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# **Missing Children: Guiding Principles Followed**

## **By The Stakeholders And Other Authorities**

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### **I. Introduction:**

In India, the 2nd largest population in the world, is equivalent to 17.7% of the total world population, out of this fraction, 26.6% of the population of our country is between the age groups of 0–14 years as per the 2020 report by the World Bank Collection of development indicators, and 41% of the population is less than 18 years old as per the 2001 census.<sup>1</sup> To build a future, we need to nurture things from the roots up and "Save the Children". But every eight minutes, a child goes missing in India. Overall, 73,138 children were reported missing, and the number of missing children has increased by 8.9 %, according to the 2019 report by the National Crime Record Bureau's (NCRB). The Capital City has the highest number of missing children in India, with 17 children going missing every day, according to the Delhi Commission for Protection of Child Rights (DCPCR). Across India, hundreds of women and children go missing daily because of the law enforcement agencies' nonappearance in properly investigating the missing persons or children. Only few of the missing person family members who were aware about the way to whom they have approach, only those person giving complaint to Police and other district and State offices. India has recently ratified the UN protocol on trafficking in persons. It has accepted and acknowledged the fact that trafficking is an organised crime and a crime against humanity<sup>2</sup>.

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<sup>1</sup> Ministry of Statistics and Programme Implementation &UN (World Population Prospects 2019)<https://statisticstimes.com/>

<sup>2</sup> Sushmita Panda, 'A child goes missing in India every eight minutes', SUNDAY GUARDIAN LIVE (16 Jan, 2022, 8:30 pm ) <https://www.sundayguardianlive.com/news/child-goes-missing-india-every-eight-minutes>.

## **II. Definition Of Missing Children :**

The Ministry of Home Affairs has defined missing child as 'a person below 18 years of age, whose whereabouts are not known to the parents, legal guardians, and any other persons who may be legally entrusted with the custody of the child, whatever may be the circumstances/causes of disappearance'. According to the SOP by the Ministry on Women and Child Development 'Missing Child' is defined as: A "missing child" may be one who is lost (separated from family), has left home on his/her own without a notice or has been abducted or kidnapped or trafficked or abandoned . The same definition has been provided in the SOP of Delhi Police Order No. 252/2019. Furthermore, the Rule 92 (1) of the Juvenile Justice (Care and Protection of Children) Model Rules 2016 defines a missing child as; "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." This definition is quite similar to the one provided by the ministry of Home Affairs. Further, the Rule 84 of JJ Act specifies that; "(f) for the purposes of this Act, the provisions of sections 359 to 369 of the Indian Penal Code, shall apply to a child or a minor who is under the age of eighteen years and all the provisions shall be construed accordingly". Another definition was evolved by the Supreme Court in Bachpan Bachao Andolan v. UOI & Others; wherein the '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. This definition seems the basis of the definition provided by the Ministry. As per the Court, the child will be considered missing and in need of care and protection within the meaning of the later part of the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act), until located and/or his/her safety/well being is established.<sup>3</sup>

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<sup>3</sup> Supreme Court Case: Writ Petition(C) No. 75 of 2012 order dated 10.05.2013 Bachpan Bachao Andolan Vs. Union of India & Ors.

### **III. Source Of Information:**

Directly by the complainant by visiting Police Station.

- Through Police Control Room (number 100)
- Missing children/person helpline or any other helpline number
- Through FAX/E-mail/SMS/Whatsapp or other social media platforms
- Through the proposed Police Web Portal and Mobile Application

### **IV. Information Received On Missing Children/Persons**

#### **Helpline:**

All possible assistance IS being provided to the complainant/ caller. The staff deployed at the helpline shall perform the following duties.

- Obtain the full description of missing children.
- Advise the caller to give full details of missing children.
- Inform the PCR, District Missing Person Unit, Concerned Police Station.
- A register of all the calls received, with details of the victim and contact number and address of the caller/complainant.

### **V. Duties & Responsibilities Of Stakeholders In Missing Children As Per Guidelines By Judicial Bodies & Government:**

The following departments are entrusted with specific responsibilities in the cases of missing children:

1. Department of Home Affairs Central/State
2. Judicial Authority (Concerned District Magistrate),
3. Child Welfare Committee (CWC)
4. Juvenile Justice Board(JJB)
5. Law Enforcement Agencies(Police Officers/IO)

6. Legal Services Authorities & NGO's
7. Press & Media

### **1.Ministry of Home Affairs:**

The Ministry of Home Affairs has the most important role and responsibility for safeguarding the people of the country in general and the children in particular. Accordingly, the Ministry furnishes guidelines for missing children, so that Investigating Officers and other department officials can be assigned appropriate action for searching missing children all over the country.

The Ministry has set up a national level coordination agency to be termed as 'Organized Crime Investigation Agency (OCIA)', and the Standard Operating Procedure were laid down to handle the cases of missing children and to invoke appropriate provisions of law, with the objective to investigate, collect intelligence of the cases of human trafficking and other organized crimes, train the law enforcement officers and coordinate in rescue and rehabilitation of the victims. The Ministry was directed to issue appropriate directions to the neighboring States of Delhi to adopt a web-based Zipnet program with regard to missing children.<sup>4</sup>

### **2. Judicial Authority (Concerned District Magistrate):**

- The Concern District Magistrate has a big role in missing children cases, upon receipt of the information recorded under Section 155, CrPC they 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.<sup>5</sup>

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<sup>4</sup> Hon'ble High Court of Delhi, W.P.(Crl) No.249 of 2009 Own Motion v. State, order dated 16.09.2009

<sup>5</sup> Section 155 in The Code Of Criminal Procedure, 1973

Information as to non- cognizable cases and investigation of such cases.

(1) When information is given to an officer in charge of a police station of the commission within the limits of such station of a non- cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may prescribe in this behalf, and refer the informant to the Magistrate.

(2) No police officer shall investigate a non- cognizable case without the order of a Magistrate having power to try such case or commit the case for trial.

(3) Any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police station may exercise in a cognizable case.

(4) Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are non- cognizable.

- Section 98, CrPC confers on the Magistrate powers to pass orders directing the restoration of a female child under the age of 18 years to her parents, guardian or other person having the lawful charge of such Child. This section aims at summary disposal of an application because a protracted inquiry in the matter would defeat the very object for which this section is capable of execution and once an order has been passed it is open to the Magistrate to use all lawful means for the restoration of female Child. While dealing with juveniles, the Court ought to proceed strictly in line with the principles of the best interests of the child and zealously guard their welfare.<sup>6</sup>

### **3. Law Enforcement Agencies(Police Officers/IO):**

- Law enforcement agencies have duties and responsibilities 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.
- The Station House Officer and the Inspector (Investigation) will ensure that immediate action is initiated as per this Standing Order on receipt of a complaint or information about the missing child/person. The first 15 days and especially the first 48 hours from the date of receipt of information/ complaint about the missing of a child are very crucial.
- A Missing Report should be lodged in the Daily Diary of Police Station immediately.
- Registration of a case is mandatory in cases of all missing children below 18 years of age.
- IO/SHO will be held responsible if any complaint disclosing non-registration of FIR in connection with the missing child IS received.
- As soon as DD Entry/FIR about the missing of children/person IS recorded/lodged, Police Control Room should be informed immediately and uploaded on ZIPNET/ 'Track The Missing.Child' portal immediately but not later than 24 hours.
- The footage of CCTV cameras, installed in the vicinity of scenes or last seen should also be scanned within 48 hours.

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<sup>6</sup> Supreme Court of India in W.P.(CrI.) No. 610 / 1996 HORI LAL v. Commissioner of Police, Delhi & Ors ordered dated 14.11.2002

- Any person having inimical terms with the missing children/ family should be identified and examined within 24 hours.
- Once a complaint is filed by family members of the missing child before the police authorities, the same must be entertained under the provision of the law and after referring the information to the Magistrate concerned, they shall continue with the inquiry into the complaint. 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 JJ Act. Special Juvenile Welfare Officers on duty in the police station should be present in shifts.<sup>7</sup>
- Delhi Police will ensure strict compliance with its revised Standing Order No. 252 dated 18th March, 2009. The information with regard to missing children shall be immediately uploaded on Delhi Police web based Zipnet programme.
- The Police shall ensure that the Supreme Court interim directions/guidelines pertaining to missing/kidnapped children passed in Writ Petition (Crl.) No. 610/1996 (Horilal v. Commissioner of Police, Delhi), and in the case of Lalita Kumari v. Govt of U.P. and Ors. (Writ Petition (Crl. (68/2008) and in the case of Bachpan Bachao Andolan vs Union of India Writ Petition (Civil) no. 75 of 2012), were strictly complied with.<sup>8</sup>

#### **4. Child Welfare Committee**

The CWC & JJB have equal role and responsibility in missing children cases, in case the FIR is not registered in a case of missing/trafficked child, they must immediately direct the police for registration of FIR for offences committed against these children, termed as Children in the Need of Care and Protection.<sup>9</sup>

- When a missing child is found or recovered and/or a child in conflict with law is found to be a missing child by the JJB or the Police, he shall also be produced before the Committee, as the case may be, for appropriate direction.
- In case FIR is not registered in a case of missing/trafficked child, immediately forward the complaint/case to JJB, who shall direct the police for registration of FIR for such child and also for offences committed against such children in need of care and protection.

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<sup>7</sup> Lalita Kumari v. Govt. of UP and Others AIR 2012 SC 1515

<sup>8</sup> Bachpan Bachao Andolan Vs. Union of India & Ors. Writ Petition(C) No. 75 of 2012 order dated 10.05.2013

<sup>9</sup> 58 (1995) DLT 673

- Any three members of the Committee together, may take suo moto cognizance of any case of missing child, report to the police, or the AHTU immediately and initiate process of providing care and protection to the child.
- Assess the needs of the child and pass orders with respect to repatriating the child or placing the child in a fit facility or with a fit person, or declare free for adoption or foster care, or any other arrangement by following due process of law, keeping in mind the best interest of the child.
- Engage services of the DCPU/District Legal Services Authority in the source district of the found/traced child, to facilitate smooth and effective rehabilitation of the child, and for any other legal support. Ensure that the case of the child has been linked to the District Legal Services Authority.
- Ascertain if the child is in need of any medical care, and pass direction to link the child to the appropriate medical institution.
- In the absence of adequate proof of age, pass directions for age determination test of the child. The report of the test should be obtained immediately after the test results have been concluded. In the meantime, the child may be placed in a fit facility.

##### **5. Juvenile Justice Board (JJB)**

- If any found/traced child is produced before the Juvenile Justice Board as a child in conflict with law, such a child should immediately be redirected to the relevant Child Welfare Committee after due enquiry, for initiating the process of rehabilitation.
- In case FIR is not registered in a case of missing/trafficked child, immediately direct the police for registration of FIR for offences committed against children in need of care and protection.
- Ensure availability of free legal aid for the child through the District Legal Services Authority.
- Create an individual care plan as per the Juvenile Justice (Care and Protection of Children) Act, 2015 and the Rules therein, for each child's including follow up by the Probation Officer the District Child Protection Unit or a member of a non-governmental

organisation, as it may be required as per Section 8 (3) (h) or Section 19 (2) of the Juvenile Justice (Care and Protection of Children) Act, 2015.<sup>10</sup>

#### **6. Legal Services Authorities & NGOs:**

- The 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.
- The State Legal Services Authorities should also work out a network of NGOs, whose services could be availed for the purpose of tracing and reintegrating missing children with their families.
- 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.<sup>11</sup>

#### **7. Role Of Press & Media:**

- Role of Press Media in view of the missing child, an important role in increasing public awareness of missing children This could be achieved as follows:
- 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 them from the custody of the police.<sup>12</sup>
- Newspapers can make a separate section in their classified sections on missing children. The notices and advertisements on missing children need to have a better display and be given more prominence and space in newspapers and TV bulletins.
- Newspapers or TV channels with an emphasis on local news can have an arrangement with above-mentioned authorities, which has worked in the area to print without charge announcements and advertisements on missing children.<sup>13</sup>

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<sup>10</sup> Vikaspedia, SOP for cases of Missing children, <https://vikaspedia.in/social-welfare/women-and-child-development/child-development-1/sop-for-cases-of-missing-children> (Last Visited on Aug,17.2022)

<sup>11</sup> Supreme Court Case: Writ Petition(C) No. 75 of 2012 order dated 10.05.2013 Bachpan Bachao Andolan Vs. Union of India & Ors.

<sup>12</sup> Ibid

## **VI. Steps To Be Taken When Child/Person Is Found Or Recovered**

- ACP and SHO will be able to monitor the progress of activities on the pending complaints and cases through their respective Dashboards in CCTNS.
- All ACP and SHOs will supervise the efforts made to search the missing children on a day-to-day basis, particularly during the first 15 days.
- In the case of very young children, the SHO should get the immediate search of the neighborhood as well as the place from where the child was reported missing.
- All SHOs will also ensure that the record of missing children as well as forms of traced out missing children are filled up and sent to the DMPU immediately.

## **VII. Conclusion:**

Children are the future of a nation. While healthy, prosperous, and growing children ensure a bright future, exploited and physically weak children not only suffer but also fail to contribute towards the growth of the country. State authorities for child welfare and law enforcement agencies have to follow the proper guidelines according to the direction of judicial bodies in various cases in missing children. The main issue that starts from the family of missing children, in particular with parents quarreling and other abuses faced by children with other family members etc. and also poverty & illiteracy is the main reason for economically backward class people to take care of their children more efficiently to satisfy their children's basic needs. Therefore, the administration bodies of our Nation have a big role and responsibility to follow the principle of judiciary and to take proper care of the future generation that is the well-being of the children of our nation.

## References:

### Case Laws:

1. Supreme Court of India in W.P.(Crl.) No. 610 / 1996 HORI LAL V/s Commissioner of Police, Delhi & Ors ordered dated 14.11.2002
2. Supreme Court Case: Writ Petition (Criminal) No. 68 of 2008 Lalita Kumari Vs. Govt of U.P & Ors Judgment Dated 12.12.2013(Five-Judge Constitution Bench)
3. Supreme Court Case: Writ Petition(C) No. 75 of 2012 order dated 10.05.2013 Bachpan Bachao Andolan Vs. Union of India & Ors.
4. Supreme Court Case: Writ Petition(C) No.56 of 2004 Order Dated 09.12.2015 Prajwala Vs. Union of India & Ors.
5. High court of Delhi Case: Writ Petition (Criminal) No. 82 of 2009 Bachpan Bachao Andolan Vs. Union of India & Ors. Order Dated 10.09.2014.

### Website:

1. <https://tradingeconomics.com/india/population-ages-0-14-percent-of-total-wb-data.html>
2. <https://www.sundayguardianlive.com/news/child-goes-missing-india-every-eight-minutes>
3. <https://statisticstimes.com/demographics/country/india-population.php>
4. <https://www.sayingtruth.com/different-ways-to-find-missing-person-in-india/>
5. <https://www.newindianexpress.com/cities/delhi/2020/aug/17/frightening-statistics-on-missing-children-put-delhi-police-on-a-mission-to-find-them-2184413.html>
6. [https://nhrc.nic.in/sites/default/files/misc\\_MCRReport.pdf](https://nhrc.nic.in/sites/default/files/misc_MCRReport.pdf)
7. <https://pib.gov.in/newsite/PrintRelease.aspx?relid=132880>
8. <https://districts.ecourts.gov.in/sites/default/files/1Roll%20of%20Magistrate%20in%20Criminal%20%20Sri%20Shiva%20Prasad%20Yadav.pdf>
9. <https://vikaspedia.in/social-welfare/women-and-child-development/child-development-1/sop-for-cases-of-missing-children>
10. [https://www.researchgate.net/profile/Banti-Kumar-2/publication/356787359\\_Role\\_of\\_bachpan\\_bachao\\_andolan\\_in\\_protection\\_of\\_child\\_human\\_rights\\_in\\_India/links/61acd63129948f41dbc8e598/Role-of-bachpan-bachao-andolan-in-protection-of-child-human-rights-in-India.pdf](https://www.researchgate.net/profile/Banti-Kumar-2/publication/356787359_Role_of_bachpan_bachao_andolan_in_protection_of_child_human_rights_in_India/links/61acd63129948f41dbc8e598/Role-of-bachpan-bachao-andolan-in-protection-of-child-human-rights-in-India.pdf)