

**Handbook for Social Worker
On Rescue and Rehabilitation of
Trafficked and Missing Child**

SPAN

Society for Peoples' Awareness

Who is Child?

Child is any person who has not completed 18 years of Age.

(As per United Nation's Convention on Rights of Child, 1989 and Juvenile Justice (Care and Protection of Children) Act, 2015 of government of India)

Who will decide that a person is child or not and how?

Child Welfare Committee or Juvenile Justice Board based on the appearance of the person produced before it that the said person is a child may record the age of the person as nearly as possible without waiting for further confirmation of the age.

Otherwise the proof age as per the Juvenile Justice Act could be one of the followings:

- Birth Certificate from school.
- Matriculation or equivalent certificate from the concerned board.
- Birth Certificate given by a corporation or a municipality or a panchayet.

Who is Trafficked Child?

The work "Trafficking" is mentioned in different legislations of India but no clear definition of trafficking is available. Only the section 370 of Indian Penal Code gives us a definition of trafficking which is more or less acceptable and mentioned below for understanding of "Trafficking".

Section – 370, Indian Penal Code

Whoever, for the purpose of *exploitation*, (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person or persons, by—

First— using threats, or

Secondly— using force, or any other form of coercion, or

Thirdly— by abduction, or

Fourthly— by practicing fraud, or deception, or

Fifthly— by abuse of power, or

Sixthly— by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of trafficking.

Explanation 1—The expression "exploitation" shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, or the forced removal of organs.

Explanation 2—The consent of the victim is immaterial in determination of the offence of trafficking.

As per the definition given above if a Child is recruited, transported, harboured, transferred or received for the purpose of exploitation by the ways and means mentioned above (section 370 of IPC) then the child is victim of trafficking.

Who is Missing Child?

A missing child is a child, whose whereabouts are not known to the parents, legal guardian or any other person or institution legally entrusted with the custody of the child, whatever may be the circumstances or causes of disappearance, and shall be considered missing and in need of care and protection until located or his safety and well-being established. [As per Juvenile Justice (Care and Protection of children) Model Rule, 2016, Section 92(1)]

Who is the Child in “Need of Care and Protection”?

The Juvenile Justice (Care and Protection of Children) Act, 2015 has given of a list of nature of vulnerability of children and defined those vulnerable children as “Children in Need of Care and Protection (CNCP). The government through its child protection system such as District Child Protection Unit, Child Welfare Committee, Special Juvenile Police Unit and Police department and Child Line is committed for protection, rescue and rehabilitation of CNCP children.

Following are the “Children in Need of Care and Protection” –

- Child is found without any home or settled place of living.
- The child who is engaged in begging.
- The child who is living on streets.
- Child working as labour against the Child and Adolescent Labour (Prohibition & Regulation) Act, 2016
- Child living with such person, who can kill, injure, exploit or abuse the child (if there is enough reasons to believe this).
- The child is mentally ill or mentally or physically challenged and no one to support or look after or having parents or guardians unfit to take care.
- The child is suffering from terminal or incurable disease and no one to support or look after or having parents or guardians unfit to take care.

<p>Child and Adolescent Labour (Prohibition and Regulation) Act, 2016</p> <p>bans employment of children of less than 14 years old in all sector. Children less than 14 years old are permitted to work in non hazardous sector in family enterprises or in entertainment and sports (other than circus) before and after school hours and in vacation.</p> <p>Children of age group 14-18 years are not permitted to work in Mines, with explosives and inflammable articles and other hazardous sectors.</p>

- The child has a parent or guardian but such parent or guardian is unfit or incapacitate to take care of or protect or ensure safely or wellbeing of the child.
- The child who is orphan or abandoned or surrendered by his/her parents.
- The child is missing or run away.
- The child whose parents cannot be found after making reasonable enquiry.
- The child who is victim or could be victim of torture, abuse, exploitation for the purpose or sexual abuse or illegal act.
- The child who is vulnerable and could be inducted into drug abuse and trafficking.
- The child who is victim of or affected by arm conflict, civil unrest or natural calamity.
- The child who is risk of child marriage.

The Prohibition of Child Marriage Act, 2006 bans marriage of girls less than 18 years old and boys less than 21 years old. Marrying a child is a punishable offence for an adult and solemnizing child marriage is also a punishable offence.

What are the differences between Trafficked Child and Missing Child?

There is a strong possibility that missing child can be trafficked also. Therefore honourable Supreme Court of India in one of its verdict in the year 2013 has following directions to the police departments.

1. Compulsory registration of cases by police of missing children with the assumption that they are victims of kidnapping & trafficking.
2. Compulsory registration of cases by police of all those children who are still untraced (in 2011 34,406 children are still untraced).

Why “Trafficked” considered as “Child in Need of Care and Protection”?

That is because –

1. Trafficked children can be missing children also.
2. There is a possibility that the trafficked child is staying with such person who possibly will or is torturing, abusing or exploiting that child.
3. The child can be engaged in labour against the Child and Adolescent labour (prohibition and Regulation) Act, 2016.
4. The child can be abuse for sexual purpose, illegal act and unconscionable gains.
5. The child, if girl, can be get married before attaining legal age of marriage.
6. The child is completely in vulnerable condition and unprotected.

What are the purposes for trafficking a child?

1. Engage in such work which is similar to bonded labour.
2. Engage in sexual exploitation or illegal act.
3. Organ selling.
4. Buying and selling child for any sorts of exploitation.

How do you get information that a child got trafficked or missing?

1. Information from parents or guardian of the child. *(In many cases parents or guardian due to abject poverty and low income of the family consented the trafficking of the child and have some information on the present whereabouts of child. They complain when their regular communication with the child somehow stopped or the share of income of the child was stop to coming to the family.)*
2. Neighbourers.
3. School
4. Youth group
5. Children
6. Village Child Protection Committee

If you have information on any child is missing or trafficked where you lodge complain for rescue of the child and how?

1. Ask and assist the parents or legal guardian of the child to lodge a complaint with the local police station. If it known that the child has been taken away by some person and if the name and other details of that person is known then that details need to be included in the complain.
2. The name, age, sex, identification mark, address and other details of the child need to be clearly mentioned in the complain.
3. The complain ideally accompany the age proof document of the child and also the recent photograph.
4. If the parents or guardians for various reasons are not willing to make complain to the police than the Village Child Protection Committee (VLCPC) or the Head Teacher of the school (if the child was in school before got trafficked) can be motivated to make complain to police.
5. Otherwise local social worker or NGO who have the information can make complain to police after conducting sufficient enquiry about the child and the incident. The social worker or NGO should prepare a detail case study prior to lodge complain to the police.
6. Along with lodging complain to the police the NGO or social worker also inform CHILD LINE about the case with FIR or GD No. issued against the complain lodge to the police.

7. The complain should be in written form and a receipt copy must be obtained with FIR or GD no. from the police.
8. **As per the direction of honorable Supreme Court of India complain on trafficking or missing of a child must be registered as FIR by Police.**

What is the remedy if local police station refuse or delay or avoid to lodge complain on missing or trafficked child?

1. Request CHILD LINE to pressurize local police to lodge the complain.
2. Take the case to Child Welfare Committee and ask the committee to direct local police to accept the complain.
3. Write to Special Juvenile Police Unit at District Level and request them to help in this case.
4. Lodge written complain (FIR) to District Superintendent of Police by Post under section 154(3) of CRPC.

What is the role of Police if the Complain of missing or Trafficked Child Lodged in police Station?

- When a complaint is received about a child who is missing or trafficked, the police shall register a First Information Report (FIR) forthwith.
- The police shall inform the Child Welfare Police Officer and forward the FIR to the Special Juvenile Police Unit for immediate action for tracing the child.
- Collect recent photographs and other details of Missing child and upload the information in Missing Child Portal.
- Take every possible step to locate child by sending information of the child to Missing Persons Squad, District Missing Persons Unit, National Crime Record Bureau, State Crime Records Bureau, Central Bureau of Investigation, and other related institutions;
- If the child located then rescue the child and produce before Child Welfare Committee (CWC) within 24 Hours of rescue (excluding the time for transportation). If the Committee is not sitting at that time put the case to any member of Committee and seek direction.
- In no situation the child can be kept in police station, local CHILD LINE can be contacted to keep child for short duration.
- Immediately after rescue the police must arrange medical examination of child, Medical Treatment if required and counseling (with the help of Child Line or District Legal Service Authority).
- **The rescued child cannot be directly returned to his/her parents or guardians or any persons or any NGO without producing the child before Child Welfare committee and without the consent of Child Welfare Committee.**
- Police also has an important role to take action for arresting the 'trafficker' of the child or the perpetrator if the child is victim of any abuse, torture, exploitation.

If the trafficked child is also victim of torture or abuse what is the procedure to record his/her complain or witness?

- The statement of rescued Child can be recorded by Child Welfare Officer of the concerned police station. If the child is sexually abuse and his/her case falls under the jurisdiction of POSCO Act, 2012, the statement of the child will be recorded preferably by women police officer (not in uniform) at the home of the child or any places where the child feels comfortable. In the case of sexual abuse the child may have the help of a ‘support person’ provided by Child Welfare Committee during the recording of statement and trial, the parents or guardian of child will be present at the time of recording of statement.
- In any case rescued child will be produced before Child Welfare Committee within 24 hours of rescue and CWC will give direction to police and other concerned stakeholders for counseling, medical treatment if required, present shelter of the child and provide ‘support person’ for trial if the child is victim of sexual abuse.
- The statement of the child will be recorded by the Magistrate.
- Confidentiality, privacy and child friendly environment need to be maintained for recording of the statement of child.

What are the possible punishments under law for the perpetrator or trafficker of child?

Offence	Punishment	Act and sections	Bailable/Non-bailable
Trafficking of minor	For trafficking of one minor rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine. For Trafficking of more than one minor, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years, but which may extend to imprisonment for life, and shall also be liable to fine.	Indian Penal Code, Section 370	Non-Bailable
Whoever, knowingly or having reason to believe that a minor has been trafficked, engages such minor for sexual exploitation in any manner	Rigorous imprisonment for a term which shall not be less than five years, but which may extend to seven years, and shall also be liable to fine.	Indian Penal Code, Section 370A	Non-bailable
Trafficking child for the purpose of prostitution.	First conviction with rigorous imprisonment for a term which shall not be less than seven years and in the event of a second or subsequent conviction with imprisonment for life.	Immoral Trafficking Prevention Act, Section 5B	Non-bailable

Offence	Punishment	Act and sections	Bailable/Non-bailable
Procuring, inducing or taking child for the sake of prostitution	Rigorous imprisonment for a term of not less than seven years but may extend to life.	Immoral Trafficking Prevention Act, Section 5	Non-bailable
Whoever, having the actual charge of, or control over, a child, assaults, abandons, abuses, exposes or wilfully neglects the child or causes or procures the child to be assaulted, abandoned, abused, exposed or neglected in a manner likely to cause such child unnecessary mental or physical suffering.	Imprisonment for a term which may extend to three years or with fine of one lakh rupees or with both:	Juvenile Justice (Care and Protection of children) Act, 2015, Section 75	bailable
Engage a child and keeps him in bondage for the purpose of employment (includes selling goods and services and entertainment) or withholds his earnings or uses such earning for his own purposes	Rigorous imprisonment for a term which may extend to five years and shall also be liable to fine of one lakh rupees.	Juvenile Justice (Care and Protection of children) Act, 2015, Section 79	Non-bailable
Buying and selling of children for any purpose	Rigorous imprisonment for a term which may extend to five years and shall also be liable to fine of one lakh rupees	Juvenile Justice (Care and Protection of children) Act, 2015, Section 81	Non-Bailable

What do we mean by “Repatriation of a Trafficked/Missing Child”?

1. Arrangement of medical Treatment of child as per requirement.
2. Arrangement of Counseling.
3. Arrangement of a safe and protected shelter for the child where the child also can have all his/her rights towards growth and development including education, recreation, leisure, etc. The shelter could be the family of the child but before returning the child to the family it must be ensured that the child will have access to all right there and will not be victim of trafficking or any other abuse and exploitation.
4. Provide child all the favourable environment and facilities that the child can be returned to his/her normal life.

Who are responsible for the Repatriation of a Trafficked or Missing Child and How?

- As per Juvenile Justice (Care and Protection of children) Act, 2015 every district must have at least one Child Welfare Committee (CWC) who is responsible for the Protection and repatriation of the CNCP children including missing children and children victim of trafficking.
- CWC is 5 member committee, sits 20 days in a month, have power of a bench of magistrate.
- CWC will take cognizance of the children produced before, make necessary enquiry, issue order for the care, protection, rehabilitation and development of the children.
- CWC if feel necessary can reach out to the un-protected children (who are not produced before CWC) and can take suo-moto enquiry.
- Any child himself or herself can knock the door of CWC.

What could be the possible repatriation arrangement for a trafficked child or missing child?

- A Trafficked child or missing child when rescued or found must be produced before the Child Welfare committee within 24 hours either for concerned police officials or Child Line.
- The CWC will take responsibility of the child and arrange social enquiry about the case and the family condition of the child to know if the child return back to his/her family will the child be protected and can have access to all his/her rights.
- Family is the best place for children therefore if CWC finds suitable the child will be sent back to his/her family.
- If Child's own family is not suitable and protected place for the child CWC will order for the other option of family based care such as –
 - Sponsorship (*The child send to his/her own family and the family will be provided economic support by government at regular interval for the wellbeing and development of the child*)
 - Foster Care (*The child placed in some other family and that family will be provided economic support by government at regular interval for care, protection and development of the child*)
 - Adoption (*If there is no body to take care of the child or if the child is surrendered by his/her parents*)
- If family based care is not possible or suitable for the child then CWC recommend for Institutional Care at Children Home or Shelter Home.

- All these care must ensure all the rights to the child including Formal education, Skill development training, Adequate nutrition, participation, friends and association, Play and leisure, etc

Who are the children potential for trafficking?

1. Children who trafficked before, now in home but not in school or under any kind of protection measure.
2. Children who trafficked before but after returning home never produced before CWC.
3. Child is found without any home or settled place of living.
4. Orphan Child.
5. Child living with such person, who can kill, injure, exploit or abuse the child (if there is enough reasons to believe this).
6. The child has a parent or guardian but such parent or guardian is unfit or incapacitate to take care of or protect or ensure safety or wellbeing of the child.

What can be done for the protection of the child who is potential for trafficking?

- Such child is Children in Need of Care and Protection as per Juvenile Justice (Care and Protection of Children) Act, 2015 and can be produce before Child Welfare Committee for their protection and Care.
- Social Worker if identify such child need to prepare detail case study of the child and put the case before Village Child Protection Committee (VLCPC). VLCPC then can take this forward to Block and District Child Protection committee that the child can be produce before CWC.
- If VLCPC is inactive then directly put the case with Child Line and District Child Protection Unit (DCPU).
- The case can be directly put before CWC.

What are the role of different stake holders on the issue of Trafficked and Missing Children?

Level	Stake holder	Role	Contact person	Contact Detail
Village	Village Level Child Protection Committee (VLCPC)	Identify the Trafficked of Missing child. Make a list of children who are vulnerable and potential for trafficking. Forward the case of trafficking or missing child to Block Level Child Protection committee	Chair Person (Panchayet Pradhan or Member)	
Block	Block Level Child Protection Committee (BLCPC)	Forward the case of trafficking or missing child to District Child Protection Unit, Police and other stake holders	BDO	
	Police Station	Register FIR for Missing and trafficked child. Upload the Missing/Trafficked Child Information to the missing child Portal. Trace the missing or trafficked child using all networks. Rescue the Child and Produce before CWC within 24 Hours. Child Friendly approach and be protective and caring to the child during the procedure of rscue, producing the child before CWC, recording the statement of the child etc.	Child Welfare Officer	
District	Child Line	Inform Police and mobilize the finding and rescue of the child. Take responsibility of the rescued child production before CWC, arrange short term shelter for The child. Counseling of the child.	Coordinator	
	District Child Protection Unit (DCPU)	Arranging rescue and rehabilitation of the Trafficked or missing child with the help of Police and Child Line. Arranging rehabilitation of the child under Direction of CWC.	Coordinator	
	Special Juvenile Police Unit (SJPU)	Help local police station in Rescue of the trafficked or missing child.		
	Child Welfare Committee (CWC)	Take cognizance of the rescued child and direct for the repatriation and rehabilitation of the child.	Chair Person	

What is the role of Social worker?

- Identification of Trafficked or Missing children Cases.
- Obtain primary information, documents (age proof, photograph, etc.) and prepare detail case study
- Contact VLCPC and present the cases and motivate them to forward the cases to police or Child Line or BLCPC
- Lodge complains with Police (FIR) by the parents or Guardian. If parents or Guardians are not willing to register complain, lodge complain by VLCPC, school teacher or by NGO.
- Contact child line and seek their help for lodging complain with police rescuing the child
- You can directly contact CWC or District child protection Unit if VLCPC/Police/child line not responding properly.
- Ensure immediate care and safe custody rescued children.
- Ensure production of rescued child before CWC with 24 hours
- Assist CWC in enquiry.
- Follow up CWC order – obtain copy of order.
- Push for the arrest and proper trial of the perpetrator if any.
- **Do not take cognizance or responsibility of child after rescue and before producing to CWC.**
- **Do not try for locating or rescuing child of your own without involving Police or Child Line.**