropriate protective equipment). Move victim to fresh air. Keep at rest in a position comfortable for breathing. If breathing is difficult, trained personnel should administer emergency oxygen. DO NOT allow victim to move about unnecessarily. Symptoms of pulmonary edema may be delayed. Immediately call a Poison Centre or doctor. Treatment is urgently required. Transport to a hospital.

#### 19. Penalties

Any person who breaches a Rule made under Section 2 of the Poisons Act shall be liable for punishment under Section 6 of the Poisons Act.



**The Schedule**  
**[See Rule 2 and 3]**  
**List of Poisons**

1. Acetic acid (beyond 25% concentration by weight)
2. Acetic Anhydride
3. Sulphuric acid ( $\text{H}_2\text{SO}_4$ ) (beyond 5% concentration by weight)
4. Hydrochloric acid (HCl) (beyond 5% concentration by weight)
5. Phosphoric acid ( $\text{H}_3\text{PO}_4$ )
6. Hydrofluoric acid (HF)
7. Perchloric acid ( $\text{HClO}_4$ )
10. Formic Acid (beyond 10% concentration by weight)
11. Hydrocyanic acid except substances containing less than 0.1 per cent weight in weight of Hydrocyanic acid.
12. Hydrochloric acid, except substances containing less than 5 per cent weight in weight of Hydrochloric Acid
13. Nitric acid, except substances containing less than 5 per cent weight in weight of Nitric Acid.
14. Oxalic Acid
15. Perchloride of mercury (corrosive sublimate)
16. Potassium Hydroxide except substances containing less than 2 per cent weight in weight of Potassium Hydroxide
17. Sodium Hydroxide except substances containing less than 2 per cent weight in weight of sodium Hydroxide.
18. Hydrogen peroxide (beyond 50% concentration by weight)
19. Formaldehyde (beyond 25% concentration by weight)
20. Phenol (beyond 3% concentration by weight)
21. Sodium Hypochlorite Solution (beyond 5% concentration by weight)

**FORM A**  
**(See rule 4)**  
**License for possession and sale of Poisons**

|   |
|---|
| Photograph of<br>License<br>Holder/Authorised<br>Representative |
|---|

Register No.

Name of Licensee

Locality of shop

Shri \_\_\_\_\_ son of shri \_\_\_\_\_ carrying on business as  
\_\_\_\_\_ in the \_\_\_\_\_ (Name of Local Body) under \_\_\_\_\_ Police  
Station, of \_\_\_\_\_ District, is hereby licensed to possess for sale by retail and to  
sell by retail the following poisons namely:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

This license is subject to the conditions specified on reverse, the breach of any of which shall involve forfeiture of the license as well as liability to the penalties provided by Section 6 of the Poisons Act, 1919.

This license will remain in force from the date of grant for a period of five years unless previously terminated by the death of the license holder or cancelled by the Licensing authority concerned.

Seal and Signature of Licensing Authority

**CONDITIONS**

1. Subject to the provisions of rules 5(1) and 8, a license granted or renewed on any day shall remain in force for a period of five years. Every applicant for the grant or renewal of a license shall make a written application to the Licensing Authority and such application shall bear a Court-fee stamp of hundred rupees.
2. A license shall terminate on the death of the license-holder or if granted to a Firm or company on the winding up or transfer of the business of such firm or company.
3. The License Authority may for any sufficient cause revoke or cancel any license.

4. Every sale of a poison shall so far as possible be conducted by the License-holder in person or where the license-holder is a Firm or a Company, through or under the supervision of an accredited representative of such firm or company.
5. A License-holder shall not sell any poison to any person unless the later is personally known to him or identified to this satisfaction by producing photo-identity card. He shall not sell any poison to any person who appears to him to be under the age of 18 or to any person who does not appear to him to be in full possession of his faculties.
6. (i) Every license-holder shall maintain a register in which he shall enter all sales of poison other than those used by a chemist and druggist for dispensing or compounding in compliance with the prescription of a medical or veterinary practitioner. The following particulars shall be entered in such register in respect of each sale, namely:
  - a) Serial No.
  - b) Date of sale
  - c) Name, telephone number and address of the purchaser
  - d) Name of the poison
  - e) Quantity sold
  - f) Purpose for which the poison was stated by the purchaser to be required.
  - g) Signature of purchaser or thumb impression if illiterate or in case of purchase by post, date of letter or written order and reference to the origins in the file in which is preserved.
  - h) Signature of dealer
- (2) In a separate portion of the register shall be entered, in separate column for each, poison the quantity of each such poison sold daily and these entries shall be filed in from day to day.
- (3) The signature under column(h) of the register shall be that of the License-holder himself or when the license-holder is a Firm or company that of an accredited representative of such Firm or company and shall be entered at the time of sale or dispatch to the purchaser. Such signature shall be held to imply that the writer has satisfied myself that the requirements of rule 15 have been fulfilled.
- (4) All letters or written orders referred in column (g) of the register shall be preserved in original by the license-holder or a period of not less than two years from the date of the sale.
- 7(1) A license-holder shall maintain in respect of each poison a stock register, in form II which shall contain the following particulars:
  - a) Serial No.
  - b) Date
  - c) Amount received name and address of person from whom received
  - d) Name and address of person from whom received

- e) Amount sold
- f) Balance in stock
- g) (g) Remarks.

(2) The stock register shall be balanced daily.

8. Any Magistrate or any Officer of Drugs Control Department of or above the rank of Drugs Inspector or police officer of or above the rank of Sub-Inspector or any medical officer of or above the rank of Assistant Medical Officer may at any time visit and inspect all poisons found there and the register maintained under rules 15 and 16.

9. All poisons kept for sale by any license-holder under these rules (except those kept by a chemist and druggist for the purpose of dispensing or compounding in compliance with the prescription of a medical or veterinary practitioner) shall be kept in a box, almirah, room or building (according to the quantity maintained) which shall be secured by lock and key and in which no substance shall be placed other than poisons possessed in accordance with a license granted under the Act and each poison shall be kept within such box, almirah, room or building in a separate closed receptacle of glass, plastic, metal, or earthen-ware. Every such box, almirah, room or building and every such receptacle shall be marked with the word "Poison" in red characters in English and local language and in the case of receptacles containing separate poisons with the name of such poisons.

10. (a) When any poison is sold, it shall be securely packed in closed receptacle or packet (according to the quantity) and every such receptacle or packet shall be labelled by the vendor with a label bearing the name of the poison in English and local language and the number and date of the entry in the register of sales specified in rule 18.

11. The license shall be held subject to the conditions mentioned above and to the provisions of the Act and of any rules from time to time made under the Act.

12. The licensee, if he intends to sell or possess for sale any poison for medicine use will first obtain a requisite license as required under section 18 (C) of the Drugs and Cosmetics Act, 1940.

Note- A poison for medicine use means a drug as defined in section 3 of the Drugs and Cosmetics Act, 1940.

## **FORM B**

**(See rule 6)**

### **Application for Grant/Renewal of License for possession and sale of Poisons<sup>1</sup>**

1. Name of the Applicant/firm:
2. Age of the Applicant:
3. Office and Residence Address:
4. License No. and Copy of License (applicable for renewal applications)
5. Documents regarding constitution of the applicant firm including nomination of the authorized representative:
6. Full Address of the place of business or shop or of storage for which a license is applied for, number of the flat and the name of the building with house number and the street or the road where it is situated:
7. Copy plan of the premises
8. Documents pertaining to the right of possession of the premises
9. Name of the poison proposed to be sold:

(Applicant should furnish three copies of self-attested photographs along with the application)

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<sup>1</sup> To be accompanied with a court fee stamp of Rs.10/-

## PUBLIC NOTICE

Whereas, the Hon'ble Supreme Court in WP(Crl.)129 of 2006 Laxmi vs. U.o.I and others on 18/07/2013 had passed certain directions regarding the sale of acid/corrosive substances. **Annexure D**

Whereas, the \_\_\_\_\_ State/UT is yet to notify the appropriate Poison Rules under the Poisons Act, 1919.

3. As per the directions of the Hon'ble Supreme Court, it is hereby brought to the notice of the general public which includes individuals, educational and research institutions, hospitals, industries, Government Departments and departments of Public Sector Undertakings or sellers of the following acids and corrosive substances, namely that henceforth their sale would be regulated until the new Poison Rules are promulgated: Acetic acid (beyond 25% concentration by weight), Acetic Anhydride, Sulphuric acid ( $H_2SO_4$ ) (beyond 5% concentration by weight), Hydrochloric acid (HCl) (beyond 5% concentration by weight), Phosphoric acid ( $H_3PO_4$ ), Hydrofluoric acid (HF), Perchloric acid ( $HClO_4$ ), Formic Acid (beyond 10% concentration by weight), Hydrocyanic acid except substances containing less than 0.1 per cent weight in weight of Hydrocyanic acid, Nitric acid, except substances containing less than 5 per cent weight in weight of Nitric Acid, Oxalic Acid, Perchloride of mercury (corrosive sublimate), Hydrogen Peroxide (beyond 50% concentration by weight), Formaldehyde (beyond 25% concentration by weight), Phenol (beyond 3% concentration by weight), Potassium Hydroxide except substances containing less than 2 per cent weight in weight of Potassium Hydroxide, Sodium Hydroxide except substances containing less than 2 per cent weight in weight of sodium Hydroxide.

4. It is hereby directed that:

i) Over the counter, sale of acid is completely prohibited unless the **seller** maintains a **log/register** recording the sale of acid which will contain the **details of the person(s)** to whom acid(s) is/are sold and the quantity sold. The log/register shall contain the **address of the person** to whom it is sold. No acid shall be sold to any person who is **below 18 years** of age.

(ii) All sellers shall sell acid only after the **buyer** has shown:

- a) a **photo ID issued by the Government** which also has the address of the person.  
b) specifies the **reason/purpose** for procuring acid.

(iii) All stocks of acid must be declared by the **seller** with the concerned are Sub-Divisional Magistrate (SDM) **within 15 days** of this notice.

(iv) In case if any undeclared stock of acid is detected, the concerned SDM will confiscate the stock and suitably impose **fine on such seller up to Rs. 50,000/-**.

(v) The concerned SDM may impose **fine up to Rs.50,000/-** on any person who commits breach of any of the above directions.

It is further directed that the educational institutions, research laboratories, hospitals, Government Departments and the departments of Public Sector Undertakings, who are required to keep and store acid, shall follow the following guidelines:

(i) A register of usage of acid shall be maintained and the same shall be filed with the concerned SDM.

(ii) A person shall be made accountable for possession and safe keeping of acid in their premises.

(iii) The acid shall be stored under the supervision of this person and there shall be compulsory checking of the students/ personnel leaving the laboratories/place of storage where acid is used.

The concerned SDM shall be vested with the responsibility of taking appropriate action for the breach/default/ violation of the above directions.

All the buyers and sellers of acids and corrosive substances are requested to follow the above directions scrupulously.

Dated: \_\_\_\_\_

( \_\_\_\_\_ )

Home Secretary

State/UT

## **ANNEXURE E**

### **ADVISORY OF THE MOHFW REGARDING THE FREE TREATMENT OF ACID ATTACK VICTIMS**

**No. 2.28015/46/2013 – H**

**Government of India**

**Ministry of Health and Family Welfare**

**(Hospital Section)**

**\*\*\*\*\***

**Nirman Bhawan, New Delhi**

**Dated 02.5.2013**

To

The Principal Secretaries / Secretaries (Health)

All the States / UTs

(As per list)

**Subject : Providing free medical treatment to acid attack victims – regarding**

Sir,

I am directed to refer to a Writ Petition (Criminal) no. 129 of 2006 in the matter of Laxmi through her father vs. Union of India and others filed before Hon'ble Supreme Court in the context of acid attack. Hon'ble Supreme Court in its judgment dated 31.08.2012 directed the Union Home Secretary to discuss the enactment of appropriate provisions for effective regulation of sale of acids in States/UTs. One of the reliefs prayed for by the petitioner was to direct the respondent to appoint and constitute a committee for adopting measures for proper treatment, after care and rehabilitation of the victims of acid attack.

2. Attention is drawn to the Criminal Law (Amendment) Act 2013 (No. 13 of 2013), which came into force on 3<sup>rd</sup> February, 2013 and has been gazetted on 2<sup>nd</sup> April, 2013. As per the section 357-C inserted in Code of Criminal Procedure, 1973 by the amendment, it has been provided that "All Hospitals, public or private whether run by the Central Government, the State Government, Local Bodies or any other person shall immediately, provide the first aid or medical treatment, free of cost, to the victims of any offence covered under section 326-A, 376, 376-A, 376-B, 376-C, 376-D or Section 376-E of the Indian Penal Code and shall immediately inform the police of such incident."

Section 326A provides that "Whosoever causes permanent or partial damage or deformity to, or burns or maims, disfigures or disables, any part or parts of the body of a person or causes grievous hurt by

throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause any such injury or hurt, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine :

Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim :

Provided further that any fine imposed under this section shall be paid to the victim”

3. This issue was discussed in a meeting held under Home Secretary recently. It has been decided that all the State Governments / UTs may be requested to ensure free medical treatment to the victims of any offence covered under 326-A, 376, 376-A, 376-B, 376-C, 376-D or Section 376-E of the Indian Penal Code. Further the fines imposed and collected would meet the medical expenses of treatment of the victim and shall be paid to the victim.

4. Since Health is state subject, it is responsibility of State Government / UT administration to provide adequate medical treatment and rehabilitation of the acid attack victims.

5. Against the above background, the States Governments / UT Administrations are requested to issue necessary instructions to all concerned such as State/UT officials, all hospitals irrespective of run by Government, autonomous institutions, private institutions etc. for compliance of the above said provisions in right earnest manner.

6. This issues with the approval of Secretary (HFW).

Yours faithfully,

(Sanjay Pant)

Under Secretary to Government of India

Tel : 23061521

Email : [san\\_pan\\_99@yahoo.com](mailto:san_pan_99@yahoo.com)

Copy for similar action to :

- (i) Director General Health Services, Dte. GHS, New Delhi
- (ii) Director AIIMS, New Delhi
- (iii) Director JIPMER, Puducherry
- (iv) Director PGIMER, Chandigarh
- (v) Medical Superintendent, Safdarjung Hospital, New Delhi
- (vi) Medical Superintendent, Dr. RML Hospital, New Delhi



- (vii) Director, LPMC and associated Hospitals, New Delhi
- (viii) All Joint Secretaries in the Ministry of Health and Family Welfare
- (ix) Director CGHS, New Delhi

(Sanjay Pant)

Under Secretary to Government of India

Copy for information :

- (i) Shri S. Suresh Kumar, Joint Secretary (CS), Ministry of Home Affairs, New Delhi, NDCC – II Building, Jaisingh Road, New Delhi – 110001
- (ii) PPS to Secretary (HFW) / AS & DG(CGHS)/AS & MD (NHRM) / AS & FA

(Sanjay Pant)

Under Secretary to Government of India

**No. 24013/62/2012 – SC/ST-W**

**Government of India  
Ministry of Home Affairs  
Centre State Division**

**\*\*\*\*\***

**5<sup>th</sup> Floor, NDCC-II Building  
Jai Singh road, New Delhi  
Dated the 25<sup>th</sup> June, 2013**

**To**

**The Additional Chief Secretary/ Principal Secretary (Home)**

**Sub : Advisory on Hon'ble Supreme Court's direction to file FIR in  
case of Missing Children**

**Sir/Ma'am,**

Hon'ble Supreme Court while hearing a Writ Petition (Civil) no. 75 of 2012, on 10.05.2013, Bachpan Bachao Andolan vs Union of India has directed the following :

- (i)** In case of complaint with regard to any missing children; made in a police station, the same should be reduced into a First Information Report and appropriate steps should be taken to see that follow up investigation is taken up immediately thereafter.
- (ii)** In case of every missing child reported; there will be an initial presumption of either abduction or trafficking, unless, in the investigation, the same is proved otherwise.
- (iii)** Whenever any complaint is filed before the police authorities regarding a missing child, the same must be entertained under Section 154 Cr.P.C. However, even in respect of complaints made otherwise with regard to a child, which may come within the scope of Section 155 Cr.P.C., upon making an entry in the Book to be maintained for the purposes of Section 155 Cr.P.C., and after referring the information to the Magistrate concerned, continue with the inquiry into the complaint.
- (iv)** The Magistrate, upon receipt of the information recorded under Section 155 Cr.P.C., shall proceed, in the meantime, to take appropriate action under sub-

section (2), especially, if the complaint relates to a child and, in particular, a girl child.

- (v) Each police station should have, at least, one Police Officer, especially instructed and trained and designated as a Juvenile Welfare Officer in terms of Section 63 of the Juvenile Act. Special Juvenile Officer on duty in the police station should be present in shifts.
- (vi) Para-legal volunteers, who have been recruited by the Legal Services Authorities, should be utilized, so that there is, at least, one paralegal volunteer, in shifts, in the police station to keep a watch over the manner in which the complaints regarding missing children and other offences against children are dealt with.
- (vii) The State Legal Services Authorities should also work out a network of NGOs, whose services could also be availed of at all levels for the purpose of tracing and reintegrating missing children with their families which, in fact, should be the prime object, when a missing child is recovered
- (viii) Every found/recovered child must be immediately photographed by the police for purposes of advertisement and to make his relatives / guardians aware of the child having been recovered / found
- (ix) Photographs of the recovered child should be published on the website and through the newspapers and even on the T.V. so that the parents of the missing child could locate their missing child and recover him or her from the custody of the police.
- (x) Standard Operating Procedure must be laid down to handle the cases of missing children and to invoke appropriate provisions of law where trafficking, child labour, abduction, exploitation and similar issues are disclosed during investigation or after the recovery of the child, when the information suggests the commission of such offences.
- (xi) A protocol should be established by the local police with the High Courts and also with the State Legal Services Authorities for monitoring the case of a missing child.
- (xii) **Definition of Missing Children :** Missing child has been defined as a person below eighteen years of age, whose whereabouts are not known to the parents, legal guardians and any other person who may be legally entrusted with the custody of the child, whatever may be the circumstances/causes of disappearance. The child will be considered missing and in need of care and protection within the meaning of the later part of the Juvenile Act, until located and/or his/her safety/well being is established.

- (xiii)** In case a missing child is not recovered within four months from the date of filing of the First Information Report, the matter may be forwarded to the Anti-Human Trafficking Unit in each State in order to enable the said Unit to take up more intensive investigation regarding the missing child.
- (xiv)** The Anti-Human Trafficking Unit shall file periodical status reports after every three months to keep the Legal Services Authorities updated.
- (xv)** In cases where First Information Reports have not been lodged at all and the child is still missing, an F.I.R. should be lodged within a month from the date of communication of this Order and further investigation may proceed on that basis.
- (xvi)** Once a child is recovered, the police authorities shall carry out further investigation to see whether there is an involvement of any trafficking in the procedure by which the child went missing and if, on investigation, such links are found, the police shall take appropriate action thereupon
- (xvii)** The State authorities shall arrange for adequate Shelter Homes to be provided for missing children, who are recovered and do not have any place to go to. Such Shelter Homes or After-care Homes will have to be set up by the State Government concerned and funds to run the same will also have to be provided by the State Government together with proper infrastructure. Such Homes should be put in place within three months, at the latest. Any private Home, being run for the purpose of sheltering children, shall not be entitled to receive a child, unless forwarded by the Child Welfare Committee and unless they comply with all the provisions of the Juvenile Justice Act, including registration

It is requested that the above directions of the Hon'ble Supreme Court may be adhered to in letter and spirit and implementation at the ground level may closely be monitored to eradicate any loophole within the system.

**Dr. (Smt) Praveen Kumari Singh**  
**Director (SR)**

**No. 15011/35/2013 – SC/ST-W**

**Government of India  
Ministry of Home Affairs  
Centre State Division**

**\*\*\*\*\***

**5<sup>th</sup> Floor, NDCC-II Building  
Jai Singh road, New Delhi  
the 10<sup>th</sup> May, 2013**

**To**

**The Additional Chief Secretary/ Principal Secretary (Home)**

**Sub: Registration of FIR irrespective of territorial jurisdiction and Zero FIR**

**Sir/Ma'am,**

This relates to the registration of FIR by the police when they receive a call/complaint related to a crime committed and suspected to be outside the jurisdiction of the police station concerned.

2. Instructions are envisaged on account of the delays occurring when there are issues relating to the area jurisdiction regarding the investigation of the case. The hesitation to take up investigation of cases falling in uncertain territorial areas needs to be dispelled to allay the fears that it may be liable to be quashed u/s 482 of the Cr.P.C. There are two rulings of the Supreme Court in *Satvinder Kaur vs Govt. of NCT of Delhi* on 5/10/1999 (AIR 1999, 1031) and in *Ramesh Kumari vs Govt. of NCT Delhi* on 21/2/2006. In the former case, the Court held that at the stage of investigation, the material collected by an investigating officer cannot be judicially scrutinized for arriving at a conclusion that the police station officer of particular police station would not have territorial jurisdiction. That apart, section 156(2) of the Cr.P.C contains an embargo that no proceeding of a police officer shall be challenged on the ground that he has no territorial power to investigate the case. In the latter case, the Court held that a police officer is duty bound to register the case on the basis of such information disclosing a cognizable offence u/s 154(1) of the Cr.P.C.

3. The legal position stated above expects that the police shall register an FIR upon receipt of information of the commission of a cognizable offence. Further, if after registration of FIR, upon investigation, it is found that the subject matter relates to the jurisdiction of some other police station, the FIR may be appropriately transferred to the police station in which the case falls. Moreover, if at the time of registration of FIR, it becomes apparent that the crime was committed outside the jurisdiction of the police station, the police should be appropriately instructed to register a 'Zero' FIR, ensure that the FIR is transferred to the concerned police station u/s 170 of the Cr.P.C. It should be clearly stated that the delay over the determination of the jurisdiction leads to avoidable wastage of time which impacts on the victim and also leads to offenders getting an opportunity to slip from the clutches of the law. It should be clearly instructed that failure to comply with the instruction of registering an FIR on receipt of information about the cognizable offence will invite prosecution of the police officer u/s166A of the IPC for an offence specified u/s166A or departmental action or both.

4. It may also be emphasized that police services should be sensitized to respond to complaints with alacrity whether is from a man or a woman. Apprehending the accused must take place immediately after the complaint as there is a tendency of the person committing the crime slipping away should there be a delay on extraneous grounds like jurisdiction. The police may also put in place a system of rewarding the personnel for timely response and punishment for wanton lethargy.

5. Home Departments of the States/UTs may direct the DGPs/IGPs to issue above instruction so as to reach all police stations at the shortest possible time.

The receipt of the same may kindly be acknowledged.

**(S Suresh KUMAR)**  
**JS (CS)**

**R. K. Singh**

**HOME SECRETARY  
GOVERNMENT OF INDIA  
North Block,  
New Delhi**

**D.O. No. 15011/21/2013 – SC/ST – W**

**22<sup>nd</sup> April, 2013**

The need for increasing the number of women in the police forces in the States has been engaging the attention of the Ministry of Home Affairs. This has been deliberated upon in all the Conferences of the Chief Secretaries & DGPs of States / UTs. The All India average representation of women in the police forces is only 5.33% or 84,479 police women reckoned against the actual strength of 15.85 lakh police force in the country. It averages a low of 4% when compared to the sanctioned strength of 21.24 lakh of the police force. The international average percentage of women in the police forces is around 15%, in the middle income and high income countries in the world.

2. You will agree that more and more women are participating in the development initiatives both in the public and private sectors of the economy, and the ratio of women in the work force is increasing correspondingly in both the urban and rural areas of the country. The presence of women in all leadership positions from the Panchayats to the Parliament is increasing in visible numbers. It is imperative that equal opportunities for women in the police force becomes a consistent reality. It is a necessary ingredient for good governance.

3. It has been pointed out in many a public fora that, based on empirical evidence and research that low representation of women in police forces create both a psychological and impregnable barrier to women to approach police stations when a crime is committed against them. It is also stated that sensitization programmes for police forces do not compensate for poor representation of women in the police forces. In the urban areas, the increase in representation of women in the police forces. In the urban areas, the increase in representation of women in police will ensure a sense of safety in the public spaces which are frequently used by women on account of their varied activities outside their homes. Recruitment of women in the police forces will inevitably lead to the improvement of the image of the police forces and make the police station a gender sensitive place for grievance redressal and a catalyst for an improved community.

4. In a vibrant democracy, participation of women in public protests, demonstrations, political activities etc., are becoming common. It is essential that women are visible at the cutting edge level of public interface. There is a tendency to engage women police only in situations like security checks and other specialized duties, relating to women, but unless they are assigned frontline duties in the police stations, there would not be an impact on the community as a whole.

5. The Second Administrative Reforms Commission have made recommendations for recruitment of women in gazetted and non-gazetted posts. Affirmative actions should be taken by all the States / UTs to ensure availability of women to 33% of the police force. An advisory in this regard has been issued by the MHA dated 04.09.2009.

6. The 5<sup>th</sup> National Conference of Women held in Trichur in 2012 at its meeting recommended that there should be at least 4 women per police station in all rural areas and even higher in urban areas. Action taken to increase the representation of women in the police forces in all categories is required to be taken on a priority by amending the service rules accordingly.

7. A beginning can be made by the creation of additional posts of women constable / SIs, and by converting the vacant posts of male constables into the post of women constables. Each police station should have at least 3 women sub-inspectors and 10 women police constables, so that a women help desk is manned round the clock. The objective should be to reach a level of thirty percent of strength of civil police being comprised of women (excluding the armed battalions). This objective can not be achieved at once – because the recruitments can only be possible against vacancies, as they arise, or against new sanctions. This approach can be followed by the States – of setting intermediate goals, towards reaching the overall objective of presence of thirty percent women in the police force.

8. It is requested that action be taken on the above, and this Ministry be kept apprised of the action being taken.

With regards,

Yours sincerely,

**To all Chief Secretaries**

**(R. K. Singh)**



No. 24013/33/Misc/2012-CSR.III  
Government of India/ Bharat Sarkar  
Ministry of Home Affairs/Grih Mantralaya  
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North Block, New Delhi.

Dated the 16<sup>th</sup> May, 2012

To

Chief Secretaries of all States,

**Sub: - Arrest of an accused outside the State/UT jurisdiction - Regarding.**

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Some incidents have been reported to have occurred when police officers belonging to one State had gone to another State to arrest some fugitives.

2. With the increasing speed and availability of means of communication and increased connectivity, criminals committing a crime in one state and fleeing to other States is a common phenomenon and the Police Forces of the State where the crime was committed need to pursue the criminals into the States where they have fled. Provisions for this exist in Section 48 of the Cr. PC and Section 77 of the Cr. PC. Normally, this has been happening without any difficulties; however, of late, there have been one or two incidents, where some problems have surfaced when the police officers had gone to effect the arrest in another State. There have also been complaints of lack of cooperation by the local police.

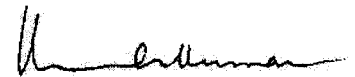
3. Under Section 48 of the Cr. P.C. a person can be arrested anywhere in India. Similarly, under Section 77 of the Cr.P.C., a warrant may be executed anywhere in India. As per Section 79 of the Cr.P.C., when a warrant directed to a police officer is to be executed beyond the local jurisdiction of the court issuing the same, he shall ordinarily take it for endorsement either to an Executive Magistrate or to a Police Officer not below the rank of an officer in charge of a Police Station within the local limits of whose jurisdiction the warrant is to be executed. However, As per Section 79(3) of the Cr. P.C., where there is reason to believe that delay in obtaining the endorsement will prevent such execution, the warrant may be executed without such endorsement. In accordance with Section 56 of the Cr.P.C., the person arrested is to be produced before a Magistrate having jurisdiction in the case or before an officer in-charge of a Police Station. According to Section 57 of the Cr.P.C., the person arrested is to be brought before a Magistrate within 24 hours excluding journey time.

4. It is seen that in many cases, the police officers carrying out arrest in another State bring back the arrested person and produce him before the Magistrate in their own jurisdiction. This may be possible because of quicker means of transport and also because the stipulated period of 24 hours excludes the journey time. However, this procedure is not in accordance with law. According to Section 80, a person arrested must be produced before the Executive Magistrate or the Deputy Superintendent of police or the Commissioner of Police within whose jurisdiction the arrest was made unless the court which issued the warrant is within 30 kilometers of the place of arrest or is nearer than the Executive Magistrate or the Deputy Superintendent of Police or the Commissioner of Police within whose jurisdiction the arrest was made. It is emphasised that Section 80 Cr.P.C. must be complied with, in every case.

5. In some instances, the Police of some States have brought to the notice of the Central Govt. the lack of cooperation by the Police of another State in carrying out the arrest of a fugitive. As has been pointed above, in this modern age, criminals flee to another State/UT after committing a crime and, unless there is coordination and cooperation between the Police Forces of the States, these criminals will not be brought to justice. It is necessary, therefore, that appropriate coordination is established with the State Police in whose jurisdiction the criminal is reportedly found and such coordination having been established, it is expected that the State Police in whose jurisdiction the fugitive is hiding will provide the required cooperation and assistance in his arrest and dispatch to be produced before the court having jurisdiction in the case.

6. It is requested that appropriate instruction may be issued in the matter.

Yours Sincerely,



(S. Suresh Kumar)

Joint Secretary to the Govt. of India,  
Tele No. 23093410.

**F. No. 24013/07/Misc/2011-CSR.III**  
**Government of India/ Bharat Sarkar**  
**Ministry of Home Affairs/Grih Mantralaya**

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**North Block, New Delhi.**  
**Dated the 4<sup>th</sup> January, 2012**

**To,**

**The Chief Secretaries,  
All State Governments/UT Administrations.**

**Subject:       Advisory on Preventing & Combating Cyber Crime against  
Children.**

Sir/Madam,

**Introduction**

With the spread of computers and internet, cyber-crime has emerged as a major challenge for law enforcement agencies. The younger generations, which use the internet and other online technologies extensively for staying connected for all day to day work and entertainment, including information, e-mails, social Networking, e-banking, e-shopping, web-TV, news, education, home-work research, online gaming, downloading music, videos, movies and other contents etc, are more vulnerable to targeted cyber-crime. This often happens in the form of cyber stalking, cyber bullying, child pornography, harassment, hacking of email or social networking accounts, identity theft, unwanted exposure to sexually explicit material etc. (Brief description of the above terms is attached at Annexure).

2. The following key action points have been worked out in collaboration with various Stake holders for effective prevention and combating of cyber crime against children.

- I. The Law Enforcement Agencies i.e. Police, Prosecution and Judiciary etc. and the Public at large may be made aware and trained through special training programmes /seminars and workshops for the effective implementation of Information technology Act, 2000 read with Information Technology (Amendment) Act 2008 and Rules made there under, as these are effective laws to deal with Cyber-Crime, including crime against Children. The training should be with the specific purpose of handling crimes against children.

- II. Special Juvenile Police Units constituted under sec. 63 of Juvenile Justice (Care and Protection of Children) Act, 2009 may be sensitized and trained to deal with children in conflict of law with respect to cyber-crimes as well.
- III. Parents, teachers & children should be encouraged to play an active role by reporting suspicious behaviour and give information regarding websites hosting exploitative images, videos and efforts to recruit or groom children for sexual abuse. Special precautions will need to be taken to monitor and regulate the spreading awareness of cyber crime among children so that it does not have any negative effect. Use of electronic and print media may also be made appropriately.
- IV. It is essential to monitor and regulate social networking sites and services because it has been seen that it hosts most of the obscene materials which induce children to sexually explicit act or other crimes. Parents, teachers and owners of the online computing facilities should be trained to implement “parental control software” in such a manner that spoofing of age, gender and identity is mitigated. In their implementation, multifactoral authentication and other security techniques should be employed.
- V. Training to protect and seize digital evidence in a secure manner should be provided to law enforcement agencies and also to examiners of digital evidence.
- VI. Maintaining confidentiality of the child victim and providing him/her guidance and support to deal with the after effects of such crimes should be ensured.
- VII. Obtaining help and support of NGO’s working in the field of online child protection.
- VIII. Conducting special sensitization programme and skill development for those manning child help lines such as 1098 or Police Control Room etc. may be considered.
- IX. On the State Police websites, social networking websites and web browsers it is suggested to have a children’s corner where Internet safety tips in simple language can be explained to them and helpline number or e-mail addresses provided for, in case of any problem.
- X. Efforts can be made to develop some mechanism by which online checking of registers, records of each cybercafé can be done from a central location.

- XI. Mobile Internet security must be promoted among parents and children.
- XII. It is often seen that processing of digital evidence in Computer Forensic Laboratories takes a long time. States must consider as take him their own central as well as regional computer forensic laboratories. Mobile Cyber Forensic Vans would also be useful in seizing electronic evidence from the spot in a proper manner. Assistance of NASSCOM may also be taken to establish cyber labs & training. In addition to NASSCOM help of other agencies like NTRO, CERT-In etc. may also be taken for training.
- XIII. In appropriate cases, police officers may carry out undercover cyber patrol operations to identify internet criminals, lure them by posing as minors and arrest them. The exercise should be done in accordance with Section 72 and Section 72 (A) of Information Technology Act, 2000.
- XIV. Apart from legal provisions for search under Section 100 and 165 Cr. P. C., Section 80 of IT(Amendment) Act, empowering any police officer not below the rank of a Police Inspector for search, can also be used appropriately.
- XV. "Cyber Crime Investigation Manual" published by Data Security Council of India is a useful book and may be referred to.
- XVI. Whenever it is noticed that the investigation requires information or help from outside India, CBI Interpol Division may be approached and provision of Mutual Legal Assistance Treaties and Letter of Rogatories (LRs) may be used. Ministry of Home Affairs circular No.25016/14/2007-Legal Cell, dated 31-12-2007, may be referred to for guidelines in this regard. However, it should be kept in mind that LR's are often time consuming and by the time LR's are issued, the digital foot prints (evidence) is already lost. G8 24x7 Desk of CBI, which looks after network and international aspects of cyber crime, may be contacted.
- XVII. Wherever any material which is covered under Section 67, Section 67 A and Section 67 (B) of Information Technology Act, 2000 and seen on the Web, which is covered under Section 69 (A) of the IT Act under 'Public Order' or 'preventing incitement to commissioning of cognizable offence' in such cases, police may consider invoking provisions of IT Procedure and Safeguards for Blocking of Information by Public Rules, 2009. Provisions of Section 67 (C) of IT Act should be used for preservation of evidence by intermediaries.
- XVIII. Websites hosting online gaming or children centric contents must issue specific guidelines regarding internet safety. Those transmitting, publishing or

storing obscene material in contravention with the provisions of Section 67, Section 67 (A), Section 69, Section 69 (A) and Section 69 (B) of the IT Act, must be acted against.

XIX. In appropriate cases, police should request Social Networking sites to remove undesirable contents. Most frequently visited and popular sites should be audited for security concerns. Many of these are being used either for compromising of systems or for luring and incitement of children.

3. The aforesaid measures are only indicative and the State Governments/UT Administrations may consider any additional measures for the preventing & combating cyber crime against children as necessary. This Ministry may also be kept apprised of any special measures/mechanisms introduced in their respective jurisdictions so that the same could be circulated to the other State Governments and UT Administrations for consideration/ adoption.

4. The receipt of this letter may kindly be acknowledged.

Yours faithfully,

(B. Bhamathi)  
Additional Secretary to the Govt. of India,  
Tele No. 23092514.

Copy for information and necessary action to:-

1. The Principal Secretary/ Secretary Home – All State Governments/UT Administrations.
2. The Director General of Police – All State Governments/UT Administrations.

## Annexure

- (a). **Cyber Stalking :** When a victim is repeatedly and persistently followed and pursued online by e-mail or other electronic communication. In such crimes Sections 66A, 66C and 66E of Information Technology Act along with Section 506, 509 IPC can be invoked depending upon the nature and facts of the case.
- (b). **Cyber Bullying:** Acts of harassment, embarrassment, taunting, insulting or threatening behaviour towards a victim by using internet, e-mail or other electronic communication device. In such crimes Sections 66A, 66C and 66E along with Section 506, 509 IPC can be invoked depending upon the nature and facts of the case.
- (c). **Child Pornography:** This has been defined in Section 67B of IT Act. Section 67 and 67A and Section 292, 293 IPC can also be invoked as per the facts of the case.
- (d). **Hacking of E-mails or social networking accounts:** Unauthorized use or access to the e-mail or social networking accounts such as Facebook, Orkut, Gmail, Hotmail etc. Section 43 and 66C of IT Act can be invoked.
- (e). **Identity Theft:** Has been defined in Section 66C of IT Act which can be invoked.
- (f). **Unwanted exposure to sexually explicit material etc.:** When a criminal sends pictures, videos, sound clips, cartoons or animations depicting sexual contents by e-mail or any other electronic means. This would include audio or video chat using web camera etc.

1. Section 66 A of IT Act needs to be invoked whenever any offensive, annoying or threatening email, SMS or MMS etc. are received by children who are victims of cyber bullying or stalking.
2. Section 67 B of IT Act must be used when the electronically published or transmitted material contain child pornographic material. The Section also prohibits grooming of children for sexual abuse etc.
3. Section 66 A of IT Act may be invoked when ever email or social networking accounts of a child are hacked by misusing passwords or his/her photographs, name and other unique identification feature are misused.
4. Section 66 E of IT Act can be used for violation of bodily privacy of a person.
5. Section 67 and 67 A of IT Act can be used when ever pornographic material has been received by children by Email or SMS/MMS or other electronic means.

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अति तत्काल  
MOST IMMEDIATE  
कोर्ट केस  
MOST IMMEDIATE  
BY FAX/SPEED POST

F. No. 24013/43/Misc/2010-CSR.III  
Government of India  
Ministry of Home Affairs

2948-2985-

North Block, New Delhi.  
Dated the 7<sup>th</sup> September, 2010

To,

The Home Secretaries of all State Governments/UT Administrations.

**Subject: Preparation of a Victim Compensation Scheme for the victims of crime in view of insertion of a new Section 357-A in the Cr. P. C. through 'The Code of Criminal Procedure (Amendment) Act, 2008' - Regarding.**

Sir/Madam,

It may be stated that a new Section 357-A regarding Victim Compensation Scheme has been inserted after Section 357 in the Code of Criminal Procedure, 1973 (Cr. P.C.), vide 'The Code of Criminal Procedure (Amendment) Act, 2008' (No. 5 of 2009). The said Section 357-A of the Cr. P.C. has come into force with effect from 31-12-2009.

2. The said new Section 357-A provides that:-

" 357A. (1) Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

(2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).

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

(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation.

(5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months.

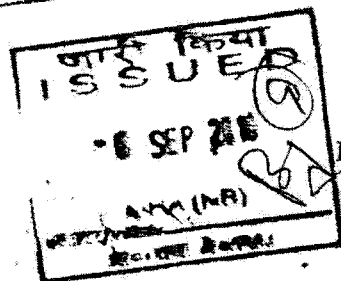
(6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid-facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit."

3. Accordingly, every State Government / UT Administration is required to prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents, who have suffered loss or injury as a result of the crime and who require rehabilitation, in co-ordination with the Central Government.

4. It is, therefore, requested that immediate steps be taken to prepare and implement a scheme for the above purpose in respect of your State/UT. The Central Government, may also be consulted while finalizing the scheme, wherever and whenever required in the matter. The draft scheme may please be prepared within a period of four weeks.

5. The action taken in the matter may please be intimated to this Ministry immediately.

Yours faithfully,



(Prem Narain Saxena)

Deputy Secretary to the Government of India

Telefax No. 2309 3008.

**MOST IMMEDIATE**

**No.V-17014/5/2010-PR  
GOVERNMENT OF INDIA/BHARAT SARKAR  
MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA  
(CS DIVISION)**

**To**

North Block, New Delhi, 13<sup>th</sup> August, 2010.

**The Chief Secretary,  
The Principal Secretary (Prisons)/ Principal Secretary (Home-in charge of Prisons),  
All State Governments and UT Administrations.**

**Subject: Advisory on the policy for the treatment of terminally ill prisoners/inmates (TIPs) - regarding**

Sir/Madam,

The Hon'ble High Court of Delhi, taking suo motu cognizance to deal with the issue of terminally sick inmates in the prisons all over India in Writ Petition (Crl) no. 201/2009 (Court on its own motion v/s State NCT of Delhi), has given directions to the Union of India to formulate a concrete policy towards the treatment of terminally ill prisoners languishing in prisons. "Terminal illness" is a medical term to describe an active and progressive illness that cannot be cured or adequately treated and that is reasonably expected to result in the death of the patient. It is also described as a malignant disease for which there is no cure and the prognosis is fatal. As defined by the American Cancer Society, "Terminal illness" is an irreversible illness that, without life-sustaining procedures, will result in death in the near future or a state of permanent unconsciousness from which recovery is unlikely. Some examples, among others, of terminal illnesses may include advanced cancer, advanced heart disease, full blown AIDS etc.

2. 'Prisons' is a State subject under Entry-4 (Prison Reformatories, Borstal Institutions and other institutions of like nature) in the State List (List-II) of the Seventh Schedule to the Constitution of India. Therefore, the management and administration of prisons falls in the domain of the State Governments and UT Administrations. Prisons are governed by, inter alia, the Prisons Act, 1894 and Prison Rules, as adopted/ amended by the respective State Governments and UT Administrations from time to time and the Prison Manuals framed by them. It is, therefore, for the State Government/UT Administration concerned to devise appropriate policies and procedures to identify and deal with the special needs of their terminally ill prisoners (TIPs) in a manner that respects their human rights, ensures their dignity as well as takes into account the needs of security and safety of the community. Such policies and procedures should, however, address the special medical care needs/requirements of TIPs, the formulation of clear criterion for their release, parole, furlough etc. on compassionate grounds and facilitate interaction with their families and friends.

3. The Government of India is deeply concerned about the terminally ill prisoners in all the States/ UTs of the country and would, therefore, advise the State Governments and UT Administrations to take the following steps for effective management of terminally ill prisoners within their jurisdiction:-

1. As a first step, identify all the terminally ill prisoners/inmates (TIPs) in all the prisons of the State/UT. For this purpose a special District level Medical Board and State level

Medical Board with suitable medical experts may be constituted within 30 days. All cases of terminal illness of prisoners/inmates may be examined, identified and certified by the District level Medical Board within the next 60 days subject to any guidelines prescribed by the Medical Council of India (MCI), Ministry of Health and family Welfare and The Health and Family Welfare Department of the State/UT concerned regarding terminal illness and confirmed by the State level Medical Board within say 15 days thereafter.

- II. All patients with terminal illness have special medical needs relating to their disease. Such patients also need special psychological counseling and spiritual support since they face the prospect and trauma of impending death. Such needs are further intensified in the isolated environment of a prison, where the medical and psychological care could be often lacking for TIPs. All such special medical needs of each TIP must also be identified in consultation with the District /State Medical Board. State Governments and UT Administrations are responsible for making available/providing reasonable medical care facilities/aid to the TIPs on a need basis, either in the prison or through a specialty/ super-specialty Government hospital or in the nearest Multi-Specialty Medical Centre, as would be available to a free person outside the prison. All TIPs should be, as far as possible, shifted to a prison in a place where maximum/ best medical care facilities could be made available to them.
- III. TIPs also have special needs in terms of adequate and timely legal representation at various stages of their judicial custody, trial in the Courts and conviction. Many TIPs, especially those in an advanced stage of terminal illness, may have been abandoned by their families or may have family links disrupted due to long sentence or age. Such prisoners must be given access to legal counsel, including free legal aid services, if indigent, during the entire process of criminal justice. Such access to free legal services is vital for defendants with terminal illness, particularly with regard to their rights for non-custodial sanctions and measures such as bail, suspended sentences on compassionate grounds or their right to the requisite medical care in prisons.
- IV. For the purpose of legal recourse, the TIPs may be categorised as persons in judicial custody, under trials and convicts. Taking into account the limited medical care facilities which could be made available in prisons, and also in view of the special needs of TIPs, State Governments and UT Administrations must resort to all possible legal measures to enable TIPs to live the remaining part of their lives with dignity, in peace and in the close vicinity of their family members and close friends. Some of the indicative measures are as follows:
  - a. For all TIPs who are in judicial custody the investigating police officer/ officer in-charge of the case should be advised to make all efforts to complete the investigation of the cases, as far as possible, before the prescribed limit of 90 days.
  - b. The Jail Superintendent/ investigating police officer/ officer in-charge of the case must bring to the notice of the Hon'ble Trial Court the medical condition of the TIP concerned during the process of trial for taking a sympathetic view while considering their requests for bail and expeditious disposal of the case etc so that the Hon'ble Court may pass appropriate orders as deemed fit.
  - c. Cases of such TIPs should also be submitted before the inspecting Judges of District Courts or during visit of judges of Hon'ble Supreme Court/ High Courts so that the Hon'ble Judges may take a view and may consider such cases for a Judicial Review as deemed fit.

- d. Provisions for non-custodial measures and alternatives to imprisonment could also be pleaded before the Court for TIPs in case they do not pose any risk to the society. Alternatively, such TIPs could be shifted to the open jails as far as possible under a court order.
  - e. To enable TIPs to receive the support of family and friends during the extremely distressing period prior to death, the State Governments and UT Administrations may consider amendments in their Prison Acts/Rules/ Manuals to make special provisions on compassionate grounds for more frequent visits by their family members and friends, their release on parole or other similar provisions for the remaining period of the sentence.
  - f. The State Governments/UT Administrations may also consider release of such prisoners as a part of general amnesty. Provision of special leave may be made applicable to TIPs, as is prescribed in Prison Manuals of the respective States.
  - g. The TIPs and their families should be made aware of the special powers of the President and Governor under Article 72 and 161 of the Constitution of India, respectively, to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State, and in certain cases of the Union, extends and all necessary help must be rendered to enable such TIPs to submit a petition to the President or the Governor, as the case may be.
  - h. Cooperation of community health care services, NGOs and civil society must also be sought and facilitated to ensure proper care of TIPs in the prison and continuity of care following their release from the prison.
  - i. The correctional needs of such prisoners are also different as it is not the social reintegration which is relevant, but there is a need for psycho-spiritual support and adequate human contact to help them maintain their mental balance. TIPs should, therefore, be placed as close to their homes as possible to enable regular visits from their family members and friends.
- V. Foreigner TIPs should be identified separately under each of the categories of judicial custody, undertrials and convicts so as to deal with their cases in a focused and expeditious manner as indicated below:
- a. While all facilities available to Indian TIPs would also be available to Foreigner TIPs, the State Governments and UT Administrations must immediately take up the cases of the convicted foreign TIPs with the Government of India for repatriation to their respective countries as per the provisions of the Repatriation of Prisoners Act 2003 and Repatriation of Prisoners Rule, 2004. Under the Repatriation of Prisoners Act, 2003, bilateral agreements have been signed by Government of India with a number of countries for the repatriation of sentenced persons from India to that country or vice versa and efforts are being made to sign similar agreements with other countries.
  - b. Even if no bilateral agreement exists with a foreign country, the repatriation of a convicted foreign TIP must be taken up immediately by the State Government/ UT Administration concerned through the Ministry of Home Affairs and Ministry of External Affairs, Government of India through diplomatic channels on humanitarian grounds.

- c. The cases of foreign TIPs, who are under judicial custody/ undertrials, should also be taken up with the respective trial Courts on priority on the lines suggested for the similarly placed Indian TIPs. Their cases should be submitted expeditiously to the Hon'ble Courts for Judicial Review and the Hon'ble Courts may like to dispose of such cases as deemed fit.
- VI. The State Governments/UT Administrations are, therefore, advised to amend legislation/ rules and make policies and procedures to provide for community sanctions and measures for TIPs, at all stages of the criminal justice process, to enable them to receive the medical care they need and to die in dignity, surrounded by their family members and friends rather than in the desolate environment of prisons. Such amendment in legislation/ rules/ policies/ procedures should, as a minimum, include clear criteria and procedures relating to:
- a. Identification and certification of TIPs by a competent authority;
  - b. Segregation of such terminally ill prisoners/inmates (TIPs), and assessment of their special medical, psychological, legal and social needs and
  - c. Making reasonable and adequate provisions for such special needs, including special health care facilities within the legal, administrative and financial constraints of the State;
  - d. Transfer of TIPs to prisons with better medical care facilities, Government/ civilian hospitals, open jails etc. on need basis;
  - e. Free legal assistance to TIPs in judicial custody/ undertrials;
  - f. Facilitating/ enabling cooperation of community health care services, NGOs and civil society to ensure proper care in the prisons and continuity of care following release of TIPs.
9. All the State Governments/UT Administrations are requested to take effective measures in this regard. The aforesaid measures are only indicative and the State Governments/UT Administrations may take any additional measures for the terminally ill prisoners/inmates. This Ministry may also be kept apprised of any special measures/mechanisms introduced in their respective jurisdictions so that the same could be circulated to the other State Governments and UT Administrations for consideration/ adoption.
10. The receipt of this letter may kindly be acknowledged.

Yours faithfully,

(Dr. Nirmaljeet Singh Kalsi)  
Joint Secretary to the Govt. of India,  
New Delhi-110001  
Tele No. 23092630

**F.No. 24013/201/2009-CSR-III  
GOVERNMENT OF INDIA/BHARAT SARKAR  
MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA  
CENTRE- STATE DIVISION**

To,  
**The Chief Secretaries  
All State Governments/UT Administrations.**

North Block, New Delhi, the 16<sup>th</sup> July, 2010

**Subject:- Advisory on Prevention, Registration, Investigation and Prosecution of Crime.**

Sir/ Madam,

'Police' and 'Public Order' are State subjects under the Seventh Schedule (List-II) to the Constitution of India. The Union Government, however, attaches the highest importance to prevention of crime and, therefore, has been advising the State Governments/ UT Administrations from time to time to give more focused attention to the administration of the criminal justice system with emphasis on prevention and control of crime.

The Government of India is deeply concerned about crime and would, therefore, advise the State Governments and UT Administrations to take the following steps for effective prevention, detection, registration, investigation and prosecution of all crimes within their jurisdiction:-

**Prevention**

- i. A concerted effort should be made to fill-up all the vacant posts in the police at the earliest. It should be ensured that the recruitment is transparent, objective and corruption-free using a recruitment procedure that is technology-based and free of all avoidable human interference, wherever possible.
- ii. State Governments/UT Administrations may consider creation of a separate cadre for intelligence; revision of special branch manual; appointment of a dedicated intelligence officer in each police station; and reactivating the beat constable system with suitable localization and modernization.
- iii. All the Police Stations must be provided with pucca buildings, vehicles, appropriate communication equipment, including mobile phones wherever necessary, computers with internet connectivity and backup power supply, photocopiers, fax machines etc. to make their functioning more effective and efficient. Obsolete police equipment, including firearms and riot control equipment, must be upgraded, especially in sensitive and crime-prone areas.
- iv. Regular training, physical exercises and firing practice must be ensured to keep the police force physically and professionally fit and prepared. Suitable training should also be imparted to the police in behavioural aspects to make their functioning citizen friendly, service oriented and to develop a positive and helpful attitude in them. They should especially be sensitized to crime against the vulnerable sections of society, including women, children, SCs/STs, senior citizens and persons with disabilities.
- v. Regular training drills in handling all types of emergencies must be undertaken to check the preparedness of the force for reacting to any emergency in the shortest possible time effectively and efficiently.

### **Registration**

- vi. A Reception Officer (of the rank of Head Constable) must be available round the clock in every Police Station. Equal and fair treatment must be given to every petitioner/ complainant irrespective of his/her status, class or creed and a proper receipt should be given for every complaint forthwith. The disposal of the complaint should normally be ensured within two days by holding an on the spot enquiry in the ward/village concerned. Wherever found appropriate, the complaint should be converted into an FIR.
- vii. Whenever an FIR is registered, a signed copy of the FIR must be provided to the complainant on the spot. The State Governments/ UT Administrations must ensure registration of cases round the clock and deal sternly with any dereliction of duty in this regard.
- viii. 'Crime against Women/Children' desks may be set-up in every police station.

### **Investigation**

- ix. Separation of 'Investigation of crime function' from the 'Law & Order duty' is recommended. Owing to the high priority that the maintenance of public order gets, the work relating to investigation of crime gets neglected. Separation of the two wings should be implemented in urban police stations, to begin with. The possibility of outsourcing non-core police functions to free more policemen for the core policing functions may also be explored.
- x. Proper forensic assistance must be provided for investigation of crime by strengthening the forensic facilities, provision of mobile forensic laboratories and positioning of adequate number of trained technical/ scientific personnel for the purpose.
- xi. Scientific and upgraded investigation/ interrogation skills and methodologies must be used while keeping in view the legal/privacy/human rights of accused/ victims/witnesses.

### **Prosecution**

- xii. Proper legal advice/services of prosecutors must be made available to the police at all levels for effective prosecution of crime. The legal advisory role of prosecuting staff should be emphasized through departmental instructions. Control over prosecution should rest with senior police officers. This is vital for maintaining proper standards of prosecution.
- xiii. A suitable mechanism must be put in place to regularly monitor and review the progress of prosecution of criminal cases at District/ State level and reporting the progress to the State Government/ UT Administration at appropriate level.

### **Police – Community/Civil Society Partnership**

- xiv. Reporting of crime/ valuable information about crime by reluctant/fearful citizens, who are witness to or have important information about a crime, should be encouraged through financial rewards and anonymity. The local police must be assigned to follow up on the tips and information so received. A telephone number/ website must be dedicated to receiving information from informers/general citizens.
- xv. Citizen volunteers must be identified and trained and their services utilised as the "eyes and ears" in prevention and control of crime. The print and electronic media must be used



effectively to highlight the efforts of local police in crime prevention and to educate the residents about what they can do to help the police.

- xvi. Senior Police Officers should hold regular meetings with the Resident Welfare Associations (RWAs) and other Associations. They should be encouraged to keep surveillance in their respective areas and inform the police in case any suspicious person/activity/object comes to notice. The local police must also regularly verify the antecedents of all domestic servants/ maids/ helps, especially serving in the homes of old persons and persons with disabilities.
- xvii. The community policing initiatives must be encouraged in the area of every Police Station. States/UTs may consider setting up Community Counselling Centres (CCC) at the Police Stations for resolution of conflicts especially affecting women, children and other vulnerable sections of the society. Assistance of eminent personalities of the area, NGOs and other Governmental agencies may be taken to sustain the CCCs. Personal counselling must be provided to resolve family disputes.

### **Cyber-Crimes**

- xviii. State Governments and UT Administrations must build adequate technical capacity in handling cyber-crime (wherein a computer is either a tool or a target or both). They must create necessary technical infrastructure, including establishment of adequate number of cyber police stations, and post technically trained manpower for detection, registration, investigation and prosecution of cyber-crimes.
- xix. The States/UTs must establish anti-cyber-crime missions to stop those behind computer intrusions, frauds, the spread of malicious code etc.; to identify and thwart online sexual predators who use the Internet to exploit children and produce, possess or share child pornography; to counteract operations that target intellectual property, endangering national security and competitiveness; and to dismantle national and transnational organized criminal enterprises engaging in crimes/fraud on the Internet.

The receipt of this letter may please be acknowledged.

Yours faithfully,



(Dr. Nirmaljeet Singh Kalsi)  
Joint Secretary to the Govt. of India,  
New Delhi-110001  
Tele No. 23092630  
16.7.2010

### **Copy for information and necessary action to:-**

1. The Principal Secretary/ Secretary Home – All State Governments/UT Administrations.
2. The Director General of Police – All State Governments/UT Administrations.
3. The DGs/IGs (In-charge of Prisons) – All State Governments/UT Administrations.

**F. NO.15011/48/2006-SC/ST-W  
GOVERNMENT OF INDIA/BHARAT SARKAR  
MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA  
NORTH BLOCK NEW DELHI /CS DIVISION**

**Dated the 14<sup>th</sup> July, 2010**

**ADVISORY ON CRIME AGAINST CHILDREN**

1. 'Police' and 'Public Order' are State subjects under the Seventh Schedule to the Constitution of India. The Union Government, however, attaches the highest importance to the prevention of crime and, therefore, the Union Government has been advising the State Governments/ UT Administrations from time to time to give more focused attention to the administration of the criminal justice system with emphasis on prevention and control of crime.
2. The National Commission for Protection of Child Rights has been undertaking visits to various States and has observed that the level of sensitiveness and care with which crime against children should be handled is not up to the desired level. In its Fifth Report, titled 'Public Order', the Second Administrative Reforms Commission has also emphasized the need to combat crimes against vulnerable sections of the society, particularly women and children.
3. The Government of India is deeply concerned about crime against children and would, therefore, advise the State Governments and UT Administrations to take the following steps for effective prevention, detection, registration, investigation and prosecution of all crimes against children within their jurisdiction:-
  - I. Vigorously enforce all the existing legislations relating to crime against children i.e., Prohibition of Child Labour (Prohibition and Regulation) Act 1986, Juvenile Justice (Care and Protection of Children) Act 2000 (as amended in 2006), Child Marriage Prohibition Act, 2006, Immoral Traffic (Prevention) Act, 1956, Information Technology Act, 2000 (as amended in 2008) and relevant sections of IPC.
  - II. Sensitize the law enforcement machinery, i.e. the police as well as other functionaries of the criminal justice system, towards crime against children by way of well-structured training programmes. Such training programmes, including inputs on Juvenile Justice (JJ) and Human Rights (HR), may also be incorporated in the syllabi of various Police Training Academies at all levels including those for Constables, Sub-Inspectors and Deputy Superintendents of Police. Assistance of Bureau of Police Research and Development (BPR&D) as well as National Institute of Public Cooperation and Child Development (NIPCCD) could be taken for this purpose.
  - III. Set up exclusive 'Crime against Women/Children' desks in each police station. There should be no delay, whatsoever, in registration of FIRs in all cases of crime against children. All out efforts should be made to apprehend all the accused named in the FIR immediately so as to generate confidence in the victims and their family members. The administration and police

should play a more proactive role in detection and investigation of crime against children and also ensuring that there is no under reporting.

- IV. Cases of crime against children should be thoroughly investigated and charge sheets against the accused persons should be filed within three months from the date of occurrence without compromising on the quality of investigation. Proper supervision of such cases should be ensured from recording of FIR to the disposal of the case. Speedy investigation should be conducted in heinous crimes like rape, murder etc. The medical examination of rape victims should be conducted without delay.
- V. Steps may be taken not only to tackle such crimes but also to deal sensitively with the trauma ensuing the crime. Counselling to the victim as well as to the family may be provided by empanelling professional counsellors.
- VI. Ensure all steps for improving the safety conditions in schools/ institutions, public transport used by students, children's parks/ play grounds, residential localities/ roads etc. Crime prone areas should be identified and a mechanism be put in place to monitor infractions in such areas for ensuring the safety and security of students, especially girls. For this purpose the following steps should be taken:
  - a. Increase the number of beat constables;
  - b. Increase the number of police help booths/ kiosks, especially in remote and lonely stretches;
  - c. Increase police patrolling, especially during nights;
  - d. Posting police officers, especially women, fully equipped with policing infrastructure in crime-prone areas in adequate number.
- VII. For improving general awareness about legislations relating to crime against children and mechanisms in place for safety and protection of the children, the following steps may be considered :
  - a. Creating awareness through print and electronic media;
  - b. Involving the community at large in creating and spreading such awareness.
  - c. Exploring the possibility of associating NGOs working in the area of combating crime against children and other vulnerable sections of the society.
  - d. Developing a community monitoring system to check cases of violence, abuse and exploitation against children and take necessary steps to curb the same;
- VIII. The local police must be advised to collaborate with the 'Childline-1098 Service' (which is an emergency service being operated by the Childline India Foundation (CIF) all over the country catering to the needs of children in emergency situations) and NGOs for mutual help and assistance wherever and whenever required.

- IX. The juvenile offenders should be dealt with only in accordance with law through proper implementation of the Rules under the Juvenile Justice (Care and Protection of Children) Act 2000 (as amended in 2006), as these contain the procedures and requirements in detail for dealing with children in conflict with law as well as children in need of care and protection.
- X. All efforts must be made to stop child labour and exploitation of children in all its forms and manifestations. Law enforcement agencies must extend all necessary cooperation to the State Labour Department in the cases of violation of Prohibition of Child Labour (Prohibition and Regulation) Act 1986.
- XI. To save the children from the abuse/ crime of child marriage the State Government must appoint Child Marriage Prohibition Officers as required under the Prohibition of Child Marriages Act, 2006. They should also set up State Commissions for Protection of Child Rights in accordance with the Commissions for Protection of Child Rights Act 2005 (CPCR Act).

The receipt of this letter may kindly be acknowledged.

Yours faithfully,

(Dr. Nirmaljeet Singh Kalsi)  
Joint Secretary to the Government of India  
Ministry of Home Affairs  
North Block, New Delhi-110 001  
Tele: 23092630

To,

**The Chief Secretaries &**

**The Principal Secretary / Secretary (Home)**

**All State Governments and Union Territory Administrations.**

**Copy also for information and necessary action to:**

- i. The DGs / IGs (In-charge of Prisons) - All State Governments / UTs.
- ii. Ministry of Social Justice and Empowerment, Shastri Bhawan, New Delhi.
- iii. Ministry of Women and Child Development, Shastri Bhawan, New Delhi.
- iv. Ministry of Labour and Employment New Delhi
- v. Ministry of HRD, New Delhi
- vi. DG BPR&D, CGO Complex, New Delhi
- vii. DG NCRB, RK Puram, New Delhi.
- viii. Director, NCPCR

**F. NO.15011/48/2009-SC/ST-W**  
**GOVERNMENT OF INDIA/BHARAT SARKAR**  
**MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA**  
**NORTH BLOCK NEW DELHI /CS DIVISION**

New Delhi, the 1<sup>st</sup> April, 2010

**OFFICE MEMORANDUM**

**Subject: Advisory on Media Policy of Police—regarding**

'Police' and 'Public Order' are State subjects under the Seventh Schedule (List-II) to the Constitution of India and, therefore, the State Governments and UT Administrations are primarily responsible for prevention, detection, registration, investigation and prosecution of all crimes within their jurisdiction. The Union Government, however, attaches highest importance to the matters relating to the prevention of crime; and therefore, the Union Government has been advising the State Governments/ UT Administrations from time to time to give more focused attention to the administration of the criminal justice system with emphasis on prevention and control of crime.

2. A good relationship of Police with media helps focus on the positive work done by the Police and the good detective and investigative efforts made. When crimes occur, the situation should be used to put the crime and law and order situation in correct perspective, bring out efforts being made by the police to nab the accused, prevent unnecessary panic, and send a message to the public from the angle of crime prevention and alert them against terrorist acts etc. Press communiqués and conferences form a vital component of communication channel between police and media. However, while sharing information with the public through the media, adequate precautions need to be taken to ensure that only authentic and appropriate information as is professionally necessary is shared without hampering the process of investigation or issues of legal/privacy rights of the accused/victims and matters of strategic and national interest.

The following guidelines may be scrupulously adhered to while dealing with media:

- I. Only designated officers should disseminate information to the media on major crime and law and order incidents, important detections, recoveries and other notable achievements of the police.
- II. Police Officers should confine their briefings to the essential facts and not rush to the press with half-baked, speculative or unconfirmed information about ongoing investigations. The briefing should normally be done only at the following stages of a case:
  - a. Registration
  - b. Arrest of accused persons

- c. Charge-sheeting of the case
- d. Final outcome of case such as conviction/acquittal etc.

In a case that attracts the interest of the media, a specific time may be fixed everyday when the designated officer would make an appropriate statement on the investigation.

- III. In the first 48 hours there should be no unnecessary release of information except about the facts of the incident and that the investigation has been taken up.
- IV. The general tendency to give piecemeal information/clues, on a daily/regular basis, with regard to the progress/various lines of investigation, should be strongly discouraged so that the investigations are not compromised and the criminals/suspects do not take undue advantage of information shared by the Police authorities about the likely course of the investigation.
- V. Meticulous compliance with the legal provisions and Court guidelines regarding protection of the identity of juveniles and rape victims should be ensured, and under no circumstances should the identity of juveniles and victims in rape cases be disclosed to the media.
- VI. Due care should be taken to ensure that there is no violation of the legal, privacy and human rights of the accused/victims.
  - a. Arrested persons should not be paraded before the media.
  - b. Faces of arrested persons whose Test Identification Parade is required to be conducted should not be exposed to the media.
- VII. No opinionated and judgmental statements should be made by the police while briefing the media.
- VIII. As far as possible no interview of the accused/victims by the media should be permitted till the statements are recorded by the police.
- IX. The professional tradecraft of policing and technical means used for the detection of criminal cases should not be disclosed as it alerts potential criminals to take appropriate precautions while planning their next crime.
- X. In cases where National security is at stake, no information should be shared with the media till the whole operation is over or until all the accused persons have been apprehended.
- XI. The modus operandi of carrying out the operations should not be made public. Only the particulars of apprehended persons and details of recovery should be revealed to the media on completion of the operations.
- XII. There should not be any violation of court directions and other guidelines issued by the authorities from time to time on this matter.
- XIII. Preferably, there should be one officer designated as the Public Relations Officer to handle the immediate information needs of all media persons and give the correct and factual position of any crime incident.
- XIV. As and when instances of misreporting or incorrect reporting of facts/details pertaining to an incident or the department comes to notice, a suitable rejoinder

should immediately be issued and, in more serious cases, the matter should be taken up at the appropriate levels for remedial action.

XV. Any deviation by the police officer/official concerned from these instructions should be viewed seriously and action should be taken against such police officer/official.

3. You are requested to kindly issue suitable directions to all concerned under intimation to this Ministry. The receipt of this letter may kindly be acknowledged immediately.

Yours faithfully,

(Nirmaljeet Singh Kalsi)  
Joint Secretary to the Government of India  
Ministry of Home Affairs, North Block  
New Delhi - 110001  
Tel. No. 23092630

To,

- 1. The Chief Secretaries of all State Governments and UT Administrations**
- 2. The Principal Secretary / Secretary (Home) of all State Governments and UT Administrations.**
- 3. Copy also for information and necessary action to:**
  - i. The DGs / IGs (In-charge of Prisons) - All State Governments / UTs for information and necessary action.
  - ii. The DGs of CPMFs/CPOs, Ministry of Home Affairs, Government of India.
  - iii. Director CBI, DoPT, Government of India.
  - iv. Ministry of Social Justice and Empowerment (Sh. P.P. Mitra, Joint Secretary), Shastri Bhawan, New Delhi.
  - v. Ministry of Women and Child Development (Mrs. Swarup Kiolkar, Joint Secretary, MWCD) Shastri Bhawan, New Delhi.
  - vi. JS(Judicial), JS(PM), JS(P-I), JS(P-II), JS(UT), JS(NM), JS(HR), JS (NE), JS (K), JS (DM) in Ministry of Home Affairs, Government of India.
  - vii. Shri Onkar Kedia, DDG, Media, Ministry of Home Affairs, Government of India.

(Nirmaljeet Singh Kalsi)  
Joint Secretary to the Govt. of India

**F. NO.15011/48/2009-SC/ST-W**  
**GOVERNMENT OF INDIA/BHARAT SARKAR**  
**MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA**  
**NORTH BLOCK NEW DELHI /CS DIVISION**

New Delhi, the 1<sup>st</sup> April, 2010

**OFFICE MEMORANDUM**

**Subject: Advisory on Crime against Scheduled Castes/Scheduled Tribes –  
Measures needed to curb –regarding**

'Police' and 'Public Order' are State subjects under the Seventh Schedule (List-II) to the Constitution of India and, therefore, the State Governments and UT Administrations are primarily responsible for prevention, detection, registration, investigation and prosecution of all crimes within their jurisdiction including crimes against Scheduled Castes/Scheduled Tribes. The Union Government, however, attaches the highest importance to matters relating to the prevention of crime; and therefore, the Union Government has been advising the State Governments/ UT Administrations from time to time to give more focused attention to the administration of the criminal justice system with emphasis on prevention and control of crime including crimes against Scheduled Castes/Scheduled Tribes.

2. The Government of India have been advising the State Governments from time to time regarding the steps that need to be taken to afford a greater measure of protection to the Scheduled Castes and Scheduled Tribes. The advisories issued earlier with particular reference to crimes against SCs/STs vide D.O. letters No. 24013/86/97-GPA VI, dtd. 8.10.1997, No. 24013/47/98-GPA VI, dtd. 12.11.1998, No. 24013/74/2001-GPA VI, dtd. 19.9.2001, No. 24013/74/2001-GPA-VI, dtd. 11.6.2002, No. 15011/50/2004-SC/ST Cell, dtd. 24.6.2004, Letter No. 24024/9/2004-SC/ST Cell, dtd. 3.2.2005, No. 24013/30/2002-GPA VI, dtd. 4.4.2006, No. 15018/20/2006-SC/ST Cell, dtd. 18.10.2006, No. 15011/36/2006-SC/ST-W, dated 1.02.2007 (HS's letter to 9 highest crime States), and Letter No. 24024/04/2005-SC/ST-W, dated 23.4.2007. (HS's letter on SC/ST Matters) may be referred to in this regard.

3. These advisories, inter-alia, include sensitization and training of the police personnel/ law enforcement agencies; minimizing delays in investigation of cases of atrocities against SCs/STs and improving the quality of investigation; recruitment of sufficient number of persons belonging to SCs/STs/minorities as police personnel; programmes for creating awareness among vulnerable sections of the society and legal recourse open to them; adopting appropriate measures for swift and salutary punishment to public servants found guilty of neglect of duty and violence against SCs/STs; setting up of special courts; and improving the effectiveness of schemes developed for the welfare and rehabilitation of SCs/STs who are victims of crime.

4. Through the aforesaid advisories, the State Governments were also requested to undertake a comprehensive review of the effectiveness of the machinery in tackling the issues of SCs/STs and to take appropriate measures aimed at increasing the responsiveness of the law enforcement/ law and order machinery. No doubt, State Governments have taken some measures in this regard; however, the inputs regarding



crimes against SCs/STs available with Government of India indicate that these measures need to be strengthened further, so that Scheduled Castes/ Scheduled Tribes feel secure, enjoy their human rights and live their lives with dignity and respect that every citizen of India deserves. Despite several steps being taken by the State Governments, the picture is still very grim and needs to be improved. Complaints are still being received regarding non-registration of FIRs and unsympathetic/ insensitive attitude of some police personnel towards crimes against Scheduled Castes/Scheduled Tribes.

5. The National Commission for Scheduled Castes/Scheduled Tribes has undertaken visits to various States and UT Administrations to review the cases of atrocities against SCs/STs and has also conducted its own investigations in certain cases of serious incidents of crime against them. The Commission has made available the findings of the inquiries to the State Governments/ Central Ministries concerned as well as to this Ministry. The reports of the inquiries conducted by the Commission in these specific incidents indicate that the sensitiveness and care with which crimes against SCs/STs should be handled is not up to the desired level. The Commission has pointed out laxity and insensitiveness on the part of certain police officials in some specific cases. The Commission has observed that non-filing of FIRs even in heinous cases continues to be a problem area. In its Fifth Report, titled 'Public Order' the Second Administrative Reforms Commission has also emphasized the need to combat crimes against vulnerable sections of the society, particularly SCs/STs and has made a number of important recommendations.

6. The Government of India is deeply concerned with the trends in crimes against the weaker sections of society, particularly Scheduled Castes/Scheduled Tribes and would therefore re-emphasize that urgent action should be taken by the State Governments and UT Administrations on the following:-

- I. Vigorous and conscientious enforcement of the statutory provisions and the existing legislations relating to crimes against Scheduled Castes and Scheduled Tribes including the Protection of Civil Rights (PCR) Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
- II. Government must ensure proper enforcement of law and convictions in crimes committed against SCs/STs. Enforcement agencies should be instructed in unambiguous terms that enforcement of the rights of the weaker and vulnerable sections should not be downplayed for fear of further disturbances or retribution and adequate preparation should be made to face any such eventuality.
- III. The administration and police should play a more proactive role in detection and investigation of crimes against SCs/STs and ensure that there is no under reporting.
- IV. Sensitizing the law enforcement machinery towards crimes against SCs/STs by way of well-structured training programmes, meetings, conferences, workshops, seminars etc. for police personnel and other law enforcement agencies at all levels as well as other functionaries of the criminal justice system. Such programmes should be incorporated in the syllabi of various Police Training Centers/Academies at all levels. Special training to police personnel in effective implementation of Scheduled Castes and Scheduled Tribes (POA) Act, 1989 and Protection of Civil Rights Act, 1955 should be imparted.

- V. The Police officials should be directed to apply the appropriate sections of law as per the statements of the victims under the above mentioned Acts and no dilution should be tolerated to help the perpetrators of crimes against SCs/STs.
- VI. Government must take concrete steps to increase the awareness in the administration in general and amongst the police personnel in particular, regarding crimes against SCs/STs and take steps not only to tackle such crimes but also deal with them with sensitivity.
- VII. For improving general awareness about legislations on crimes against SCs/STs the department concerned of the State Government must, inter-alia, take the following steps:
  - a) Create awareness through print and electronic media;
  - b) Develop a community monitoring system to check cases of violence, abuse and exploitation and take necessary steps to curb the same;
  - c) Involve the Community at large in creating and spreading such awareness; and
  - d) Organize legal literacy and legal awareness camps.
- VIII. Proper mechanisms must be put in place for safety and protection of SCs/STs,
- IX. Explore the possibility of associating NGOs working in the area of combating crimes against SCs/STs. Citizens groups and NGOs should be encouraged to raise awareness about these issues in society and help bring to light the cases of atrocities against SCs/STs and also assist the police in the investigation of crimes against them.
- X. There should be no delay in the registration of FIR in cases of crimes against SCs/STs.
- XI. Ensure proper supervisions at appropriate level of cases of crimes against SCs/STs from the recording of FIR to the disposal of the case by the competent court.
- XII. A separate review involving criminal cases filed by SCs/STs under investigation be conducted by the District Magistrate and District SP in the monthly meeting with I.Os to expedite investigation and guide timely collection of evidence.
- XIII. The authorities concerned in the State Governments must ensure proper follow up of reports of cases of atrocities against SCs/STs received from various sources, including the National Commission for SCs/STs.
- XIV. Atrocity-prone areas may be identified for taking preventive measures to save life and property of the members of the SC/ST communities Adequate number police personnel fully equipped with policing infrastructure should be posted in the Police Stations in such vulnerable areas.
- XV. In police stations located in areas with substantial population of SCs/STs proper representation must be given to SC/ST police personnel in postings to such police stations to gain the confidence of the SC/ST community.
- XVI. Delay in trial of cases of crimes against SCs/STs may be discussed on regular basis in the Monitoring Committee/monthly meetings Chaired by the District and

Sessions Judge attended by District Magistrate, Superintendent of Police and Public Prosecutor of the district.

- XVII. The District SPs must ensure timely attendance and protection of all prosecution witnesses including Police Officers and official witnesses for speedy trial of such cases in the trial courts.
  - XVIII. The State Government must ensure adequate measures for the economic and social rehabilitation of the victims of atrocities. The scale of relief to the family of a SC/ST person killed in a case of atrocity needs to be revised, particularly in cases where the deceased was an earning member of the family or physically fit to earn. The States which have not prescribed any scale of monetary relief and rehabilitation facilities to SC/ST victims of atrocities may do so without further delay.
  - XIX. For ensuring proper implementation of the Protection of Civil Rights (PCR) Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 the State Governments and UT Administrations may conduct sample surveys/ studies to evaluate the working of the PCRA and PAA with reference to the problems being faced by the police and the judiciary in prompt disposal of cases and take appropriate measures to resolve such problems.
  - XX. In case of extreme violation of human dignity such as stripping of SC/ST women, forcing SC/ST persons to drink urine or eat human excreta, blackening their faces, shaving their heads and parading them in village streets etc. the police must take prompt preventive action at the initial stage itself. In such incidents of extreme violation of human rights, exemplary punishment should be awarded to the accused after summary trial.
7. You are requested to kindly issue suitable directions to all concerned under intimation to this Ministry. It is further requested that action taken in this regard may be reviewed by the State Governments and UT administrations and a report indicating the present status of crimes against SCs/ STs sent to this Ministry within a month.

The receipt of this letter may kindly be acknowledged immediately.

Yours faithfully,

(Nirmaljeet Singh Kalsi)  
Joint Secretary to the Government of India  
Ministry of Home Affairs, North Block  
New Delhi - 110001  
**Tel. No. 23092630**

To,

- 1. The Chief Secretaries of all State Governments and UT Administrations**
- 2. The Principal Secretary / Secretary (Home) of all State Governments and UT Administrations.**

**3. Copy also for information and necessary action to:**

- i. The DGs / IGs (In-charge of Prisons) - All State Governments / UTs for information and necessary.
- ii. Ministry of Social Justice and Empowerment, Shastri Bhawan, New Delhi.
- iii. Ministry of Women and Child Development Shastri Bhawan, New Delhi.
- iv. Secretary, National Commission for SCs, 4, Deen Dayal Upadhyaya Marg, New Delhi-110 002
- v. Secretary, National Commission for STs, 4, Deen Dayal Upadhyaya Marg, New Delhi-110 002
- vi. JS(Judicial), JS(PM), JS(P-I), JS(P-II), JS(UT), JS(NM), JS(HR) in Ministry of Home Affairs, Government of India
- vii. Director General, NCRB, RK Puram, New Delhi.

(Nirmaljeet Singh Kalsi)  
Joint Secretary to the Govt. of India

**F. NO.15011/48/2009-SC/ST-W**  
**GOVERNMENT OF INDIA/BHARAT SARKAR**  
**MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA**  
**NORTH BLOCK NEW DELHI /CS DIVISION**

New Delhi, the 4.9.2009

**OFFICE MEMORANDUM**

**Subject:** Advisory on Crime against Women – Measures needed to curb –regarding

The Government of India have been advising the State Governments from time to time regarding the steps that need to be taken to afford a greater measure of protection to the women and in particular to prevent incidence of crimes against them. The advisories issued earlier with particular reference to the crime against women vide D.O. letters No.15018/214/94-GPA.VI dated 17.4.1995, No.24013/65/96-GPA.VI dated 12.9.1996, No.15018/214/96-GPA.VI dated 18.3.1997, No.24013/84/97-GPA.VI dated 6.10.1997, No.24013/50/98-GPA.VI dated 8/11.9.1998 and No.24013/83/2001-GPA.VI dated 19/26.3.2002, No.15011/21/2004-SC/ST-Cell dated the 5th May, 2004, 15011/55/2007-SC/ST-W, dated 17th August, 2007 may be referred to in this regard.

2. These advisories, inter-alia, include gender sensitization of the police personnel, adopting appropriate measures for swift and salutary punishment to public servants found guilty of custodial violence against women, minimizing delays in investigations of murder, rape and torture of women and improving its quality, setting up a 'crime against women cell' in districts where they do not exist, providing adequate counseling centers and shelter homes for women who have been victimized, setting up of special women courts, and improving the effectiveness of schemes developed for the welfare and rehabilitation of women who are victimized with greater emphasis on income generation to make the women more independent and self-reliant.

3. Through the aforesaid advisories, the State Governments were also requested to undertake a comprehensive review of the effectiveness of the machinery in tackling the problem of women and to take appropriate measures aimed at increasing the responsiveness of the law and order machinery. No doubt, some State Governments have taken some measures in this regard, however, the inputs regarding crime against women available with this Ministry indicate that these measures need to be strengthened further, so that the women folk feel secure, enjoy their human rights and live their life with dignity and respect that they deserve. Despite several steps being taken by the State Governments, picture still is very grim and disappointing. Complaints are still being received regarding non-registration of FIRs and unsympathetic attitude of police personnel towards rape victims and victims of violence.

4. The National Commission for Women has been undertaking visits to various States to review the status of women and has also been conducting its own investigations in certain cases

of serious incidents of crime against women. The Commission has been making available findings of their inquiry to the concerned State Governments as well as to this Ministry. The reports of the inquiries conducted by the Commission in these specific incidents indicate that the level of sensitiveness and care with which crime against women should be handled is not up to the desired level. The Commission has pointed out laxity and insensitiveness on the part of certain police officials in some specific cases. The Commission has observed that filing of FIRs even in heinous cases continues to be a problem. Some critical observations & recommendations made by the National Commission of Women in its various reports of investigations into major incidents of crime against women are annexed herewith.

5. In its Fifth Report, the Second Administrative Reforms Commission titled 'Public Order' have emphasized the need to combat crimes against vulnerable sections of the society, particularly women and children and has given a number of important recommendations. The Government of India is deeply concerned with the trends mentioned in para 4 above and ground situation and would therefore re-emphasize that urgent action should be taken on the following:-

- i. Vigorously enforce the existing legislation relating to Crime against Women and Children, i.e., Dowry Prohibition Act, 1961, Child Marriage Restraint Act, 1929, Immoral Traffic (Prevention) Act, 1956, Indecent Representation of Women (Prohibition) Act, 1986, Commission of Sati (Prevention) Act, 1987 and Violence against Women (Prevention) Act, 2005, Section 67 of the IT Act, 2000, the display of lascivious photographs/films on computer through internet, etc. Major offences under IPC, 1860 which provide punishment for offences against women are (i) Section 302/304-B (Homicide for dowry, dowry death or their attempts) (ii) Section 354 (Assault or criminal force to women with intent to outrage her modesty, (iii) Section 376 (rape); (iv) Section 498 (enticing or taking away or detaining with criminal intent a married women); and (v) Section 498-A (husband or relatives of husband of a women subjecting her to cruelty); and Section 509 (sexual harassment - word, gesture or act intended to insult the modesty of women). Further, Section 376(2)(a) & (b) of the IPC provides for higher minimum punishment in cases of rape committed by a police officer and public servant on a woman in custody.
- ii. Government must ensure proper enforcement of law and convictions in women related crimes. Enforcement agencies should be instructed in unambiguous terms that enforcement of the rights of the weaker and vulnerable sections including women and children should not be downplayed for fear of further disturbances or retribution and adequate preparation should be made to face any such eventuality.
- iii. The administration and police should play a more proactive role in detection and investigation of crime against women and ensuring that there is no under reporting.
- iv. Increasing the overall representation of women in police forces. The representation of women in police at all levels should be increased through affirmative action so that they constitute about 33% of the police.
- v. Sensitizing the law enforcement machinery towards crime against women by way of

well structured training programmes, meetings and seminars etc., for police personnel at all levels as well as other functionaries of the criminal justice system. Such programmes may be incorporated in the syllabus of various Police Training Academies at all levels.

- vi. Government must take concrete steps to increase awareness in the administration and among the police in particular, regarding crime against women, and take steps not only to tackle such crimes but also deal sensitively with the ensuing trauma.
- vii. For improving general awareness on legislations, mechanisms in place for safety and protection of women, the concerned department of the State Government must, inter-alia, take following steps:
  - a. Create awareness through print and electronic media;
  - b. Develop a community monitoring system to check cases of violence, abuse and exploitation and take necessary steps to curb the same;
  - c. Involving the Community at large in creating and spreading such awareness; and
  - d. Organize legal literacy and legal awareness camps.
- viii. Explore the possibility of associating NGOs working in the area of combating crime against women. Citizens groups and NGOs should be encouraged to increase awareness about gender issues in society and help bring to light violence against women and also assist the police in the investigation of crime against women. Close coordination between the police and the NGOs dealing with the interests of women may be ensured.
- ix. There should be no delay whatsoever in registration of FIR in all cases of crime against women.
- x. All out efforts should be made to apprehend all the accused named in the FIR immediately so as to generate confidence in the victims and their family members;
- xi. Cases should be thoroughly investigated and charge sheets against the accused persons should be filed within three months from the date of occurrence, without compromising on the quality of investigation. Speedy investigation should be conducted in heinous crimes like rape. The medical examination of rape victims should be conducted without delay.
- xii. Ensure proper supervisions at appropriate level of cases of crime against women from the recording of FIR to the disposal of the case by the competent court.
- xiii. Help-line numbers of the crime against women cells - should be exhibited prominently in hospitals/schools/colleges premises, and in other suitable places.
- xiv. Set up exclusive 'Crime Against Women and Children' desk in each police station and the Special Women police cells in the police stations and all women police thana as needed.

**F. NO.15011/48/2009-SC/ST-W**  
**GOVERNMENT OF INDIA/BHARAT SARKAR**  
**MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA**  
**NORTH BLOCK NEW DELHI /CS DIVISION**

New Delhi, the 4.9.2009

**OFFICE MEMORANDUM**

**Subject:** Advisory on Crime against Women – Measures needed to curb –regarding

The Government of India have been advising the State Governments from time to time regarding the steps that need to be taken to afford a greater measure of protection to the women and in particular to prevent incidence of crimes against them. The advisories issued earlier with particular reference to the crime against women vide D.O. letters No.15018/214/94-GPA.VI dated 17.4.1995, No.24013/65/96-GPA.VI dated 12.9.1996, No.15018/214/96-GPA.VI dated 18.3.1997, No.24013/84/97-GPA.VI dated 6.10.1997, No.24013/50/98-GPA.VI dated 8/11.9.1998 and No.24013/83/2001-GPA.VI dated 19/26.3.2002, No.15011/21/2004-SC/ST-Cell dated the 5th May, 2004, 15011/55/2007-SC/ST-W, dated 17th August, 2007 may be referred to in this regard.

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3. Through the aforesaid advisories, the State Governments were also requested to undertake a comprehensive review of the effectiveness of the machinery in tackling the problem of women and to take appropriate measures aimed at increasing the responsiveness of the law and order machinery. No doubt, some State Governments have taken some measures in this regard, however, the inputs regarding crime against women available with this Ministry indicate that these measures need to be strengthened further, so that the women folk feel secure, enjoy their human rights and live their life with dignity and respect that they deserve. Despite several steps being taken by the State Governments, picture still is very grim and disappointing. Complaints are still being received regarding non-registration of FIRs and unsympathetic attitude of police personnel towards rape victims and victims of violence.

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of serious incidents of crime against women. The Commission has been making available findings of their inquiry to the concerned State Governments as well as to this Ministry. The reports of the inquiries conducted by the Commission in these specific incidents indicate that the level of sensitiveness and care with which crime against women should be handled is not up to the desired level. The Commission has pointed out laxity and insensitiveness on the part of certain police officials in some specific cases. The Commission has observed that filing of FIRs even in heinous cases continues to be a problem. Some critical observations & recommendations made by the National Commission of Women in its various reports of investigations into major incidents of crime against women are annexed herewith.

5. In its Fifth Report, the Second Administrative Reforms Commission titled 'Public Order' have emphasized the need to combat crimes against vulnerable sections of the society, particularly women and children and has given a number of important recommendations. The Government of India is deeply concerned with the trends mentioned in para 4 above and ground situation and would therefore re-emphasize that urgent action should be taken on the following:-

- i. Vigorously enforce the existing legislation relating to Crime against Women and Children, i.e., Dowry Prohibition Act, 1961, Child Marriage Restraint Act, 1929, Immoral Traffic (Prevention) Act, 1956, Indecent Representation of Women (Prohibition) Act, 1986, Commission of Sati (Prevention) Act, 1987 and Violence against Women (Prevention) Act, 2005, Section 67 of the IT Act, 2000, the display of lascivious photographs/films on computer through internet, etc. Major offences under IPC, 1860 which provide punishment for offences against women are (i) Section 302/304-B (Homicide for dowry, dowry death or their attempts) (ii) Section 354 (Assault or criminal force to women with intent to outrage her modesty, (iii) Section 376 (rape); (iv) Section 498 (enticing or taking away or detaining with criminal intent a married women); and (v) Section 498-A (husband or relatives of husband of a women subjecting her to cruelty); and Section 509 (sexual harassment - word, gesture or act intended to insult the modesty of women). Further, Section 376(2)(a) & (b) of the IPC provides for higher minimum punishment in cases of rape committed by a police officer and public servant on a woman in custody.
- ii. Government must ensure proper enforcement of law and convictions in women related crimes. Enforcement agencies should be instructed in unambiguous terms that enforcement of the rights of the weaker and vulnerable sections including women and children should not be downplayed for fear of further disturbances or retribution and adequate preparation should be made to face any such eventuality.
- iii. The administration and police should play a more proactive role in detection and investigation of crime against women and ensuring that there is no under reporting.
- iv. Increasing the overall representation of women in police forces. The representation of women in police at all levels should be increased through affirmative action so that they constitute about 33% of the police.
- v. Sensitizing the law enforcement machinery towards crime against women by way of

well structured training programmes, meetings and seminars etc., for police personnel at all levels as well as other functionaries of the criminal justice system. Such programmes may be incorporated in the syllabus of various Police Training Academies at all levels.

- vi. Government must take concrete steps to increase awareness in the administration and among the police in particular, regarding crime against women, and take steps not only to tackle such crimes but also deal sensitively with the ensuing trauma.
- vii. For improving general awareness on legislations, mechanisms in place for safety and protection of women, the concerned department of the State Government must, inter-alia, take following steps:
  - a. Create awareness through print and electronic media;
  - b. Develop a community monitoring system to check cases of violence, abuse and exploitation and take necessary steps to curb the same;
  - c. Involving the Community at large in creating and spreading such awareness; and
  - d. Organize legal literacy and legal awareness camps.
- viii. Explore the possibility of associating NGOs working in the area of combating crime against women. Citizens groups and NGOs should be encouraged to increase awareness about gender issues in society and help bring to light violence against women and also assist the police in the investigation of crime against women. Close coordination between the police and the NGOs dealing with the interests of women may be ensured.
- ix. There should be no delay whatsoever in registration of FIR in all cases of crime against women.
- x. All out efforts should be made to apprehend all the accused named in the FIR immediately so as to generate confidence in the victims and their family members;
- xi. Cases should be thoroughly investigated and charge sheets against the accused persons should be filed within three months from the date of occurrence, without compromising on the quality of investigation. Speedy investigation should be conducted in heinous crimes like rape. The medical examination of rape victims should be conducted without delay.
- xii. Ensure proper supervisions at appropriate level of cases of crime against women from the recording of FIR to the disposal of the case by the competent court.
- xiii. Help-line numbers of the crime against women cells - should be exhibited prominently in hospitals/schools/colleges premises, and in other suitable places.
- xiv. Set up exclusive 'Crime Against Women and Children' desk in each police station and the Special Women police cells in the police stations and all women police thana as needed.

- xv. Concerned departments of the State Governments could handle rape victims at all stages from filing a complaint in a police station to undergoing forensic examination and in providing all possible assistance including counseling, legal assistance and rehabilitation. Preferably these victims may be handled by women so as to provide a certain comfort level to the rape victims.
- xvi. The specialized Sexual Assault Treatment Units could be developed in government hospitals having a large maternity section.
- xvii. The Health department of the State Govts., should set up 'Rape Crisis Centres' (RCCs) and specialized 'Sexual Assault Treatment Units' (SATUs), at appropriate places.
- xviii. Rape Crisis Centres (RCCs) set up by the Health Deptt. could assist rape victims and provide appropriate level of coordination between the police and health department facilities for medical examination to establish forensic evidence, SAT Units and medical facilities to treat after effects of sexual assault. Hence, these RCCs could act as an interface between the victims and other agencies involved.
- xix. The administration should also focus on rehabilitation of the victims and provide all required support. Counseling is required for victim as well as her family to overcome the trauma of the crime. The police should consider empanelling professional counselors and the counseling should not be done by the police. The effectiveness of schemes developed for welfare and rehabilitation of women who have been victimized should be improved.
- xx. For improving the safety conditions on road, the concerned departments of the State Government must take suitable steps to:
  - a. Increase the no. of beat constables, especially on the sensitive roads;
  - b. Increase the number of police help booth/kiosks, especially in remote and lonely stretches;
  - c. Increase police patrolling, especially during the night;
  - d. Increase the number of women police officers in the mobile police vans;
  - e. Set-up telephone booths for easy access to police;
  - f. Install people friendly street lights on all roads, lonely stretches and alleys; and
  - g. Ensure street lights are properly and efficiently working on all roads, lonely stretches and alleys.
- xxi. The local police should arrange for patrolling in the affected areas and more especially in the locality of the weaker sections of the society. Periodic visits by DM & SP will create a sense of safety and security among these sections of the people.
- xxii. Special steps to be taken for security of women working in night shifts of call centers.

- xxiii. Crime prone areas should be identified and a mechanism be put in place to monitor infractions in schools/colleges for ensuring safety and security of female students. Women police officers in adequate number fully equipped with policing infrastructure may be posted in such areas.
- xxiv. Action should be taken at the State level to set up of Fast Track Courts and Family Courts.
- xxv. Dowry related cases must be adjudicated expeditiously to avoid further harassment of the women.
- xxvi. Appointment Dowry Prohibition Officers and notify the Rules under the Dowry Prohibition Act, 1961.
- xxvii. All police stations may be advised to display the name and other details of Protection Officers of the area appointed under the Domestic Violence Act, 2005.
- xxviii. Police personnel should be trained adequately in special laws dealing with atrocities against women. Enforcement aspect should be emphasized adequately so as to streamline it.
- xxix. Special steps may also be taken by the police in collaboration with the Health and Family Welfare Department of the State to prevent female foeticide.
- xxx. Special steps should also be taken to curb the 'Violation of Women's Rights by so called Honour Killings, to prevent forced marriage in some northern States, and other forms of Violence'.
- xxxi. Ensure follow up of reports of cases of atrocities against women received from various sources, including NCW & SCW, with concerned authorities in the State Governments.

6. 'Public Order' and 'Police' as per the 7th Schedule of the Constitution of India, are State subjects and, as such, detection, registration, investigation and prevention of crime is primarily the responsibility of the State Governments. However, Central Government supplements the efforts of the State Governments by providing financial assistance for modernization of the State Police Forces in terms of weaponry, communication, equipment, mobility, training and other infrastructure under the Scheme of Modernization of State Police Forces.

7. You are requested to issue suitable directions to all concerned under intimation to this Ministry. It is further requested that action taken in this regard may be reviewed by the State Governments and UT administrations and a report indicating the present status sent to this Ministry within a month.

8. This advisory is being issued in consultation with the Ministry of Women and Child Development.

The receipt of this letter may kindly be acknowledged immediately.

Yours faithfully,

(Nirmaljeet Singh Kalsi)  
Joint Secretary to the Government of India  
Ministry of Home Affairs, North Block  
New Delhi - 110001  
**Tel. No. 23092630**

To,  
**The Chief Secretaries &  
The Principal Secretary / Secretary (Home)  
All State Governments and Union Territory Administrations.**

**Copy also for information and necessary action to:**

- i. The DGs / IGs (In-charge of Prisons) - All State Governments / UTs for information and necessary.
- ii. Ministry of Social Justice and Empowerment (Sh. D.V.S. Ranga, Joint Secretary), Shastri Bhawan, New Delhi.
- iii. Chairperson, National Commission for Women, 4, Deen Dayal Upadhyaya Marg, New Delhi-110 002
- iv. Ministry of Women and Child Development (Mrs. Manjula Krishnan, Advisor MWCD) Shastri Bhawan, New Delhi.
- v. Director, NCRB, RK Puram, New Delhi.

(Nirmaljeet Singh Kalsi)  
Joint Secretary to the Govt. of India

No. 24024/9/2004-SC/ST Cell  
Ministry of Home Affairs  
SC/ST Cell  
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New Delhi dated the 3rd February, 2005  
To

The Chief Secretaries,  
All State Governments/Union Territory Administrations

SUB: Need for effective implementation of the Protection of Civil Rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

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Sir/Madam,

As you are aware the Government of India has been advising the State Governments, from time to time, to give more focused attention to improving the administration of criminal justice system especially to ensure prevention of atrocities against the Scheduled Castes and the Scheduled Tribes and other vulnerable sections of society. In this regard the advisories issued earlier with particular reference to the crime against Scheduled Castes and the Scheduled Tribes and other vulnerable groups vide our letter Nos. 24013/86/97-GPA.VI dated 8-10-1997, No. 24013/47/98-GPA-VI dated 12-11-1998 No. 24013/74/2001-GPA-VI dated 19-9-2001, No. 24013/30/2002-GPA-IV dated 4-4-2002, No. 24013/74/2002-GPA-IV dated 11-6-2002 and No.15011/50/2004-SC/ST Cell dated 24-6-2004 may be referred to. These guidelines, inter-alia, include the sensitization of police personnel in implementation of the Protection of Civil Rights Act and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, instructions to Police to have more empathetic approach while dealing with cases of atrocities against them, circulation among field officers a detailed note indicating the scope and responsibility of police personnel investigating such offences, recruitment of sufficient number of persons belonging to SCs/STs/Minorities as police personnel especially at the cutting edge level, setting up of special cells to deal with such offences, programmes for creating awareness among the vulnerable sections of society and legal recourse open to them, evaluation of the working of special courts, identification of atrocity prone areas for prevention of crime and measures to be taken for economic and social rehabilitation of victims of atrocities.06-10-2010

Through the aforesaid advisories, the State Governments were also requested to undertake a comprehensive review of the effectiveness of the machinery in tackling the problems faced by the members of the SCs/STs and take appropriate measures aimed at increasing the responsiveness of the law and order machinery. No doubt, some State Governments have taken some measures in this regard. However, these measures need to be strengthened further, so that members of these vulnerable groups feel secured, enjoy their human rights and live their life with dignity and respect that they deserve.

The National Human Rights Commission has carried out a study and recommended that necessary steps be taken to effectively implement the Protection of Civil Rights Act, 1955 and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Rules 1995.

The Government of India is deeply concerned about the crime committed against the members of SC & ST and other vulnerable sections of society and, therefore, re-emphasizes the need to implement the Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 effectively both in letter and spirit. The following actions are required to be taken urgently in this connection :-

Ensuring that First Information Report (FIR) is invariably registered by the Police Station wherever and whenever a complaint of atrocity is received by it. Further, the FIR should be meticulously documented. In case the registration of FIR is denied by the Police Officer on duty without any valid reason, such an officer, if not being a member of a Scheduled Caste

or a Scheduled Tribe, should be prosecuted under Section 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, for willful neglect of duties required to be performed by that Officer under the Act.

Ensuring investigation of the offences of atrocities by an Officer not below the rank of Deputy Superintendent of Police, completing the investigation on top priority and within thirty days, in accordance with the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules 1995, and filing of charge sheet in the court at the earliest.

Deploying female police personnel in each police station, especially in atrocity prone areas, to record complaint of women victims of offences of atrocities under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Ensuring the visit of District Magistrate/District Collector and the District Superintendent of Police to each place of occurrence of atrocity, reviewing police protection arrangements for the atrocity victims and their family/families and prompt payment of relief to the victims of offences of atrocities, in accordance with Rule 12(i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995.

Deploying police force in the identified atrocity prone areas and to take other preventive measures for checking such offences.

Timely handling of prosecution of cases under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 by Special Public Prosecutors and strengthening of the institution of Special Public Prosecutors with appropriate remuneration/fee paid to them, so that they are motivated to take up such cases effectively.

Sensitizing Police Officers in regard to the implementation of the Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and also imparting regular and effective training to the Police Officers, Special Public Prosecutors and the concerned District Administration officers in regard to the implementation of these Acts.

Displaying the salient features of the Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 on the billboards/hoardings in all the police stations, especially in the rural areas and at other selected places frequently visited by the public.

Identifying atrocity prone areas, appointing Special Officers in such identified areas in accordance with Rule 10 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 and taking special steps to protect the life and property of Scheduled Castes and Scheduled Tribes in such areas.

Preparing Contingency Plan for implementing the provisions of the Act, in accordance with Rule 15 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995.

Setting up of exclusive Special Courts in all Districts for trial of offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Quarterly reviewing implementation of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 by the Nodal Officer with District Magistrates and Superintendents of Police in accordance with Rule 9 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Ensuring holding of periodic meetings of the High Power State Level Vigilance and Monitoring Committees under the chairpersonship of Chief Minister and likewise such District Level Committees under the chairpersonship of the District Magistrate/District Collector, with adequate representation of Non-Governmental Organizations working for the cause of Scheduled Castes and Scheduled Tribes.

Launching awareness generation campaign and organizing seminars on the provisions of the Protection of Civil Rights Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 with participation of Panchayati Raj Institutions and Non Governmental Organisations (NGOs).

Reviewing the factors responsible for high level of acquittals under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

It is further suggested that annual workshop of District Magistrates and Superintendents of Police on implementation of these laws may be organized and the State Home and Social Welfare Secretaries and Directors General of Police should interact with the participants on the whole range of issues/problems faced by them in their spheres of activities. Based on this feedback, State Governments may take necessary corrective steps expeditiously to improve the administration of these laws.

It is requested that the action taken in this regard may be reviewed by the State Governments / UT Administrations and a report indicating the present status sent to this Ministry within a month.

Yours faithfully,

(A.K.SRIVASTAVA)  
JOINT SECRETARY (CS)

Copy to: The Secretary General, National Human Rights Commission, Sardar Patel Bhawan, Parliament Street, New Delhi w.r.t. d.o. No.20/1/2004-PRP&P dated 3-8-2004 of Chairperson, NHRC.

(A.K. SRIVASTAVA)  
JOINT SECRETARY (CS)



File No. 15011/21/2004-SC/ST Cell

Government of India

Ministry of Home Affairs

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New Delhi, dated 5th May, 2004.

To

The Chief Secretaries,

All State Governments &amp; Union Territory Administrations

SUB: Crime against Women-measures needed to curb-regarding. Sir/Madam,

The Government of India have been advising the State Governments from time to time regarding the steps that need to be taken to afford a greater measure of protection to the women and in particular to prevent incidence of crimes against them. The advisories issued earlier with particular reference to the crime against women vide DO letters No. 15018/214/94-GPA. VI dated 17.4.1995, No. 24013/65/96-GPA. VI dated 12.9.1996, No. 15018/214/96-GPA. VI dated 18.3.1997, No. 24013/84/97-GPA. VI dated 6.10.97, No. 24013/50/98-GPA. VI dated 8/11.9.1998 and No. 24013/83/2001-GPA. VI dated 19/26.3.2002 may be referred to in this regard. These advisories, inter-alia, include gender sensitization of the police personnel, adopting appropriate measures for swift and salutary punishment to public servants found guilty of custodial violence against women, minimizing delays in investigations of murder, rape and torture of women and improving its quality, setting up a 'crime against women cell' in districts where they do not exist, providing adequate counseling centers and shelter homes for women who have been victimized, setting up of special women courts, and improving effectiveness of schemes developed for the welfare and rehabilitation of women who are victimized with greater emphasis on income generation to make the women more independent and self-reliant.

Through the aforesaid advisories, the State Governments were also requested to undertake a comprehensive review of the effectiveness of the machinery in tackling the problem of women and to take appropriate measures aimed at increasing the responsiveness of the law and order machinery. No doubt, some State Governments have taken some measures in this regard, however, the inputs regarding crime against women available with this Ministry indicate that these measures need to be strengthened further, so that the women folk feel secure, enjoy their human rights and live their life with dignity and respect that they deserve.

The National Commission for Women has been undertaking visits to various States to review the status of women and has also been conducting its own investigations in certain cases of serious incidents of crime against women. The Commission has been making available findings of their inquiry to the concerned State Governments as well as to this Ministry. The reports of the inquiries conducted by the Commission in these specific incidents indicate that the level of sensitiveness and care with which crime against women should be handled is not up to the desired level. The Commission has pointed out laxity and insensitiveness on the part of certain police officials in some specific cases. The Commission has observed that filing of FIRs even in heinous cases continues to be a problem. Some critical observations & recommendations made by the National Commission of Women in its various reports of investigations into major incidents of crime against women are annexed herewith.

The Government of India is deeply concerned with this trend and ground situation and would therefore reemphasize that urgent action should be taken on the following:-

Crime prone areas should be identified and a mechanism be put in place to monitor infractions in schools/colleges for ensuring safety and security of female students. Women police officers in adequate number fully equipped with policing infrastructure may be posted in such areas.

There should be no delay whatsoever in registration of FIR in all cases of crime against women.

All out efforts should be made to apprehend all the accused named in the FIR immediately so as to generate confidence in the victims and their family members.

Cases should be thoroughly investigated and charge sheets against the accused persons should be filed within three months from the date of occurrence, without compromising on the quality of investigation. The medical examination of rape victims should be conducted without delay.

Help-line numbers of the crime against women cells should be exhibited prominently in

hospitals/schools/colleges premises, and in other suitable places.

Women police cells in the police stations and exclusive women police stations should be set up as needed.

Police officials charged with the responsibility of protecting women should be sensitized adequately.

Police personnel should be trained adequately in special laws dealing with atrocities against women.

Enforcement aspect should be emphasized adequately so as to streamline it.

Women police officials in the State Police Force should be recruited widely.

Close coordination between the police and the NGOs dealing with the interests of women may be ensured.

The local police should arrange for patrolling in the affected areas and more especially in the locality of the weaker sections of the society. Periodic visits by DM & SP will create a sense of safety and security among these sections of the people.

Through counseling through professional counselors is required for victims as well as her family to overcome the trauma of the crime.

The effectiveness of schemes developed for welfare and rehabilitation of women who have been victimized should be improved.

It is requested that action taken in this regard may be reviewed by the State Governments and UT Administrations and a report indicating the present status sent to this Ministry within a month.

The receipt of this letter may kindly be acknowledged immediately.

Yours faithfully,

(A.K.SRIVASTAVA)

JOINT SECRETARY (CS)