

Ministry of Labour & Employment
Government of India

Dated: 18.07.2017

Consequent upon enactment of the Child Labour (Prohibition and Regulation) Amendment Act, 2016 (35 of 2016) with effect from 01.09.2016, and notification of the Child Labour (Prohibition and Regulation) Amendment Rules, 2017 on 02.06.2017, Ministry of Labour & Employment has prepared a draft for Standard Operating Procedure (SOP) for effective enforcement of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 and the same is being placed on the website of this Ministry for comments / suggestions from all stake holders including members of general public. The comments / suggestions on the Draft SOP, as given below, may be submitted to Shri Rajeev Arora, Joint Secretary, Ministry of Labour & Employment, Shram Shakti Bhawan, Rafi Marg, New Delhi -01 or through E-mail at anita.tripathi76@gov.in within 15 days i.e. up to 02.08.2017.



(Shailesh Kumar Singh)

Under Secretary to the Govt of India

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1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that this is essential for ensuring transparency and accountability in the organization's operations.

2. The second part outlines the specific procedures and protocols that must be followed when recording transactions. This includes details on how to categorize expenses, how to handle receipts, and the frequency of record-keeping.

3. The third part addresses the role of the accounting department in managing these records. It describes the various tasks and responsibilities that the department must undertake to ensure that all data is properly recorded and maintained.

4. The fourth part discusses the importance of regular audits and reviews of the records. It explains how these checks help to identify any discrepancies or errors and ensure that the records are always up-to-date and accurate.

5. The fifth part provides a summary of the key points discussed in the document and reiterates the importance of strict adherence to the outlined procedures and protocols.

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OUR AIM
CHILD LABOUR FREE
SOCIETY

STANDARD OPERATING PROCEDURE
FOR ENFORCEMENT OF
CHILD AND ADOLESCENT LABOUR
(PROHIBITION AND REGULATION) ACT, 1986

For Employers/Parents/Enforcing Agencies
(Central Government, State Government & Local Authorities)/
Civil Society/Trade Unions/Employers Associations

Government of India
Ministry of Labour and Employment
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PREFACE

According to the Census 2011, there are 43.53 lakhs main child workers. The main and marginal child workers is estimated at about 1 crore in 2011. While the census 2011 shows decline in child labour in India as compared to the data of Census 2001, gaps continue to remain in ensuring protection of all children and their universal access to education. . The Government of India has adopted a multi-pronged strategy to eradicate Child Labour and in 2016 the Child and Adolescent Labour (Prohibition and Regulation) Act, 2016 provided required legislative teeth for this vision.

In line with changing international and national discourse on human and child rights, education and child protection, India amended legal and policy framework to assure the fundamental right of education to all children between 6- 14 years of age through a Constitutional Amendment leading to the Article 21 A of the Constitution. Following the same, in 2016, through legislative reform India prohibited all forms of child labour up to the age of 14 years and regulated adolescent labour between 14- 18 years thereby protecting all children from hazardous labour. Further, the age of prohibition has been linked with the age of compulsory education under Right to Education Act, 2009, thereby ensuring that each child realises his fundamental right of education. There is also strong international commitment against child labour, while the Sustainable Development Goals adopted by countries around the world looks to achieve all goals and targets by 2030, target 8.7, looks to eliminate all forms of child labour by 2025. As a step towards the same post its legislative changes prohibiting child labour, India has also committed to international regulations such as the ILO Convention 182 against Worst forms of Child Labour and ILO Convention 138 on Minimum Age.

Despite the robust policy and institutional framework, the challenges posed by knowledge dispersion, implementation, and monitoring and accountability of institutional mechanisms at Center, State and District level along with the age-old attitude towards child labour makes India one of the most fertile grounds for employment of children. This Standard Operating Procedure is aimed at creating a ready reckoner for trainers, practitioners and monitoring agencies to ensure complete prohibition of child labour and protection of adolescents from hazardous labour ultimately leading to *Child Labour Free India*.

SECTION 1: INTRODUCTION

Child labour is a complex and controversial issue. The term “child labour” is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. International Labour Organization uses the term ‘child labour’ to cover all economic activities carried out by persons less than fifteen years of age, regardless of their occupational status (wage earners, own- account workers, unpaid family workers etc) but not household work performed by them in their parents’ home, except where such work can be assimilated to an economic activity as for example, when a child must devote his or her entire time to the work so that his or her parents can be employed outside the home, and is, therefore, deprived of the possibility of going to school.

Child labour includes children prematurely leading adult lives, working long hours for low wages under conditions damaging to their health and to their physical and mental development, sometimes separated from their families, frequently deprived of meaningful education and training opportunities that could open up for them a better future.¹

India has always stood for constitutional, statutory and developmental measures that are required to eliminate child labour in India. There are various laws that govern this subject. This Standard Operating Procedure will serve as an important tool to abolish child labour in all forms and also be a ready reference for all its users in the process of curbing child labour.

1.1 MULTIPRONGED STRATEGY TO COMBAT CHILD LABOUR

In order to enhance the ambit of the existing Child Labour (Prohibition and Regulation) Act, 1986 (61 of 1986) and to make the legislation more stringent, the Child Labour (Prohibition and Regulation) Amendment Act, 2016 (35 of 2016) has been enacted which came into effect from 1st September, 2016. This amendment now provides for complete prohibition on child labour up to the age of 14 years and also prohibits employment of adolescent (14 to 18 years) in hazardous occupations and processes.

Realizing the multifaceted nature of this problem, Government has embarked on a holistic and multi-pronged approach to eliminate child labour from the country in a phased manner, beginning with children working in prohibited occupations and processes and then progressively covering those working in other occupations also. Ultimate objective has been

¹ The International Labour Organisation, 1983

eradication of child labour from the country. On the one hand, it provides for legal action for enforcement purposes and on the other, focuses on general development programmes for the economic empowerment of the families of children as well as project based action in areas of high concentration of child labour. The action plan for curbing the menace of child labour envisages:

- A legislative action plan
- Focusing on convergence of general development programmes 'for benefiting working children and their families' wherever possible with other Ministries/Departments.
- Project-based plan of action for launching of projects for the welfare of working children in areas of high concentration of child labour.

1.2 NEED OF STANDARD OPERATING PROCEDURE

Effective enforcement and implementation of the provisions of the various legislations, convergence of resources of Government both horizontally and vertically, coordination between various stakeholders and active involvement of the community is the key to attaining the ambitious goal of a child labour free society. It has been observed that in spite of presence of plethora of protective legislations, the stakeholders are not very clear about the action to be taken when a child or adolescent labour is identified. Specific information is required on steps to be taken for rescue of the child/ adolescent and subsequent rehabilitative measures to be taken. Sometime the language of legislation is not understood by common people restricting the enforcement of the provisions. In this backdrop, it is necessary that a simple step by step SOP is provided to ensure enforcement of the provisions of the protective legislation.

1.3 PURPOSE OF STANDARD OPERATING PROCEDURE

This *Standard Operating Procedure for Prohibition of Child Labour and Regulation of Adolescent Labour (SOP)* provides step-by-step guidance to professionals and other stakeholders involved in creating awareness, prevention, identification, rescue, investigation, rehabilitation, reintegration of victims and prosecution of the accused in cases of child labour and adolescent labour in hazardous work. This document is conceived as a user-friendly tool that guides state and non-state anti- child labour actors through the distinct and/or interconnected steps to ensure comprehensive protection and assistance, through convergence

and coordination among state and non-state actors to children vulnerable to child labour, child labourers and adolescents in hazardous labour.

The SOP is conceived as a working tool on law enforcement for practitioners and specialists of governmental, non-governmental and civil society organisations at different stages of intervention.

The SOP aims at achieving the following objectives:

1. To provide for comprehensive detailing of procedures involved in prevention, protection and rehabilitation of the victims of child labour and adolescents in hazardous labour;
2. To spell out the machinery and infrastructure available to respond to the prevention, protection, and rehabilitation of various categories of vulnerable population and victims and thereby ensure convergence;
3. To establish norms and standards through easily accessible tools for the administration of justice in terms of investigation, trial and prosecution and for protection and rehabilitation of the victims.

1.4 INTENDED USERS FOR THE STANDARD OPERATING PROCEDURE

The SOP are conceived as a working tool for practitioners and specialists of governmental, non-governmental and civil society organizations engaged in child labour field at different levels in India, including:

- Law enforcement officers at Central, State and Local level
- Child/Adolescent Laborers
- Social workers/ community members
- Child's legal guardians/Parents
- Employers
- Outreach workers
- Labour inspectors
- Trade unionists/Employers' Associations

SECTION 2: UNDERSTANDING LEGAL FRAMEWORK- WHO IS CHILD AND ADOLESCENT LABOUR?

2.1 WHO IS A CHILD LABOUR?

A child below 14 years if found employed or working in any occupation or processes is a child labour. Employment of children below 14 years in any form in any occupation and process is prohibited and attracts the penalty provisions under Child and Adolescent Labour (Prohibition and Regulation) Act, 1986.

2.2 WHAT ARE THE EXCEPTIONS AVAILABLE IN THE LEGISLATION?

<i>Table of Exceptions</i>			
	Situation	Definition of the situation	Subject to the following conditions
a.	Child helps his family or family enterprise	<p>i. Family- <i>child's</i></p> <ul style="list-style-type: none"> - Mother - Father - Brother or Sister - Mother's biological brother or sister - Father's biological brother or sister <p><u>OR</u></p> <p>ii. Family Enterprise –</p> <ul style="list-style-type: none"> - Work - Profession - Manufacture or - Business <p><i>performed by members of the child's family</i></p> <p><u>AND</u></p> <p>iii. Help means: Aid or Assist family only in such a manner <u>that is not incidental to –</u></p> <ul style="list-style-type: none"> - Any occupation, work, profession, 	<p>i. The help done is not in a hazardous occupation or process listed in Part A or Part B of the Schedule</p> <p>ii. Shall not include any activity that is remunerative for the child or his family or the family enterprise</p> <p>iii. Shall not include any activity where he substitutes an adult or adolescent</p> <p>iv. Shall not be in contravention of any law for the time being in force</p> <p><u>'Help' provided by the child, in addition to the above, shall be further subject to,</u></p> <p>v. Child's Family must be the occupier of the family enterprise</p> <p>vi. Task must not be performed during school hours or between 7pm and 8 am</p> <p>vii. Provided sufficient rest and</p>

		<p>manufacture or business</p> <ul style="list-style-type: none"> - Or for any payment or benefit to the child or any person having control over the child - And which is not detrimental to the growth, education and overall development of the child 	<p>shall not work continuously for more than 3 hours at a stretch</p> <p>viii. Shall not interfere or affect the child's</p> <ul style="list-style-type: none"> - Right to education - School attendance - Education or related activities such as homework or extra-curricular activities
b.	<p>Working as an artist in an audio- visual entertainment industry, including but not restricted to:</p> <ul style="list-style-type: none"> - Advertisements - Films - Television - Serials - Any other such entertainment or sports activities 	<p>i. <u>Shall not include circuses or street performances for monetary gain</u></p> <p>ii. Shall include other activities where child him/her self is participating in:</p> <ul style="list-style-type: none"> - Sports competition or event or training for such competition or event - Cinema, documentary, shows on television such as quiz, reality show, talent show or radio program - Drama serials - Anchor of a show or event - Other artistic performances that the Central Government permits on individual case <p>iii. Producer of audio visual production house or manager of</p>	<p>i. Hours of work: 5 hours a day; not more than three hours without rest.</p> <p>ii. Permission in Form C:</p> <ul style="list-style-type: none"> - Valid for 6 months from date of issue - Shall state provisions made available for <ul style="list-style-type: none"> ✓ One responsible person per maximum of 5 children for each production ✓ Education ✓ Safety ✓ Protection from sexual offence and mechanism for reporting any such offence against a child ✓ Physical and mental health of the child ✓ Nutritional diet ✓ Safe, clean shelter ✓ Child shall not consecutively work for more than 27 days. <p>iii. 25 % of the child's earning shall be deposited in a nationalised bank in the name of the child and shall be credited on attaining majority</p> <p>iv. All audio- visual entertainment</p>

		any commercial event including children must take permission from the District Magistrate in Form C provided with the Central Government Rules	involving children shall issue a disclaimer at the beginning stating, 'that due permission was obtained for involvement of children, and their protection from abuse, neglect and exploitation was ensured in line with the laws of India'
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Further, if a child receiving education in a school remains absent for more than thirty consecutive working days without intimation to the Principal or Head Master of such school, the Principal or Head Master may report the same to the District Nodal Officer appointed for curbing child labour in the District.

2.3 WHAT IS PROHIBITED EMPLOYMENT FOR AN ADOLESCENT LABOURER?

Any adolescent in the age group of 14 to 18 years is prohibited to work or employed in any occupation or process set forth in Part A of the Schedule of Hazardous occupations and Processes in the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986.

2.4 WHAT ARE THE CONDITIONS WHICH APPLY IF ADOLESCENT IS PERMITTED TO BE EMPLOYED IN NON-HAZARDOUS OCCUPATIONS AND PROCESSES?

In all other occupations or processes other than those set forth in the Schedule, the following conditions shall apply:

<i>Element of work</i>	<i>Conditions applicable</i>
Hours of work	<ol style="list-style-type: none"> 1. Cannot work for more hours than prescribed for that establishment or class of establishments 2. No period of work shall be fixed as stated in point 1 above but no adolescent shall work consecutively for over three hours; hence no adolescent shall work for more than 3 hours without rest 3. No period of work shall be more than six hours a day 4. It cannot be between 7pm and 8 am

	<ol style="list-style-type: none"> 5. They cannot work overtime 6. Cannot at an establishment on the same day as he has been working in another establishment
Weekly Holiday	<ol style="list-style-type: none"> 1. Every Adolescent shall be allowed one whole day holiday every week 2. The specific day of such holiday shall be evidently displayed in the organisation 3. Such day shall not be altered more than once in every three months
Notice to Inspector	<ol style="list-style-type: none"> 1. Every establishment employing an adolescent has to send the labour inspector within local limits the following info about their establishment: <ul style="list-style-type: none"> - Name and the situation of the establishment - Name of the persons in actual management of the establishment - Address to which communication relations to be sent - Nature of the occupation or process carried on in the establishment 2. This should be send within 30 days from the starting of the program
Regulation regarding age	<ol style="list-style-type: none"> 1. During a labour inspection, the inspector shall in every instance where he is unsure if the employed person is a child below 14 years or an adolescent who is employed in a hazardous occupation ask to see a certificate of age granted by the prescribed medical authority. 2. In case such record does not exist, the inspector may refer to prescribed medical authority to for decision regarding age of concerned child or adolescent
Maintenance of Register	<ol style="list-style-type: none"> 1. All establishments where adolescents are employed or permitted to work shall maintain a register with the following information: <ul style="list-style-type: none"> - Name and date of birth of the adolescent - Hours of work in a day, period of work before interval,

	<p>period of interval</p> <ul style="list-style-type: none"> - Nature of work of the adolescent <p>2. The register will be maintained as per Form A of the Rules</p> <p>3. The register shall be maintained yearly and retained for a period of three years from the date of last entry.</p>
Health and Safety	<p>1. The health and safety of the adolescents shall be ensured with respect to points (a) to (x) given in Section 13 sub-section (2) of the Act.</p>

SECTION 3- PREVENTION OF CHILD LABOUR AND ADOLESCENT LABOUR IN HAZARDOUS EMPLOYMENT

The Child and Adolescent Labour Amendment Act, 2016 and amended Central Rules look to prohibit child labour and adolescent labour in hazardous employment. An important aspect of the such prohibition is prevention of child labour and adolescent labour in hazardous employment. This also falls in line with the SDG target 8.7 to eliminate child labour in all its forms by 2025 and SDG goal 4 to ensure universal access of quality education to all children. Prevention activities to be undertaken may be categorized as follows:

3.1 CREATION OF AWARENESS: Specific action has been identified as necessary to create awareness among general public and vulnerable communities for prevention, and ensuring that children have access to free and compulsory education, this includes

- ✦ Public awareness campaigns using folk, traditional media, mass media such as television and / or radio etc. These can be targeted to the general public, consumers, vulnerable communities, employers etc.
- ✦ Awareness campaigns to include specific provisions to encourage reporting such as making the number of the police, child line and local district nodal office in the labour department easily accessible.
- ✦ Create and display in an easily understandable manner provisions of the Act and the Rules in public places such as shopping centers, movies, buses, trains, hospitals, panchayat offices etc.

3.2 BUILDING CAPACITY OF INSTITUTIONS: Creating prescribed institutional mechanisms and building capacity of institutions to carry out tasks assigned to them is also one of the prerequisites to prevent child labour and adolescent labour in hazardous employment.

- ✦ Formation of a District Task Force (DTF) in every district with the District Magistrate as its chairperson, with members as prescribed under Rule 17 C (iii). The task force shall meet once a month and shall identify areas in the district vulnerable to child labour (NCLP survey, survey as per the Bonded Labour Rehabilitation Scheme and/ or information from the local CWC etc maybe used). The task force shall coordinate such activities as necessary at the local level for awareness generation, monitoring and stopping child labour and adolescent labour in hazardous employment.

- ✦ The labour department shall appoint a district nodal officer from among the inspectors who shall track the cases of child labour and recommend necessary activities in the monthly DTF meetings for prevention of child labour and adolescent labour in hazardous employment.
- ✦ Consistent tracking of complaints of child labour and adolescent labour in hazardous employment through the online portal 'Pencil'. Follow up of victims of child labour who have been enrolled into the National Child Labour Project to ensure prevention through preventing their re-entry into the labour market and their regularity in school

3.3 COORDINATION AND CONVERGENCE AMONG AGENCIES: An important step towards prevention is coordination among various child protection agencies at the District, State and Center.

- ✦ Training of all agencies including those in the Central Labour Service, police, judiciary, civil services, doctors, teachers training, and sensitization of panchayat members on child labour and adolescent labour in hazardous employments, to help them identify, report and take necessary action to prevent such cases
- ✦ The Act and rules also recognise the important role the education department has to play in protection of children from labour, and adolescents from hazardous labour. At the school level reporting of children who have been irregular to school for more than 30 days and ensuring enrolment and retention of all children; and at the State and Central level inclusion of information about child labour in the syllabus and education material is key in ensuring prevention of child labour.
- ✦ Consistent coordination and work with other agencies at the district level such as District Child Protection Unit (DCPU), Special Juvenile Police Unit (SJPU), Child Line, District Magistrate/ Sub-District Magistrate , Child Welfare Committee, National Child Labour Project, Village-level Child Protection Committee under ICPS, District-level Vigilance Committee under ITPA Act, 1986, Schools and Panchayat through the both the District Task Force (DTF) and building strong networks to collect information and implement prevention programs including awareness and monitoring.
- ✦ Coordination and convergence with local level skill development department can ensure skill training of young persons to protect them from being employed in hazardous labour

3.4 KNOWLEDGE MANAGEMENT: Managing existing knowledge and ensuring availability of sufficient information for data driven planning to prevent child labour is key.

- ✦ Information from surveys such as the NCLP survey and the survey under the Central Sector Scheme for Rehabilitation of Bonded Labourers can ensure identification and mapping of vulnerability towards child labour and adolescent labour in hazardous employment.
- ✦ Ensuring the above stated information as well as information from CWCs is fed into 'Pencil' and then analyzed to map vulnerable geographical areas, areas of employment etc to plan prevention programs as well as to identify new forms of hazardous labour for adolescents or hazardous work where children should not help also leads to prevention.

An illustrative list of places where awareness generation against child labour and provisions of Child and adolescent labour (P&R) Act, 1986 may be undertaken. Note that this list is not exhaustive:

- i. Railway coaches and at railway stations
- ii. Major bus stations
- iii. Toll plazas
- iv. Ports and port authorities
- v. Airports
- vi. Public places including shopping centers, markets, cinema halls, hotels, hospitals
- vii. Panchayat offices, police stations, resident welfare association offices, industrial areas
- viii. Schools, educational institutions,
- ix. Court complexes, and offices of all authorities authorised under the Act

3.5 Authorities to undertake Prevention Activities at various Levels:

Central Government	<ul style="list-style-type: none"> • Pan India awareness campaigns in electronic, print and social media • Workshops conducted at National and Regional Levels to sensitize enforcing authorities of labour department and NCLP Staff • National/ Regional Conferences to sensitize State Governments • Use of PENCIL Portal for awareness generation and lodging complaints
State Government-Labour Department through State Resource Centers	<ul style="list-style-type: none"> • Awareness generation through print, electronic and social media preferably in local language • Conduct workshops for officials of State Labour department, Police and District administration • Posting the provisions of the C&AL(P&R) Act at public places • Community programmes like nukkad natak etc. to have attitudinal change
DM supported by the District Nodal Officer	<ul style="list-style-type: none"> • Hold regular monthly meetings of Task Force to prepare Action Plan and monitor its implementation • Involve community in enforcement and monitoring • Monitor absence of children from school for more than 30 days
NCLP Project Society under DM	<ul style="list-style-type: none"> • Awareness generation using pamphlets etc in the community with emphasis on personal interface with community members • Counseling of parents/ guardians against the employment of children • Conduct periodic survey to estimate incidence of child & adolescent labour
NGO's	<ul style="list-style-type: none"> • Awareness generation • Coordination with District Nodal Officer in implementation of District Action Plan

SECTION 4: IDENTIFICATION OF CHILD LABOUR AND ADOLESCENT LABOUR IN HAZARDOUS EMPLOYMENT

Identification is the first step of a process that allows presumed child labour victims to access to proper and safe assistance and protection measures and eventually to be officially identified as victims of child labour.

4.1 HOW TO IDENTIFY A VICTIM?

Identify primary source of information and how it was obtained. Information can be obtained from:

- Survey under the National Child Labour Project or Central Sector Scheme on Bonded Labour;
- Proactive investigation or networks formed with important stakeholders by police, or DTF, or labour department, or NGOs;
- Labour inspection in Factory/ Company or any other inspection conducted by labour inspector;
- Complaint received through Pencil;
- Complaint received from NCLP project;
- Complaint received from employer;
- Complaint received from parents, or relatives;
- Complaint received from Central Ministry, NCPCR, SCPCR, NHRC, SHRC, NALSA, SLSA, DLSA etc
- Complaint received from CWC, SMC/ Teachers, Community-level Child Protection Committee;
- Self- reported by the victim;

4.2 An illustrative list of where source information can be obtained is listed below. Note that this list is not exhaustive:

- x. PENCIL Portal of Ministry of Labour and Employment
- xi. CHILDLINE-1098
- xii. Survey Report of National Child Labour Project of District
- xiii. Report of Principals to District Nodal Officer for absence of more than 30 days of children
- xiv. Civil Society/ Panchayat members/ Community
- xv. Known source areas Officials of other departments, e.g. Ministry of Women and Child Development, MOHRD etc.

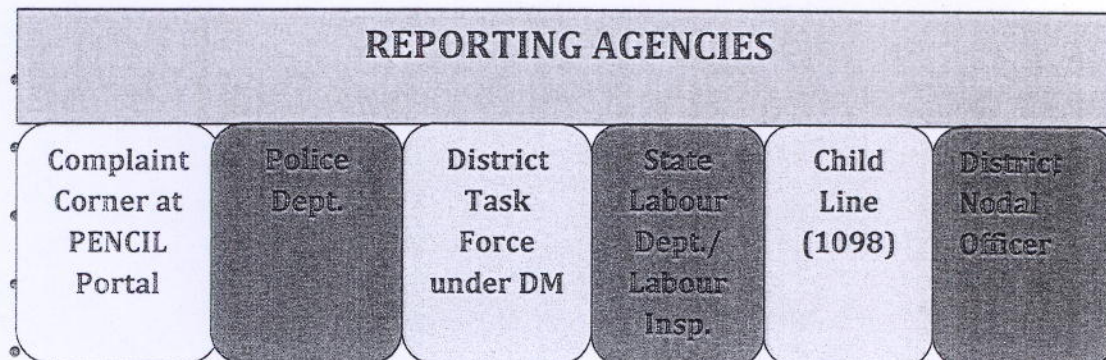
4.2 WHO CAN REPORT?

Any person through phone, e-mail, helpline, in person, any other means can report and incident of child labour or adolescent labour in hazardous employment.

- A parent or a legal guardian or relative
- Labour Inspector/ District Nodal Officer in the Labour Department
- NGO workers
- Outreach workers or Social Workers
- CWC/ DCPU/ Members of the Community-level Child Protection Committee
- Child Helpline
- Child labour victim herself/himself
- Trade unionists or employers
- Railway police/ SJPU
- DLSA/ SLSA/ NALSA
- NCPCR/ SCPCR
- NHRC/ SHRC
- All public servants
- Nurse, doctor or management of a nursing home or hospital
- Panchayat Members
- Principal/ Teachers/ School Management Committees of educational Institutions
- Any person

4.4 WHERE TO REPORT A COMPLAINT?

Anyone having any information about a child labour, may contact the following agencies.

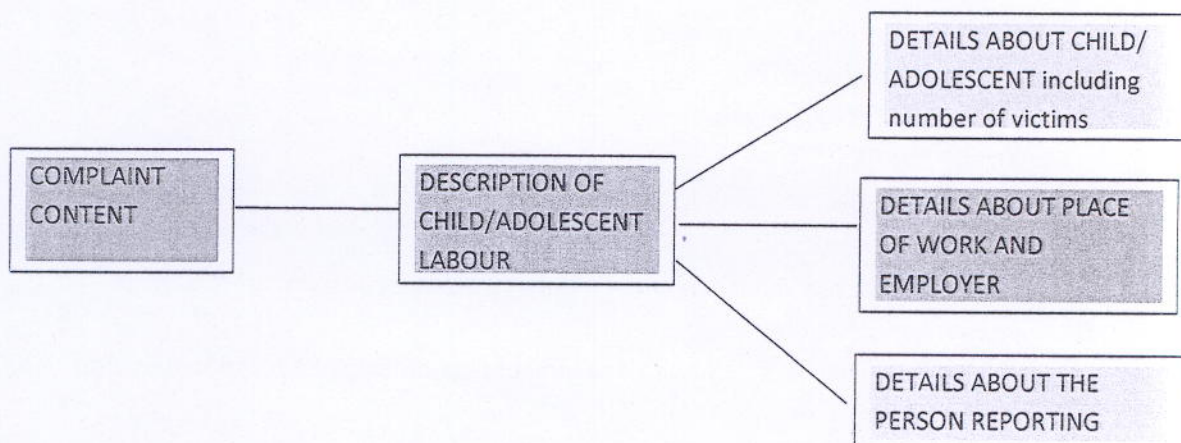


These agencies will verify the complaint, either through direct site visits or through resources identified by the District Task Force within 24 hours of the receipt of the complaint. If the complaint is found to be genuine, all agencies are to report the complaint to the police department who may begin the process for rescue. .

The procedure to make a complaint on PENCIL is at Annexure 1, list of District Nodal Officers along with contact numbers is at Annexure 2

4.5 WHAT SHOULD THE COMPLAINT CONTAIN?

The written complaint should contain a description about the place where the child/ adolescent is working, details of place and address of working place, name of employer, suspected child/ adolescent labour, probable age of child/ adolescent, if possible picture of the child/ adolescent.



4.6 HOW TO REPORT A COMPLAINT?

On receipt of the complaint the police proceed to identify the relevant laws to include when a complaint is registered, including the Child and Adolescent Labour (Regulation and Prohibition) Act, 1986.

Section	Offence	Punishment
14		
(1)	Employing a child or permitting a child to work	Imprisonment for a term that shall not be less than 6 months but which may extend to 2 years or with fine which shall not be less than Rs. 20,000 but which may extend to Rs. 50,000 or with both. <i>(Parents or guardians may not be punished under this section)</i>
(1A)	Employing an adolescent or permitting an adolescent to work in a hazardous occupation or process listed in Part A of the Schedule	Imprisonment for a term that shall not be less than 6 months but which may extend to 2 years or with fine which shall not be less than Rs. 20,000 but which may extend to Rs. 50,000 or with both. <i>(Parents or guardians may not be punished under this section)</i>
(2)	A repeat offence of the above stated sections	Imprisonment for a term which shall not be less than 1 year months but which may extend to 3 years'
(2A)	Parents who commit a repeat offence	Fine which may extend to 10000 rupees
(3)	Violations of any other section of the Act including conditions for adolescents to work	Imprisonment for a month or with fine of 10000 rupees or with both

For a case of child labour the following sections in various laws may also be considered for trafficking, crimes against a child during employment and bonded labour	IPC Sec 370, 370A, 342, 343, 344, 363A, 374
	JJ Act 2015 Sec 74-88, 80-85, 87, 42, 33-34 (in case of children)
	BLSA 1976 Sec 16-23

If there is a case of sexual exploitation then the following sections may also be considered	POCSO 2012 Sec 3-18 (in case of children) IPC 342, 343, 344, 346, 354A, 354B, 354C, 354D, 366A, 366B, 509
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4.7 ROLE AND RESPONSIBILITY MATRIX OF EACH STAKEHOLDER IN IDENTIFICATION:

Police Department	<ul style="list-style-type: none"> • Proactive identification of child labour and adolescent labour in hazardous employment through creating networks with various implementation and child protection agencies. • Verification of complaints • Filing of FIR with relevant provisions of law •
District Nodal Officer	<ul style="list-style-type: none"> • Statutory responsibility of enforcement of the C&ALPR Act • Holding periodical meetings of Task Force • Verification of complaints received on child & adolescent labour • File complaint with police and facilitate formation of team for rescue • Furnish first action report on Pencil •
District Task Force	<ul style="list-style-type: none"> • Meet at least once in every month; • Make a comprehensive action plan for conducting the rescue operation; • Upload the minutes of such meeting on the PENCIL portal • Maintain database of NGOs to facilitate identification and verification

Labour Department	<ul style="list-style-type: none"> • Filing case in case of Child labour reported • Ensure provisions of Child Labour (Prohibition and Regulation) Act are complied with • • Update enforcement data on PENCIL Portal
National Child Labour Project-Project Society	<ul style="list-style-type: none"> • Conduct Survey for prevalence of child labour in district • Support in identification and rescue operation •
NGO and Market Associations	<ul style="list-style-type: none"> • Report Child Labour or adolescent labour in hazardous employment to District Nodal Officer or the police • Maintain close coordination with stakeholders
PENCIL Portal of Ministry of Labour and Employment	<ul style="list-style-type: none"> • Complaint filling corner for entire country • Complaint tracked for action taken by district nodal officer • Coordinate with State Resource Center for enforcement. •

SECTION 5: PRE- RESCUE

For every verified complaint:

- Assess the vulnerability of the situation.
- If there is a risk to life, liberty or safety of the child or if there is a risk of the child being moved conduct immediately; FIR can be filed simultaneously.
- The District Task Force may create a schedule every month for a stand by team of stakeholders who may be called upon for immediate rescue. These may be shared with all stakeholders involved.

5.1 CONSTITUTION OF RESCUE TEAMS

A comprehensive rescue team consisting of a spectrum of stakeholders shall be constituted for the rescue of child labourer or adolescent labour in hazardous employment. Given below is a suggestive list of law enforcement agencies, independent witnesses and other persons with valuable skill sets to be included in a rescue team.

While carrying out a rescue operation, a rescue team shall be constituted, which may comprise of the following members:

- a) Police/ Special Juvenile Police Unit
- b) District Nodal Officer or Labour Inspectors
- c) District Magistrate or the Sub- Divisional Magistrate (A case of child labour could also be a case of Bonded Labour)
- d) CWCs/ DCPO/ Members of village level child protection committees;
- e) Representative of District Legal Services Authority;
- f) Women police officer;
- g) NGOs, representative of child helpline services; and
- f) Translators, counsellors etc.



Remember: Safety of the victim is of primary importance, hence while the above stated list is a comprehensive list for a rescue team and maybe used by the DTF to develop and maintain a schedule for availability of above stated stakeholders, a rescue maybe conducted on emergency basis by the police personnel.

5.2 PREPARATION FOR RESCUE:

a) Logistical Support: The rescue team needs to ensure that adequate logistical support is available with them in terms of

- food,
- water,
- clothes, blankets
- medical kit with first aid (provide for all basic toiletry needs such as sanitary napkins etc.)
- translator if required
- map the nearest hospital and availability of professional medical help in case of emergencies. Have an ambulance on stand by
- Inform nearest child care institution, or fit person, fit facility as approved by the district DCPU or CWC of the rescue for immediate shelter. Ensure that this information is at the disposal of DTF for immediate and planned rescue.
- Prepare for adequate number of vehicles to transport the all victims and accused separately. This can be supported by the ICPS, the police or the State Resource Center constituted under the NCLP scheme

b) Pre- raid preparations: These are just a suggestive list of activities

- Assign a recce team who can coordinate with the beat constable and map the area. Do not leave the area unattended
- Assess risk of child labourer/s being hurt/ moved etc to decide on the time of rescue. After assessing risk, wherever possible obtain a search warrant from the Jurisdictional Magistrate under section 166 of the CrPC
- Assess the best mode of operation- is a decoy required? Do you need plain clothes police person? How agile are your team members? How can resources available be used to facilitate the rescue?
- Ensure sufficient equipment such as weapons, rope, ladder, torch, pad, pen paper, audio recorder etc

- Cordon off the area; map and plan to block all exists before rescue to avoid escape/ movement of accused
- Arrange for photographer/ videographer for collection of evidence
- Ensure division of team into people who will tag the accused, members who will rescue and move the victims to an area of protection, and members who will collect evidence. All members should have clarity on their roles and responsibility
- **Ensure sufficient arrangements so that that victims and accused are separated immediately.**

SECTION 6: RESCUE

6.1. STEPS TO BE TAKEN FOR RESCUE:



Remember: Each rescue should be dealt with on a case to case basis. The rescue team should be alert and each action must be guided towards rescuing all victims, ensuring protection of the victims and collecting evidence for investigation.

1. Make a General Diary Entry when leaving the police station that ensures that the information with respect to source/ victim/ location is not compromised
2. Ensure coordinated arrival of all rescue teams and make sure that information is not leaked and victims are not hurt, moved and that the accused do not escape.
3. Immediately arrest the accused and separate the accused from the victim
4. Ensure thorough search of the place. Look for false doors, roof, hiding out areas etc. Make sure that no child or adolescent is left behind
5. Explain the situation to the child. Use the help of the translator and the NGO representative or the representative of the DLSA for the same. Remember to use child friendly language.
6. Collect evidence of work done by the victim, food bills, tickets, documents of vehicles/ property owned, computers, phones, any other electronic items, records/ identity cards of each victim, identity cards of the accused etc. Make a seizure memo.
7. Make a site map of the area. Denote what was recovered from which place, where was the accused, where was the victim etc. Take photos/ videos to support this.
8. Develop a disclosure memo.
9. Sec 74 of the JJ Act, 2015, mandates ensuring the anonymity of a rescued child (here a child means a person below the age of 18 years). Contravention of this provision is punishable with imprisonment of 6 months. **Ensure anonymity of the rescued child and adolescent**
10. Seal the premises.

6.2 ENFORCING AGENCIES AND THEIR ROLE IN RESCUE:

Police Department	<ul style="list-style-type: none"> • Conducting rescue- Rescue can be conducted without FIR and FIR can follow • Ensure that the victim is not arrested during rescue • Collect evidence at the time of rescue in form of photographs and documents for prosecution. • Ensure confidentiality and protection of identity of all victims. <p>post</p> <ul style="list-style-type: none"> • Immediately place the rescued persons in a place of safety for the time of investigation by police, which is necessarily away from the offender • Ensure that FIR is registered including relevant provisions of all laws to get justice for victim. • Ensure protection of the victim during recording of evidence in front of the metropolitan/judicial magistrate. • A photocopy of all documents to be furnished during the proceedings to Police/victim and parents/guardian in case of a child and others concerned. • Present case before the Child Welfare Committee
Non-Governmental Organization	<ul style="list-style-type: none"> • Ensure that the victim is not arrested during rescue. • Ensure confidentiality and protection of identity of all victims <p>post</p> <ul style="list-style-type: none"> • Ensure that FIR is registered including relevant provisions of all laws to get justice for victim and prosecution for offender • Ensure protection of the victim during recording of evidence in front of the metropolitan/judicial magistrate • A photocopy of all documents to be furnished during the

	proceedings to Police/victim and parents/guardian in case of a child and others concerned.
Short Stay Homes/Child Care Institutions (CCIs)	<p>Post</p> <ul style="list-style-type: none"> • Receive the rescued persons for the time of investigation by police.
State Legal Services Authority	<ul style="list-style-type: none"> • Provide empaneled lawyer or paralegal to assist during rescue <p>post</p> <ul style="list-style-type: none"> • Provide legal assistance to victims. • Ensure that no right is violated during the process • Provision of legal aid and counseling to victims • Monitoring status of bail • Ensure that findings from prosecution are followed up and enforced if applicable
Public Prosecutor	<p>post</p> <ul style="list-style-type: none"> • Monitoring status of bail. • Ensure that findings from prosecution are followed up and enforced if applicable.
Medical Board	<p>Post</p> <ul style="list-style-type: none"> • Immediate medical attention and medical examination should be provided to the victim.

SECTION 7: POST RESCUE

7.1 PROTECTION OF VICTIM

The basic needs of the rescued child must be met immediately after rescue and the child should be provided with sufficient information regarding the situation and reassured of her/ his safety, It is the first and one of the most important steps in building trust with the child and adolescent labour.



Remember: A victim should never be treated as an offender, kept in a lock up or made to interact with the offender. All interaction with the victim should be in child friendly language. Attention should be paid to ensure that the victim does not meet the accused or her/his representative

- i. **Registration of FIR:** The police should ensure that FIR is registered including relevant provisions of all laws. Additional to child labour or adolescent labour in hazardous employment, the child could also be a victim of trafficking, crimes against the child, kidnapping, sexual exploitation etc. Refer to 4.6 of the SOP for relevant sections. In case of trafficking also remember to include economic offences under Maharashtra Control of Organized Crime Act, 1999 and Prevention of Money Laundering Act, 2002.
- ii. **Production in front of the CWC:** All children must be produced in front of the CWC who shall then order inquiry which may include medical examination, determination of age, intermediary care and protection, tracing parents or if the CWC deems fit sending the child with parents, home verification etc. The social investigation report to be filed within 15 days. At this stage or the end of the inquiry, CWC may recommend inclusion of additional sections in the FIR through the Juvenile Justice Board as per the JJ Act, 2015.
- iii. **Counseling of victim:** Counseling should be provided to victims by trained counselor, community social worker or NGOs or DLSA so that the victim is well informed. An assessment of mental trauma caused to the victim and support required should be determined and such information provided to the CWC so that they may

pass suitable orders for the same. All information s/he possess is obtained for the investigation and her/ his needs are heard at all stages of prosecution and rehabilitation.

- iv. **Legal Aid:** Legal aid is to be provided to the victim at the police station and at the place of safety wherever necessary by empanelled lawyers of the DLSA/ SLSA and NGOs. Legal Counseling and advice to the parents of the child must be provided.
- v. **Recording of Statement of Victim:** Victim statement should be recorded as per Cr.PC Section 164 by metropolitan/judicial magistrate only after due psycho social counselling but within a 14 days. The period maybe extended only after such permission is issued from the CWC or Court for reasons recorded in writing.
- vi. **Provision of Medical Aid:** Immediate medical attention and medical examination should be provided to the victim by the medical board. Immediate medical attention is to be provided free of cost to all persons below 18 years as per Rule 55(3) of the Model rules to JJ Act 2015. A violation of the same is an offence as per Section 75 of JJ Act 2015
- vii. **Victim- Witness Protection:** All victims and /or witnesses are entitled to protection on submitting a request for protection to the police or to the concerned Court himself/herself or parent/ guardian or any other person with custody of the child, or police on their own, or the Court on its own motion at any stage. The Police or the concerned Court, may consider order any or a combination of the following:
 - o Denial or Cancellation of bail of the accused
 - o Police protection of a temporary nature and for a specified area such as from home to court and back.
 - o Police protection 24 hrs.
 - o Temporary re-location to safe area
 - o Financial assistance in the form of interim compensation found under section 357A and the Schedule Castes and Tribes (Prevention of Atrocities) Act, 1989, or the Central Sector Scheme for Bonded Labour
 - o Foster care in case of children where the parents/ guardians/ any other fit person or fit institution who has charge of the child
- viii. **Orders:** All orders and proceedings relating to victim/ witness protection shall be maintained with utmost secrecy and in perpetuity. These records can be accessed only under specific orders of the Court under whose custody the records are maintained in

usual course.

- ix. **Victim-Witness Deposition:** The local District Legal Services Authority must consistently follow up on witness depositions to ensure that the witness is able to safely depose. Ensure that the victim/ witness has sufficient travel allowance and safe shelter. Use in camera trial and video conferencing where ever applicable and deemed necessary.

7.2 STRENGTHENING PROSECUTION:

- i. **Assessment of Appropriate Sections of Law:** All relevant sections as per the facts of the case must be mentioned in the FIR and in the charge sheet based on the evidence collected during investigation. The police may avail the services of the public prosecutor, the empanelled lawyer from DLSA or with the aid of the paralegal designated to the police station for the same.
- ii. **Medical Examination of the Accused:** Medical examination of the accused may be done as required under S. 53, 53 A and 54 of Cr. PC.
- a. If a woman offender is to be arrested do not fail to utilize:
 - b. the provisions of s. 46 (4) Cr. PC (no woman should be arrested after sunset and before sunrise, but in exceptional circumstances, the woman police officer shall obtain prior permission from the jurisdictional Judicial Magistrate First Class), and
 - c. provision of s. 50 - A, Cr. PC (obligation of person making arrest to inform a nominated person about the arrest etc.).

- iii. **Sealing of place of exploitation, attachment of property and confiscation of assets:**

The Investigating Police Officer can move an application to the District Magistrate through Superintendent of Police to order detailed inspection of the place of exploitation to record the existing conditions in order to close that place under the provisions of the Criminal Procedure Code or the Criminal Law Amendment Ordinance, 1944.

The Labour Department can move an application to the Magistrate to order closure of the illegal factories and cancellation of registration of legal factories/ places of work

for non-registration of migrant workers under Interstate Migrant Workmen (Regulation of Employment & Conditions of Service) Act 1979, The Factories Act 1948, Shops and Commercial Establishments Act and various other safety and welfare legislations.

7.3 STRENGTHENING INVESTIGATION:

- The police must finish investigation as diligently as possible in a time bound manner. As per section 173 (1A) of CrPC the same must be completed in 3 months and trial must be completed in a year wherever possible in a case where an offence under POCSO is registered.
- Charge sheet must be filed as soon as possible and public prosecutor briefed to the full extent.

7.4 SPEEDY TRIAL:

- As far as possible trial must be completed in a time -bound manner.
- Summary Trial wherever applicable: Provision of summary trial as per BLSA. Victim friendly court procedures to be followed at all times.
- Monitor Status of bail: Denial or cancellation of bail for the accused is possible and maybe applied for where further investigation is required or there is evidence for that the accused on bail will hamper with the investigation.
- Victim Friendly time bound trial: The trial should be conducted in a victim friendly manner and all efforts should be made to ensure that it is time bound.

Section 8: REHABILITATION

Rehabilitation of all child labourers and adolescent labourers who have been rescued may be done through coordinated and convergent action by a series of stakeholders.

8.1 SOCIAL REHABILITATION:

Child Welfare Committee: All persons below 18 years who have been rescued have to be produced in front of the CWC. The CWC must conduct an inquiry which includes a home verification process and a social investigation report. Based on the same the CWC may pass orders for:

- ✓ If home verification is approved: the victim should be sent back to her/his community/home and the CWC may pass an order for repatriation. The CWC can order and provide for the necessary monetary support required for repatriation. For safe repatriation within the state and between States the CWC will inform the concerned authorities in the receiving area, such as the local CWC. The CWC may also order an NGO or the SJPU to accompany the child.
- ✓ If home verification is not approved: arrangement should be made for the victim in long term rehabilitation a child in need of institutional support may be send by the CWC to,
 - Children's home
 - Fit facility
 - Fit person
 - Foster Care

till he/she is 18 years old, with periodic monitoring of the CWC through the individual care plan. Subject to conditions under section 45 of the Juvenile Justice Act such child maybe provided sponsorship. After the child attains 18 years under section 46 of the said Act she or he may be provided with further financial support.

- ✓ The CWC will issue rehabilitation card for each child to monitor the progress made on their individual care plan. The rehabilitation card should be updated by the PO/CWO of the concerned CCI or the authority providing rehabilitation at the district.
- ✓ CWC to make an individual care plan (with information on health and nutrition needs, special needs, educational, training, emotional, psychological, restoration,

follow up, social mainstreaming, life skills, protection from all kinds of exploitation and abuse). This has to be reviewed after three months and modified as per progress.

8.2 EDUCATIONAL REHABILITATION

Children who are rescued from labour or adolescents who are rescued from hazardous employment shall be linked to suitable education facilities by **National Child Labour Project (NCLP)** in following steps:

- ✓ If the child is between 5- 8 years she/ he will be directly linked to the Sarva Shiksha Abhiyan to access their Right to Education
- ✓ A child between 9- 14 years will attend two year bridge education in the NCLP Special Training Centers and then will be mainstreamed to the schools under Sarva Shiksha Abhiyan program
- ✓ An adolescent between 14 – 18 years will be linked to a skill development program run by the Government of India or the particular State Government.

8.3 ECONOMIC REHABILITATION

- ✓ Back wages: All rescued child labourer and adolescent labourers in hazardous employment shall be paid back wages at a rate not less than minimum wages for their period of employment. This shall be given to the victim by the employer on the order of the Court.
- ✓ Immediate financial assistance of Rs 20000 under the Central Sector Scheme for Rehabilitation of Bonded Labourer 2016 if the child/ adolescent are a bonded labour. This scheme is applicable to cases of trafficking, bonded labour, child labour, forced prostitution, begging rings, etc. Additional compensation up to 3,00,000 is available on issuing of release certificate by the District Magistrate
- ✓ As per CrPC Section 357A victim compensation scheme, whenever a recommendation is made by the Court for compensation, the District Legal Services Authority (DLSA) or State Legal Services Authority (SLSA) as the case may be shall decide the quantum of compensation to be awarded under this scheme.
- ✓ Economic Compensation: As per MC Mehta vs. State of Tamil Nadu and Ors. Writ Petn. (C) AIR 1997 SCC 699 No. 465 of 1986 Judgment,
 - Rs 20000 per child are to be paid by the employer to a “Child Labour

Rehabilitation-cum-Welfare Fund” to be used only for the benefit of that child.

- In addition, the Government is to provide employment to an adult family member of the child or contribute Rs 5000 per child to this fund.
- ✓ In case of child labour, according to Sec 14(B) of C&ALPRA 1986, a Child and Adolescent Labour Rehabilitation Fund is to be formed in two or more districts. **An additional amount of Rs 15000 is to be credited by the Government for each child in such fund. The amount deposited and income accrued shall be given to the child as per Child and Adolescent Labour (Prohibition and Regulation) Central Rules.**

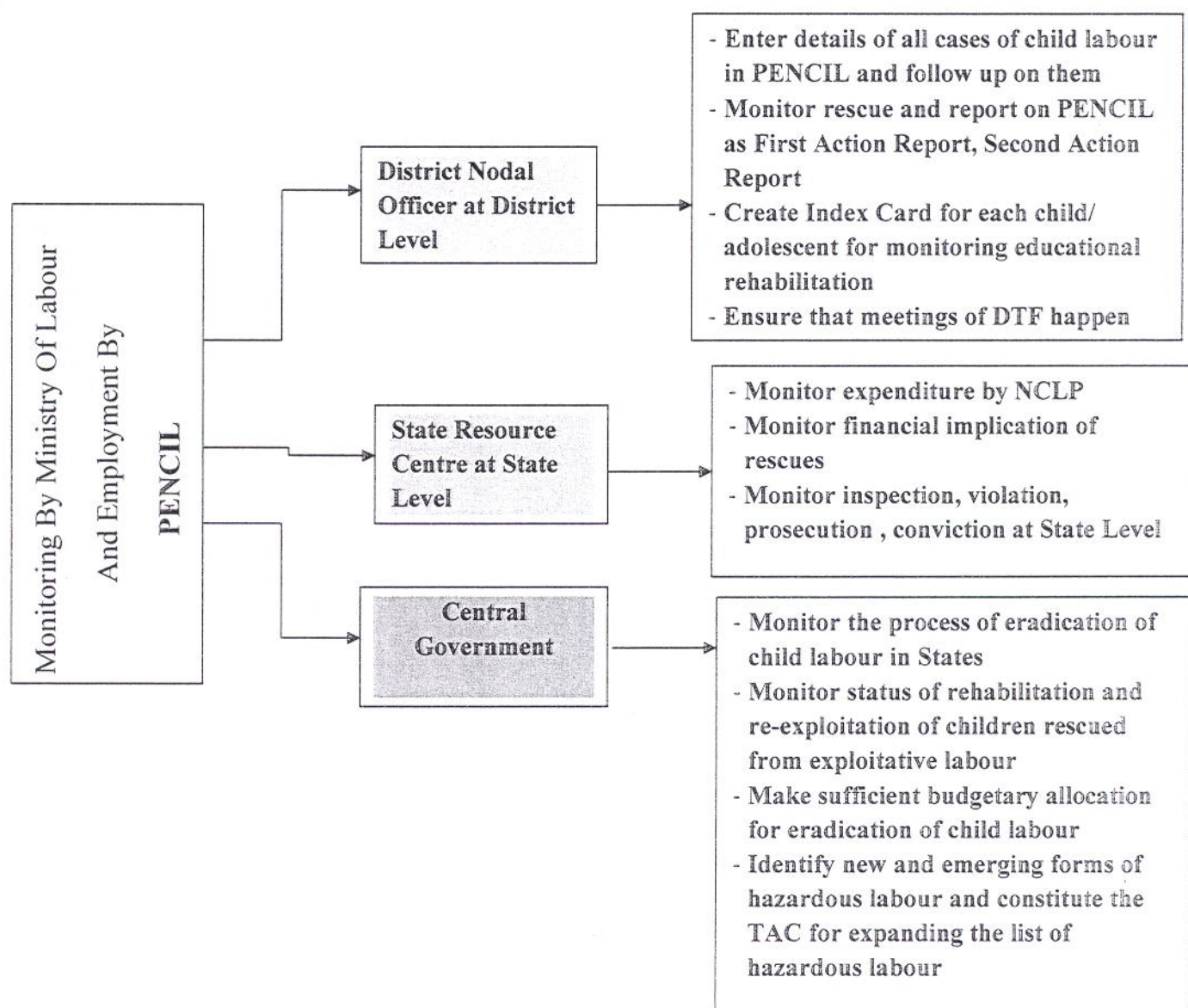
8.4 ENFORCING AGENCIES AND THEIR ROLE IN REHABILITATION:

Child Welfare Committee under MOWCD	<ul style="list-style-type: none"> • Provide social rehabilitation • Provide appropriate shelter and institutional support • Prepare Rehabilitation Card for the child
Ministry of Labour and Employment	<ul style="list-style-type: none"> • Educational Rehabilitation through NCLP • Prepare Index card for tracking educational rehabilitation on PENCIL Portal • Provide stipend to children enrolled under NCLP • Compensation under Bonded Labour Scheme
State Labour Department	<ul style="list-style-type: none"> • Transfer of funds in the Child and Adolescent Labour Rehabilitation Fund for the child as per M.C.Mehta Judgment and C&AL(P&R) Act, 1986 • Payment of back wages to the child
District/ State Legal Services Authority	<ul style="list-style-type: none"> • Compensation as per CrPC Section 357A victim compensation scheme

SECTION 9 : MONITORING

Enforcement of the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986 and Rules made therein are to be monitored both by an elaborate monitoring mechanism within the Ministry of Labour and Employment as well as by external independent agencies, thereby assuring robust enforcement of the law.

9.1. MONITORING MECHANISM OF MINISTRY OF LABOUR AND EMPLOYMENT: PENCIL PORTAL



9.2. MONITORING MECHANISMS AT THE DISTRICT, STATE AND CENTRAL LEVEL:

Commissions formed at the center, state and district level have the mandate to monitor the implementation of child labour

- ✦ National Human Rights Commission along with its counterpart at the state are to look into any violation of human rights not addressed, including child labour and adolescent labour in hazardous industries.
- ✦ The National Commission for Protection of Child Rights and its counterpart at the State levels as well as those at the District Child Protection Unit at the district level have a mandate to monitor the protection systems for children all over the country. While the NCPCR and SCPCR reviews policy implementation, the DCPU regulates and monitors institutions on the field such as the children's homes, community level monitoring committees etc
- ✦ NALSA, SLISA and DLSA have the mandate to monitor coordination among agencies, and convergent implementation of laws and schemes for the eradication of child labour. They also have the mandate to monitor access to justice of every child

LIST OF ABBREVIATIONS

1. BLSA- The Bonded Labour System (Abolition) Act, 1976
2. C&AL(P&R) Act- Child and Adolescent Labour (Prohibition and Regulation) Act
3. CCI- Child Care Institutions
4. CWC- Child Welfare Committee
5. DCPO- District Child Protection Officer
6. DCPU- District Child Protection Unit
7. DM – District Magistrate
8. DTF- District Task Force
9. DLSA – District Legal Services Authority
10. IPC- Indian Penal Code
11. ICPS- The Integrated Child Protection Scheme
12. ILO- International Labour Organization
13. ITPA - Immoral Traffic (Prevention) Act
14. JJ Act- Juvenile Justice Act, 2015
15. MOWCD- Ministry of Women and Child Development
16. NALSA- National Legal Services Authority
17. NCLP- National Child Labour Project
18. NCPCR- The National Commission for Protection of Child Rights
19. NGO- Non Governmental Organization,
20. NHRC- National Human Rights Commission
21. POCSO- The Protection of Children from Sexual Offences Act
22. SCPCR- State Commission for Protection of Child Rights
23. SDG- Sustainable Development Goals
24. SHRC- State Human Rights Commission
25. SJPU- State Juvenile Police Unit
26. SLSA- State Legal Services Authority
27. SMC- School Management Committee
28. TAC- Technical Advisory Committee

