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# **CHAPTER 1**

## **INTRODUCTION**

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The issue of missing children is a multi-dimensional social problem and it is difficult to obtain an accurate and unambiguous picture of the missing children phenomenon. The complexities of the issue are derived from the changing definition of what actually constitutes a missing or abducted child. Missing is a term that is widely used in law enforcement and if a child is missing under virtually any conditions, even if the circumstances are simply a misunderstanding of where the child should be, that incident is counted as a missing child.

Many cases of missing children are resolved without serious incident. These cases of missing children actually encompass many different social problems, including abductions by family members, nonfamily (or stranger) abductions, children who run away, children who are abandoned, and children who are lost or injured. Parental abductions, which constitute the overwhelming majority of abducted children are, statistically, not as physically harmful to the victim as stranger abductions. Parents in those situations are usually involved in a custodial feud with their spouses. The most serious type of abductions, which are classified as stereotypical kidnappings, is the rarest and the most dangerous. Over 40 percent of these incidents end with the child's death. (Source: The National Incidence Studies of Missing, Abducted, Runaway, and Thrown away Children, 1990)

In India, more than 40,000 children are reported missing to the police in India each year, and many additional cases of missing children go unreported (National Human Rights Committee

Report, 2000). India witnessed the worst case of missing children in December 2006, when the remains of more than 30 missing children were unearthed from a drain in Nithari. The genesis of this study was a result of the Nithari case, which showed the worst forms of abuse, exploitation and the situation that a missing child could have faced. Prior to Nithari, there were other cases which received national attention, with the earliest such case in 1978 in Delhi. Two siblings, Geeta, 16 years, and Sanjay Chopra, 14 years, were kidnapped by two young men, Kuljeet Singh alias Ranga Khus and Jasbir Singh alias Billa, who planned to demand ransom from the parents of the children. They subsequently raped Geeta, murdered the children and fled from Delhi. They were arrested on a train a few months later, tried, and hanged for the crime in 1982. (Source: Court document, State vs. Kuljeet Singh and Jasbir Singh, 1979)

Between 1990- 1996, Renuka Shinde and Seema Gavit kidnapped a total of 13 children in Maharashtra. The young children were kidnapped from Mumbai, Pune, Kolhapur and Nashik to be used as a front for the two sisters as they committed petty thefts across Maharashtra. The children were killed when they grew older or outlived their utility. Renuka Shinde and Seema Gavit were arrested in 1996 and charges of kidnapping and murder were filed against them. They were sentenced to death by the Supreme Court in June 28, 2001, the first females in India to be awarded capital punishment by the State. (Source: Amnesty international, Public AI Index: ASA 20/021/2006)

In December 2006, Moninder Singh Pandher and his servant Surinder Koli were arrested by the Delhi Police and charged under various sections of the Indian Penal Code which included rape, murder, kidnapping and criminal conspiracy, after more than a dozen skeletal remains of a number of missing children were discovered from a drain in the village of Nithari, near New Delhi. From 2004-2006, at least 38 people, mostly children, had disappeared from the area and it

was only after the recovery of the bodies by local people that action was taken by the police.

A committee set up by the Ministry of Women and Child Development conducted an investigation into the case and presented a report. The Committee observed that the police were insensitive to the woes of poor families, rude in their approach, and their behaviour was generally gender and child insensitive. Almost all the victim families came from poor sections of society, and there was a general perception among these families that police did not care to listen to their problems.

In conclusion, the committee felt that reporting and investigating cases of children missing are not given the necessary priority, especially children from poor families. This is a general situation that prevails across the country. There is also apathy and a general lack of sensitivity about gender and child issues in the police system. Since the act of going missing itself is not a crime, missing children remains a neglected, low-priority intervention area for those in law enforcement. (Report on the Nithari Killings, Ministry of Women and Child Development, 2007)

There is a need to address all these issues relating to missing children, for which we have to gain an understanding of the prevalence of the missing children problem, how and why children go missing, what happens when they do and what is being done to recover them. The knowledge would aid in policy and decision planning for prevention and intervention measures to combat the problem in addition to bridging the gaps and lapses that are found.

It is important to recognize the enormity of the problem, and tackle it politically, legally, and socially with significant commitment from the State and civil society. Today, the country registers 8-10 per cent growth with claims that India would become a world economic power by 2020. However, with children being abused, exploited and trafficked, and their rights violated, the claims of becoming a world economic power remain questionable.

This chapter commences with an introduction to the missing children problem, continues with a presentation of the nature and scope of the problem as it prevails in India and is followed by conceptualization of the problem of missing children and definition of missing children as it exists in the United States, United Kingdom and in India. It goes on to provide information on the legal provisions in child protection in the United States and India. A brief overview of the institutional mechanisms as instated by the government for child protection in India is presented thereafter. The chapter concludes with a look at the psychosocial aspect of the missing children problem and the impact on affected families.

### **Nature and Scope of the problem**

India is a country in which over 55% of the population comprises of children below the age of 18 years, approximately numbering 400 million. These children represent diverse cultures, communities, castes and socio-economic groups. Despite efforts of the Indian government to ensure the best for the nation's children through various policies and programs, a large number of children are denied basic rights and suffer from abuse, neglect and exploitation.

There are countless children who go missing every year. These cases of missing children represent a conglomeration of a number of problems, ranging from kidnapping by family member or non-family member, children who run away or are forced to leave home due to a hostile environment, children who are smuggled or trafficked for various exploitative purposes, and children who are lost. All these cases exemplify a number of social problems. (NHRC, 2007)

As per the National Human Rights Committee report 2005, going by reported statistics, the total number of missing children possibly adds up to more than 50,000 a year on an average. This is based on only those cases that are reported and recorded. On an average, over 40, 000 children in India are reported missing every year, of which approximately 11,000 remain untraced. (Haque: Report on Child Rights 2005) A more recent study in 2008 conducted by Bachpan Bachao Andolan (BBA) has put the annual figure of missing children in India as 90,000.

Since missing children as a group are heterogeneous, it is difficult to provide a specific description for them or to obtain accurate data on the problem. Moreover, many cases of missing children are not reported to the police due to various reasons, and police response to a missing child report varies across the country. All these are serious issues which need to be dealt with in order to put measures in place for the care and protection of the country's children.

### **Concept and Definition of Missing Child**

The concept of missing children as a global phenomenon is multi-dimensional. Children can be considered missing because of a wide range of circumstances. In USA, concern about missing and exploited children gained national prominence in 1981 and in 1984 The Missing Children's

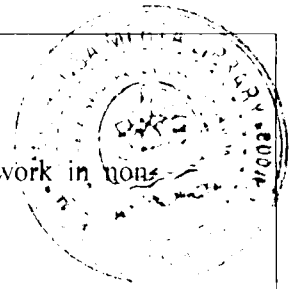
Assistance Act was passed. It mandated the Office of Juvenile Justice and Delinquency Prevention to conduct periodic incidence studies to ascertain the number of children reported missing in the country and the number recovered in a given year.

The study titled National Incidence Study on Missing, Abducted, Runaway, and Thrownaway Children in America (NISMART- 1) was published in 1990 to fulfill the mandate. It found that determining the incidence of missing children was very complex. The term "missing children" was discovered to have distinct multilevel definitions. Those definitions not only included children who were literally missing because they got lost, injured, or did not adequately communicate with their caretakers about their whereabouts or when they would return home, but also included runaways who had left home without the permission of their parents, abandoned children who were asked to leave the home by their parents, children abducted by a non-custodial parent, as well as children abducted by non-family members or strangers.

Furthermore, it was determined that many of the children in at least four of the above categories were not really missing because caretakers knew their whereabouts, but had difficulty in recovering them. Apparently, this uncertainty led to controversy and confusion about the concept of missing children. Report analysts concluded that because of the lack of a single broad definition for missing children, public policy needed to clarify the missing children's issue by establishing "which children and which situations should be included, what do they have in common, and what are they to be called".(Source: NISMART-1,1990)

In India, there are several inconsistencies in the law regarding the definition of a child.

According to the Child Labor Prohibition and Regulation Act, 1986, a child is a person who is below the age of 14 years. Also, Indian laws prohibit a child below 14 years from being



employed in any type of hazardous jobs but a child below 14 is allowed to work in non-hazardous industries.

Section 4, of the Hindu Minority and Guardianship Act (HMGA), 1956, provides that a minor is a person who has not attained the age of 18 years. However, in case the guardians of a minor have been appointed by the Court, for the purpose of his property or person, the age of majority is not 18 years, but 21 years.

The Child Marriage Restraint Act, (CMRA) 1929 provides that the minimum age of marriage for girls is 18 years and for boys, it is 21 years. However, Muslim law provides that the marriageable age is around 14 years. Further, marriage of a minor Muslim girl is not void under Indian law as it is governed by the personal laws of Muslims. However, participants of such a marriage are liable to be punished under the Child Marriage Restraint Act.

United Nations on Convention of the Rights of the Child (CRC), 1989, Article 1 defines the holder of rights as 'every human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.' The Convention clearly specifies the upper age limit for childhood as 18 years, but recognises that majority may be obtained at an earlier age under laws applicable to the child. The article, thus, accommodates the concept of an advancement of majority at an earlier age, either according to the federal or State laws of a country, or personal laws within that country.

Child as defined by the Juvenile Justice Act, (JJA) 2000, includes all persons who have not yet attained the age of 18 years, and we shall adhere by this definition for the purpose of this study.



## **Missing Child**

There is no universal definition of a missing child.

According to Office of Juvenile Justice and Delinquency Prevention, USA, the term "missing child" means any individual less than 18 years of age whose whereabouts are unknown to such individual's legal custodian. (Source: NISMART-1, 1990)

In the United Kingdom, there is no unifying, nationwide, concrete definition on what constitutes a missing child. Without a specific definition of the term missing child, missing children is incorporated into the issue of missing persons. The working definition of a 'missing person' in the UK is "anyone whose whereabouts is unknown whatever the circumstances of disappearance. They will be considered missing until located and their wellbeing or otherwise is established". (Source: Guidance on the Management, Recording and Investigations on Missing Persons, ACPO, UK, 2005)

In India, there is no working definition of a missing child. For the purpose of this study, we shall define a missing child as a child under the age of 18 whose whereabouts is unknown to his or her parent, guardian or legal custodian.

## **Classification of Missing Children**

The National Incidence Studies of Missing, Abducted, Runaway, and Thrown away Children (NISMART-1), released in 1990, was the first major study done by the US department of Justice on the problem of missing children in America. According to the study, missing children can be

classified into two categories: children who have been taken, and those who have left. These two categories were further be broken down into five different sub-categories in the follow up study released in 2000:

1. Non-family abductions;
2. Family abductions;
3. Runaways;
4. Abandoned; and
5. Lost, injured, or otherwise missing.

### **Non-Family Abductions**

This category of abduction is referred to as "non-family" rather than "stranger" because like many crimes committed against individuals, the offender is usually someone known to the victim. Teenagers and girls tend to be the most common victims of non-family abductions, but infants also can be at risk. The risk of other crimes being committed against the missing child increases with non-family abductions. Homicide, sexual assault, sexual exploitation, pornography, and prostitution are among the most common crimes perpetrated against missing children. (NISMART-2)

### **Family abductions**

Abductions of children by a family member occur almost exclusively in instances of divorce, and when all lines of communication between two parents fail. This type of kidnapping is usually a reaction to dissatisfaction with a custody or visitation agreement. It is considered kidnapping once the abductor violates the custody or visitation agreement, regardless of the specific circumstances. For instance, family abductions range from the non-custodial parent keeping

children overnight, to transporting the children out-of-state. (NISMART-2)

## **Runaways**

Runaways constitute the majority of missing children. Often they are considered delinquents, rebels, and troublemakers. However, these children are usually not running *to* something, but rather *away* from a situation which they feel is intolerable. What is important to remember is that runaways do not represent short-term crises. Long-term physical, emotional and/or sexual abuse are common in runaway cases, and simply returning a runaway to his or her home may not be an appropriate resolution. Both the child and family may need to receive professional support and counseling before a possible reunion. (NISMART-2)

## **Abandoned**

Children who are considered "throwaways" are abandoned, told to leave by a caregiver, or are not allowed to return home once they have left. Many throwaways come from lower socio-economic backgrounds. The total number of throwaway children is impossible to estimate. They surface frequently in juvenile detention centers or among the homeless. Often, the only way these children can be accounted for is through shelters where they seek help, as they are rarely reported as missing by parents or caregivers. (NISMART-2)

## **Lost, injured or otherwise missing**

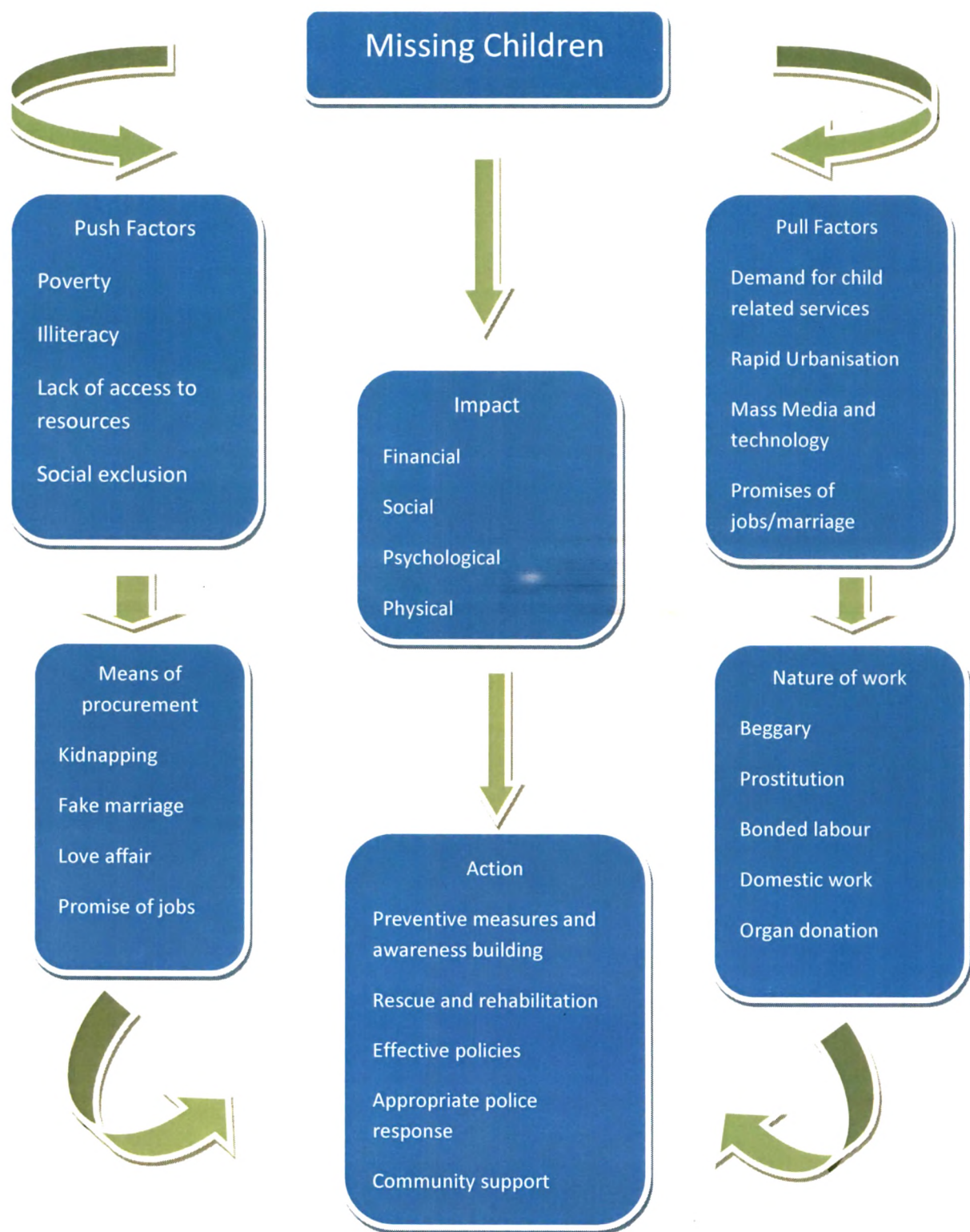
The final sub-category of missing children that do not fit into any of the other four categories are the lost, injured, or otherwise missing children. Children who are hurt, lost, or confused and did not return home when they were expected are not necessarily considered runaway, throwaway, or abduction cases if the circumstances surrounding the disappearance are unclear. (NISMART-2)

**Figure 1: Classification of Missing Children**



*Source: NISMART-2*

**Figure 2: Missing Children - A conceptual Framework**



## **Missing Children and Law**

Law has long been an important part of theories about order and change in society. In socio-legal research the law is considered in the context of broader social and political theories. Therefore it is important to look at whether and how law is implemented and enforced and the role of society in the phenomenon of children going missing. By exploring law's connections with broader social and political forces – domestic and international – a deeper perspective can be gained on the issue of missing children. Since The United States has progressively enacted laws and established programmes to address the issues of child safety and protection, it is worthwhile to focus on the measures that have been taken there in order to deepen one's understanding and knowledge for critical inquiry into India's provisions in the child protection area.

### **Missing Children and Law: USA**

In USA, significant child protection measures have been created over the years with the collaborated efforts of legislators, courts, other child protection advocates and law enforcement agencies to safely recover missing children and protect others from harm. In this section, a brief overview of significant measures enacted in the United States for the safety and protection of children at risk is presented.

The national government, in reaction to the country's outrage over the infamous Lindbergh infant kidnapping in 1932, enacted the **Federal Kidnapping Act (FKA, 1932)** authorizing U.S. Department of Justice intervention when interstate travel is suspected in kidnapping cases. Law-enforcement officers explicitly understood their role in such crimes as one of immediate response and aggressive investigation. The laws were clear to law enforcement to recover the victim and apprehend the criminal.

In the 1960s, with an increase in divorce rates, need for a national strategy for addressing custody disputes both locally and from other jurisdictions and states was felt. In response to this need, every state adopted a version of the **Uniform Child Custody Jurisdiction Act (UCCJA)** between 1968 and 1983.

In 1974 people in the United States and their lawmakers made tentative steps toward addressing the issues of child welfare and protection within the juvenile justice system. Those steps had a major impact on the handling of missing children cases by providing more tools for intervention. Many law enforcement officers once considered the limited use of secure detention as the only option available in selected status-offender cases such as controlling the habitual runaway. But increasing numbers of social service professionals and children's rights proponents argued such detention was inappropriate and harmful for children who had committed no crime. Therefore, in 1974 the U.S. Congress passed the **Juvenile Justice and Delinquency Prevention Act (JJDP, 1974)**.

To encourage jurisdictions to prevent status offenders from being placed in any type of secure detention, the newly created Office of Juvenile Justice and Delinquency Prevention (OJJDP), within the U.S. Department of Justice, was authorized to distribute grants and provide support to those states developing alternate procedural methods. This Act provided for nonsecure facilities where youngsters in need received safe shelter, counseling, and education until an effective family reunion could be accomplished.

Towards the 1970's, it quickly became clear communication among law enforcement agencies concerning notification and information about missing children was in need of improvement.

Recognizing that need, in 1975 National Crime Information Centre (NCIC), an automated, information sharing system maintained by the FBI, instituted the **Missing Person File**. With the introduction of this file, officers anywhere in the nation could verify the report of a missing child who had been entered into the system and access case information within minutes of its entry by the reporting or originating law enforcement agency. As more states adopted the UCCJA, many followed its recommendation about the need for specific criminal sanctions to make its provisions effective. In drafting statutes to provide for these sanctions, some states made the crime of family abduction a misdemeanor while others made it a felony. The remaining states created degrees of crime in which the basic abduction was considered a misdemeanor while certain aggravating factors, such as danger to the child or leaving the state, moved the offense into the felony range.

As individual states enacted criminal, family abduction statutes, groups representing law enforcement officers; prosecutors; nonprofit, missing children organizations; and families emphasized the need for direction from the federal government in the investigation and adjudication of these cases. In response the U.S. Congress enacted the **Parental Kidnapping Prevention Act (PKPA, 1980)** in 1980. The PKPA had a significant impact on law enforcement since it extended certain federal investigative resources to local authorities for the first time.

In the late 1970s and early 1980s three incidents occurred in the United States which brought nationwide focus on the subject of missing and exploited children. Those events were the murders of 29 boys and young men in Atlanta, Georgia, from 1979 to 1981; the abduction of 7-



year-old Etan Patz from a New York City neighborhood in May of 1979; and the July 1981 abduction and murder of 6-year-old Adam Walsh in Hollywood, Florida.

Families of missing children testified before U.S. Congressional committees and voiced the nation's concern about the tragedy of such incidents and need for additional resources to help in the investigation of each case. In response the U.S. Congress passed the **Missing Children Act** (MCA, 1982) in 1982. Specifically the MCA called on law enforcement to strenuously investigate every missing child case and enter all pertinent information about the incident into the NCIC Missing Person File. It also required the FBI to provide assistance in appropriate cases and confirm NCIC entries for the child's parents/guardians. The MCA announced that the federal government viewed the protection of missing children as a priority issue.

Missing-person investigators acquired a significant resource when NCIC inaugurated the **Unidentified Person File** in June 1983. The records maintained in this file allowed law-enforcement officers to compare information from their missing children cases against descriptions of unidentified bodies from jurisdictions across the country.

A significant enhancement in that resource was obtained in 2000 with the passage of the **Child Abuse Prevention and Enforcement Act** (CAPEA, 2000), and **Jennifer's Law** (U.S.C., Title 42, Chapter 140A). CAPEA amended three previous acts, the Crime Identification Technology Act, Omnibus Crime Control and Safe Streets Act, and Victims of Crime Act, expanding their existing grants to include preventing child abuse and apprehending offenders. Jennifer's Law

created a new grant source to enable states to improve the reporting of unidentified and missing persons.

The U.S. Congress displayed its continuing commitment to the issue of missing and sexually exploited children by enacting the **Missing Children's Assistance Act** (MCAA, 1984). In 1984, President Reagan signed into law the Missing Children's Assistance Act, establishing a national clearinghouse of information about missing and exploited children. **The National Center for Missing & Exploited Children (NCMEC)** is designated by the U.S. Congress to fulfill this role, and opened its doors in Washington, DC in 1984. It also directed the OJJDP to maintain a toll-free, 24-hour, national Hotline to take information about missing and exploited children; provide technical assistance to law enforcement, nonprofit/missing children organizations, and families to help locate missing children; develop training programs to aid law enforcement in the investigation of cases involving missing and sexually exploited children; and heighten the public's awareness concerning the issues of missing and sexually exploited children.

In 1988 when the United States ratified the **Hague Convention on the Civil Aspects of International Child Abduction**, a treaty governing the return of internationally abducted children, and the implementing **International Child Abduction Remedies Act** (ICARA, 1988) was passed. ICARA established procedures for bringing court actions in the United States seeking the return of abducted children pursuant to this Hague Convention. This Hague Convention has contributed to the successful return of many children when the other nation is also a signatory of the treaty. Through December 2010 this Hague Convention was in force between the United States and 68 other countries.

Additionally in 1988 amendments were made to the JJDPa to create the **Transitional Living Program for Older Homeless Youth** (TLP) in response to the growing concern for those who need long-term, supportive-assistance, emergency-shelter programs were not designed to provide. The TLP was designed to assist homeless children, ages 16 through 21, make a successful transition to self-sufficient living and avoid long-term dependency on social-service programs. While many of the nation's law enforcement agencies came to realize all missing children, including those who left home voluntarily, were at risk of victimization and exploitation, some agencies remained reluctant to take a report of certain missing children, most often runaways. In response the U.S. Congress passed the **National Child Search Assistance Act** in 1990 (NCSAA, 1990) which mandated certain actions including:

- Federal, state, or local law enforcement agency will not establish or observe a waiting period before accepting a missing child case
- All agencies will enter, without delay, reports of missing children younger than 18 years of age into the NCIC Missing Person File
- All agencies will update identifying information about each case in NCIC within 60 days
- Each case will receive proper investigative action
- All investigators will maintain a close liaison with NCMEC about appropriate cases

The **International Parental Kidnapping Crime Act** (IPKCA, 1993) took effect in December 1993. This Act makes it a criminal offense to remove a child from the United States or retain a child, who has been in the United States, outside of the United States with intent to obstruct the lawful exercise of parental rights. The **Violent Crime Control and Law Enforcement Act** (VCCLEA, 1994) was enacted in September 1994. The Act contains several provisions addressing the issue of missing and exploited children including the **Jacob Wetterling Crimes**

**Against Children and Sexually Violent Offender Registration Act**, which requires any person convicted of a criminal offense committed against a minor or who is convicted of a sexually violent felony to register a current address with a designated law-enforcement agency for 10 years after release from prison, placement on parole, supervised release, or probation. The Act also permits law enforcement to disclose registration information to the community in the interest of public safety.

**The Adam Walsh Child Protection and Safety Act (Adam Walsh Act, 2006)**, enacted on July 27, 2006, places more comprehensive registration requirements on sex offenders and state registration programs. States had to implement these new requirements within three years from the date of enactment. Guidelines on state implementation of the Adam Walsh Act were published by the U.S. Department of Justice in July 2008 and supplemental guidelines were effective as of January 11, 2011.

**Child Safety Act**, which provides for the establishment of supervised visitation centers to permit children at risk of harm from their families to visit them in a safer environment. In 1997 the UCCJEA was drafted and has now been adopted by almost every state. The UCCJEA, intended as an improvement over its predecessor, the UCCJA, clarifies UCCJA provisions that have received conflicting interpretations in courts across the country, codifies practices that have effectively reduced interstate conflict, conforms jurisdictional standards to those of the federal PKPA to help ensure interstate enforceability of orders, and adds protections for victims of domestic violence who move out of state for safe haven.

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The **Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003**, otherwise known as the **PROTECT Act**, gives law enforcement authorities valuable tools to deter, detect, investigate, prosecute, and punish crimes committed against children, strengthens laws against child pornography and addresses deficiencies in federal sentencing policies and practices.

Provisions specifically relating to missing or abducted children include base-offense level increase for kidnapping in U.S. sentencing guidelines, 20-year mandatory sentence for an adult offender whose kidnapping victim is a nonfamily member minor and attempt liability for international family kidnapping.

Other measures include **Suzanne's Law**, which requires each federal, state, and local law-enforcement agency to enter information about missing children younger than the age of 21 into the FBI's NCIC database **America's Missing: Broadcast Emergency Response (AMBER) Alert** program provisions calling for the national coordination of state and local AMBER Alert programs and the development of recommended criteria for the issuance and dissemination of AMBER Alerts. The **Code Adam** program requires designated authorities for public buildings to establish procedures for locating a child who is missing in the building.

Most recently, the **Adam Walsh Act** was passed which provides consistency among state sex-offender registration and community notification laws, amends the requirements for entering information about missing children in NCIC, increases penalties for certain federal offenses involving children and gives law-enforcement authorities more resources to investigate and prosecute crimes committed against children on the Internet.

Specific provisions of the **Adam Walsh Act** include

- Registration of sex offenders before release from prison
- In-person periodic verification of registry information
- Federal and state felony penalties for failure to comply with registration duties
- Tracking of fugitive sex offenders by the U.S. Marshals Service
- More comprehensive state sex-offender websites
- Mandatory entry of missing child reports into NCIC within two hours of receipt
- Removal of a statute of limitations for federal felony child sexual offenses
- Mandatory minimum sentences for federal crimes committed against children
- Creation of additional Internet Crimes Against Children (ICAC) Task Force
- Additional Forensic Analysts dedicated to cases of child sexual exploitation

(Source: United States Congress library archives)

Thus it can be seen that considerable efforts have been made in the United States to ensure maximum child safety and protection through the enactment of several laws in response to the need of the times. The 30 year history of nationwide policy has created a coordinated environment which creates the resources, funding, cooperation and authority necessary to effectively recover and protect missing children. It is because of the existence of concrete laws and clear mandates in the United States that law enforcement officials and other agencies in the care and protection of children can work effectively towards assisting a child at risk.

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## **Missing Children and Law: India**

In the earlier section, an overview of the historical milestones in the United States in the area of child protection and missing children has been presented. In India, there are no specific laws relating to missing children. However, India has a progressive record on legislations relating to human rights including child rights and child protection. The Constitution of India – the basic law of the country- has special provisions for children guaranteed through Fundamental Rights and Directive Principles of State Policy.

In 1974, the Government of India adopted a **National Policy for Children**, declaring the nation's children as 'supremely important assets'. This policy laid down recommendations for a comprehensive health programme, supplementary nutrition for mothers and children, nutrition education for mothers, free and compulsory education for all children up to the age of 14, non-formal preschool education, promotion of physical education and recreational activities, special consideration for the children of weaker sections of the population like the scheduled castes and the schedule tribes, prevention of exploitation of children and special facilities for children with handicaps.

The policy provided for a **National Children's Board** to act as a forum to plan, review and coordinate the various services directed toward children. The Board was first set up in 1974.

**The Department of Women and Child Development** was set up in the Ministry of Human Resource Development in 1985. The Department, besides the **Integrated Child Development Scheme, 1975 (ICDS)**, implements several other programmes, undertakes advocacy and inter-sectoral monitoring catering to the needs of women and children.

In pursuance of this, the Department formulated a **National Plan of Action for Children** in 1992. The Government of India ratified the **Convention on the Rights of the Child (CRC)** on 12 November 1992. By ratifying the Convention on the Rights of the Child, the Government is obligated "to review National and State legislation and bring it in line with provisions of the Convention".

There are several laws which revalidate the rights guaranteed to children by the Constitution of India, and are therefore, powerful weapons to combat forces that deny these rights. The child protection laws related to child labour include the following:

**Children (Pledging of Labour) Act, 1933** declares any agreement by a parent or guardian to pledge the labour of a child below 15 years of age for payment or benefit other than reasonable wages, illegal and void. It also provides punishment for such parent or guardian as well as those who employ a child whose labour is pledged.

**The Bonded Labour System (Abolition) Act, 1976** prohibits forcing a person into bonded labour for debt repayment. The act extinguishes all debt agreements and obligations. It prohibits creation of any new bondage agreement and discharges bonded labourers from all debts for which they were bonded. Compelling a person to render bonded labour is punishable under the law. This includes punishment for parents who pledge their child or other family members to work as a bonded labourer.

**Child Labour (Prohibition and Regulation) Act, 1986** prohibits employment of children below 14 years in certain hazardous processes and regulates it in certain other non-hazardous



processes.

**Juvenile Justice (Care and Protection of Children) Act, 2000** Section 24 of this Act provides punishment for those who procure or employ a child in any hazardous employment, keep her/him in bondage and withhold the child's earning for their own purposes.

The legal framework available for child trafficking is as follows:

- Andhra Pradesh Devadasi's (Prohibition of Dedication) Act, 1988 or Karnataka Devadasi (Prohibition of Dedication) Act, 1982
- Bombay Prevention of Begging Act, 1959.
- Bonded Labour System (Abolition) Act, 1976.
- Child Labour Prohibition & Regulation Act, 1986.
- Child Marriage Restraint Act, 1929.
- Guardian ship and Wards Act, 1890.
- Hindu Adoption and Maintenance Act, 1956.
- Immoral Traffic (Prevention) Act, 1986.
- Indian Penal Code, 1860
- Information Technology Act, 2000.
- Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988.
- Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989.
- Transplantation of Human Organ Act, 1994.
- The Goa Children's Act, 2003
- Protection of Children from Sexual Offences Bill, 2011

The following section explores in detail the important legal provisions related to the care and protection of children to gain further understanding involving the law in the context of missing children.

## **The Indian Constitution**

The Indian Constitution has a framework within which ample provisions exist for the protection, development and welfare of children. The Constitution of India guarantees all children certain rights, which have been specially included for them. These include:

- Right to free and compulsory elementary education for all children in the 6-14 year age group (Article 21 A).
- Right to be protected from any hazardous employment till the age of 14 years (Article 24).
- Right to be protected from being abused and forced by economic necessity to enter occupations unsuited to their age or strength (Article 39(e)).
- Right to equal opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and guaranteed protection of childhood and youth against exploitation and against moral and material abandonment (Article 39 (f)).

Besides these they also have rights as equal citizens of India, just as any other adult male or female:

- Right to equality (Article 14).
- Right against discrimination (Article 15).
- Right to personal liberty and due process of law (Article 21).

- Right to being protected from being trafficked and forced into bonded labour (Article 23).
- Right of weaker sections of the people to be protected from social injustice and all forms of exploitation (Article 46).

According to the Indian Constitution, the State must:

- Make special provisions for women and children (Article 15 (3)).
- Protect interest of minorities (Article 29).
- Promote educational interests of weaker sections of the people (Article 46).
- Raise the level of nutrition and standard of living of its people and the improvement of public health (Article 47).

### **Juvenile Justice (Care and Protection of Children) Act 2000**

The Juvenile Justice Act (JJA) was enacted in 2000 in keeping with the standards for child protection provided by the UN Convention on the Rights of the Child. The JJA is a central legislation that requires each state in India to set up the infrastructure and protocols for implementations of the JJA provisions at the ground level. The JJA was amended in 2006 to further strengthen the juvenile justice process. However, the gap between policy and practice is wide.

This Act classifies children for the purpose of dealing with them into two categories namely Children in conflict with law (including those just allegedly so) and Children in need of Care and Protection. The children in conflict with law are to be dealt by the **Juvenile Justice Boards (JJBs)** usually shortly called as the 'board' and the children in need of care and protection are to be dealt by **Child Welfare Committees (CWCs)**, usually shortly called as 'committee'. The

Act makes it mandatory to have one Juvenile Justice Board in each district to deal with matters relating to juveniles in conflict with law and to establish one Child Welfare Committee in each district as the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of children in need of care & protection and to provide for their basic needs and protection of human rights.

The JJA recognises cruelty against children by people who have the charge of such children or control over such children as a special offence. Section 23 of this Act provides for punishment for cruelty to a child, which includes assault, abandonment, exposure or willful neglect that is likely to cause mental or physical suffering to the child. This law also helps to ensure care and protection of trafficked children and their restoration and reintegration with their family and community.

According to the JJA a child in need of care and protection means a child who does not have parents and no one is willing to take care of him or whose parents have abandoned him or who is missing and is a runaway child, whose parents cannot be found after reasonable enquiry. Therefore, missing children would come under the category of children needing care and protection, falling under the purview of this legislation.

### **The Indian Penal Code (IPC), 1860**

The Indian Penal Code (IPC), 1860 includes ample legal recourse to punish the criminal activities of abduction, kidnapping and forced labour: Section 340 (wrongful confinement), 361 (kidnapping from lawful guardianship), 362 (abduction), 370 (buying or disposing of any person as slave), 371 (habitual dealing in slaves), 372 (selling minor for purposes of prostitution), 373

(buying minor for purposes of prostitution), and 374 (unlawful compulsory labour); with imprisonment ranging from one year to seven.

### **United Nations Convention On The Rights Of The Child**

The most significant of all international laws for children is the UN Convention on the Rights of the Child (CRC). It was in the 1950s that the UN Declaration of the Rights of the Child was adopted by the UN General Assembly. This Declaration was accepted by the Government of India.

Significant features of the UN Convention on the Rights of the Child (CRC) are:

- Applies equally to both girls and boys up to the age of 18, even if they are married or already have children of their own.
- The convention is guided by the principles of 'Best Interest of the Child' and 'Non-discrimination' and 'Respect for views of the child.'
- It emphasises the importance of the family and the need to create an environment that is conducive to the healthy growth and development of children.

It obligates the state to respect and ensure that children get a fair and equitable deal in society and draws attention to four sets of civil, political, social, economic and cultural rights- Right to Survival, Right to Protection, Right to Development and Right to Participation.

Since missing children fall within the category of Right to Protection, it is important to expand upon it. Right to Protection includes freedom from all forms of exploitation, abuse, inhuman or degrading treatment and neglect. Further, Children are entitled to special protection in special circumstances such as situations of emergency and armed conflicts, in case of disability etc.

All rights are dependent on each other and are indivisible. Most protection rights fall within the category of immediate rights and therefore demand immediate attention and intervention.

(Source: UNICEF, India)

### **Palermo Protocol**

On 13th May, 2011 India ratified the United Nations Convention against Organised Crime also known as Palermo Protocol and its three protocols. This convention is the main international instrument in the fight against transnational organized crime.

It recognizes the need for international cooperation in order to tackle those problems. The convention is further supplemented by three Protocols, which target specific areas of organized crime namely Protocols to combat (1) trafficking in persons (2) migrant smuggling and (3) illicit trafficking in firearms.

According to Article 3 of the UN Protocol, 2002, "Trafficking in persons" shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

This ratification is an important milestone in the area of human trafficking as the lack of a comprehensive legislation and policy in India has often been the reason for inefficient law enforcement response. The ratification of this convention means that it is now binding upon

India to develop a law that conforms to the International Convention and its provisions. Thus it has wide range consequences that would help curb transnational trafficking. In most instances criminal gangs involved in large scale kidnappings, abductions and forced labour of children cannot be apprehended as the laws in the country are more biased towards prosecuting the employers or pimps in case of prostitution. The ratification of this protocol therefore brings the traffickers for forced labour within the purview of law in the country. (Source: [www.palermoprotocol.com](http://www.palermoprotocol.com))

### **Missing children: Institutional Mechanisms**

Institutions and structures under the various laws have been provided to protect the rights of the child. The institutions and structures under the Juvenile Justice Act are: Observation Homes, Special Homes, Children's Homes, Shelter Homes, Juvenile Justice Boards (JJBs), Child Welfare Committees (CWCs), Special Juvenile Police Units (SJPU), Child Protection Units, and After-care Organizations. In addition, there are Family Courts established under the Family Courts Act, 1984, and the National Commission for Protection of Children Act, 2005.

**Shelter Homes** function as temporary drop-in centres for children in need of care, protection, and urgent support. The state governments recognize reputed and capable voluntary organizations and provide them with assistance to set up and administer as many shelter homes as required. (Section 37, Juvenile Justice (Care and Protection of Children) Act 2000)

**Children's Homes** have to be established and maintained in every district or group of districts by the state government or voluntary organization certified by the state government, for the

reception of a child in need of care and protection initially during the pendency of any inquiry. After the inquiry is over, the Child Welfare Committee may send the child to the Home for their care, treatment education, training development and rehabilitation. (Section 34, Juvenile Justice (Care and Protection of Children) Act 2000)

**Observations Homes** are set up and maintained in every district or a group of districts by the state governments or voluntary organizations, certified by state governments, for children in conflict with the law. Children in conflict with the law are temporarily placed in Observation Homes during the pendency of any inquiry pertaining to them under the Act. Initially, a juvenile is kept in the reception unit of the observation home for preliminary inquiries, care and classification of the juvenile according to his/her age group, physical and mental status, and nature of offence. (Section 8, Juvenile Justice (Care and Protection of Children) Act 2000)

**Special Homes** have to be established and maintained in every district or group of districts by the state government or voluntary organization certified by the state government for reception and rehabilitation of children in conflict with the law. (Section 9, Juvenile Justice (Care and Protection of Children) Act 2000)

**After-care Organizations** have to be established or recognized by the rules under the JJA made by the respective state governments. These organizations are slated to take care of juveniles or children after they leave special homes and children's homes to enable them to lead honest, industrious and useful lives. The report of the probation officer for each child, before his/ her discharge from the Special Home or Children's Homes, and the necessity and nature and period of after-care will be determined for each child. The maximum period of stay in after-care organizations is three years and the juvenile or child must be above 17 years but less than 18



years of age, and s/he would be able to stay there till s/he is 21 years of age. (Section 44, Juvenile Justice (Care and Protection of Children) Act 2000)

**Child Welfare Committees (CWCs)** have to be constituted under the JJA to deal with children in need of care and protection for every district. The Committee consists of the Chairperson and four other members, and among the members, one of them has to be a woman and another an expert on matters concerning children. The Committee has the powers of a Metropolitan Magistrate or a Judicial Magistrate of First Class. A child in need of care and protection can be produced before the CWC by any police officer or a designated police officer or special juvenile police unit, by any public servant, by Childline (a registered voluntary organization) or any state government recognized voluntary organization, or by the child himself or herself. There is a provision in the Act for a social worker or a public-spirited citizen to produce the child before the CWC, provided the child is produced before the CWC within 24 hours. Restoration of a child to his/her parents including adopted and foster parents, guardians, fit persons and fit institutions, and protection to a child are the primary objectives of setting up the CWCs. Members of a CWC have the very serious responsibility of dealing with issues that include victims of child sexual abuse, trafficked children, child labourers, bonded labourers, disabled children, displaced children, migrant children, etc.

**The Juvenile Justice Board (JJB)** has been constituted under the JJA to deal with juveniles in conflict with the law. The Chief Metropolitan Magistrate (CMM) or Chief Judicial Magistrate (CJM) must review the pending cases every six months. In case there is a large pendency of cases, they must direct to increase the frequency of sittings of the Board or constitute additional Boards, to clear the pending cases.

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**The Special Juvenile Police Unit (SJPU)** of the police force of a state for dealing with juveniles in conflict with the law or children in need of care and protection has to be formed as mandated by the JJA. In every police station, at least one trained police officer needs to be designated to deal with children (Section 63, Juvenile Justice (Care and Protection of Children) Act, 2000)

### **Government Institutions**

Government institutions are established structures and mechanisms of social order and co-operation governed by value, structure and process. The government institutions that have been established for the care and protection of children are enumerated as below.

#### **National Institute on Public Cooperation and Child Development (NIPCCD)**

National Institute on Public Cooperation and Child Development (NIPCCD) is an organization for promotion of voluntary action research, training and documentation in the overall domain of women and child development. It was established in New Delhi in 1966. Besides many key areas of interests, Child Rights and Child Protection, Juvenile Justice, prevention of trafficking of women and children, prevention of child marriage are also important areas. ([www.nipccd.nic.in](http://www.nipccd.nic.in))

#### **National Human Rights Commission (NHRC)/ State Human Rights Commission (SHRC)**

The National Human Rights Commission (NHRC) and the respective commissions in the states were established as per the provisions of The Protection of Human Rights Act, 1993. The commission is an embodiment of India's concern for the promotion and protection of human rights. State Human Rights Commission functions in each state in areas relating to human rights. SHRC operates under the aegis of NHRC. The NHRC had undertaken a pioneering Action research on Trafficking in Women and Children in India in 2002-03. The study done by Dr. P.

M. Nair attempted to collate data on missing persons in India and investigate the links between missing persons and trafficking. The study highlighted the unseen linkages and exposed the poor system of data maintenance and management on missing persons. The research showed the figures of missing children to be as high as 44,000 in a year. ([www.nhrc.nic.in](http://www.nhrc.nic.in))

**National Commission for the protection of Child Rights (NCPCR)/ State Commission for the protection of Child Rights (SCPCR)**

The National Commission for Protection of Child Rights (NCPCR) is a statutory body of the Government of India under the Commissions for Protection of Child Rights Act, 2005, set up in March 2007 to protect, promote and defend child rights in the country. India ratified the United Nations Child Rights Convention in the year 1992 and this Act was passed as one of the necessary steps to protect the rights of the children in the country.

The National/State Commission consists of seven members, including a Chairperson and six members, of which at least two need to be women. The Act provides for Children's Courts for speedy trial of offences against children or of violation of Child Rights. The Act empowers the state government to notify at least a court in the state or a Court of Sessions in each district as a Children's Court, with the concurrence of the Chief Justice of the concerned High Court. For every Children's Court, the state government is required to appoint a Public Prosecutor or an advocate who has been in practice for not less than seven years as the Special Public Prosecutor.

The function of the commission is to:

- Examine any law or constitutional provisions to ensure that the safeguards of the law protect child rights
- Provide the central government with recommendations to improve correct the safeguards

- Inquire into child rights violations
- Examine the risk factors for children affected by terrorism, communal violence, riots, natural disasters, domestic violence, HIV/ AIDS, trafficking, maltreatment, torture and exploitation, pornography, and prostitution and recommend appropriate remedial measures
- Look into the special care and protection of children from distress, marginalised and disadvantaged backgrounds
- Study and ensure implementations of child rights treaties
- Conduct research in the field of child rights
- Create awareness through various mediums
- Inspect any children's home or observations homes where children have been detained
- Investigate the violation of human rights or the failures of the state or other to prevent a human rights violation

The NCPCR and respective commission in the states ensures that all laws, policies, programmes and administrative mechanisms are in consonance with the Child Rights as enshrined in the constitution of India and UN Convention on Rights of the Child. ([www.ncpcr.gov.in](http://www.ncpcr.gov.in))

### **National Crime Records Bureau (NCRB)**

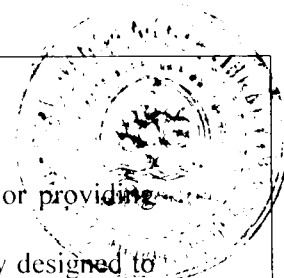
The NCRB was constituted in 1986 under the aegis Ministry of Home Affairs. It functions as a clearing house of information on crime and criminals which also include missing persons. The information on missing child/children is taken care of by the Missing Persons Bureau when it reaches the Police Headquarters normally. At the state level, this bureau is often a wing of the

state police. While taking action, they also forward the information to the State Crime Records Bureau who in turn transfers it to the Missing Persons Wing at the NCRB in New Delhi.

The NCRB, under the Talash information system, maintains a national level database of missing persons under the following broad categories-“missing”, “kidnapped”, “deserted”, “escaped” unidentified dead body etc. The police Stations do not give any feedback to the NCRB when a missing child is traced and therefore the data remains incomplete and unreliable. Despite being the national repository of crime data, NCRB is unaware of children who are missing and those who have returned to their families. ([www.ncrb.nic.in](http://www.ncrb.nic.in))

### **Non-Governmental Organisations (NGOS)**

Although police are the primary response agency in regards to missing persons, non-governmental organizations (NGOs) may also be involved in missing person cases. For instance, NGOs may play a role in providing counseling and other services to family members of the missing child. Newiss G., in his 2005 study titled “A study of the characteristics of outstanding missing persons: implications for the development of police risk assessment” recommended that for certain cases, such as those involving children missing from care, females involved in prostitution, or members of minority ethnic groups, police should work together with additional agencies, such as social services. Given that these agencies would likely have relevant information on these individuals, sharing information with them would improve the efficiency of the official police response. In addition, these agencies may be in a better position to track the missing person, given their potential relationships with relevant communities and their pre-established social networks. (Newiss G., 2005)



Thus, given that NGOs may play an important role in tracking missing children or providing salient information to the police, it is essential that they be involved in any strategy designed to enhance the search for missing children. There are a few non-governmental organizations in India who work on the issue of missing children and offer services to support the affected families. A few of these organizations are mentioned below in alphabetical order.

### **Childline India Foundation**

Founded in June 2006, Childline is a nationwide emergency helpline for children in distress through 1098. It is India's first 24 hour, free emergency phone service for children in need of aid and assistance. Special focus is given to street children, child labourers, domestic help, victims of child trafficking, abandoned children, missing children, mentally challenged children etc. ([www.childlineindia.org.in](http://www.childlineindia.org.in))

### **Bachpan Bachao Andolan**

Bachpan Bachao Andolan (BBA) is a movement headed by Kailash Satyarthi and describes its mission as to identify, liberate, rehabilitate and educate children in servitude through direct intervention, child and community participation, coalition building, consumer action, promoting ethical trade practices and mass mobilisation. BBA works to prevent child labour, bonded labour and trafficking through preventative measures. They run campaigns on local, national and international level to change society's attitudes towards child labour as well as improve government policy and legal provisions. ([www.bba.org.in](http://www.bba.org.in))

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## **Don Bosco India**

The Don Bosco National Forum for the Young at Risk (YAR) is an initiative reaching out to 90 cities and towns through shelter homes, children's homes, youth hostels, child rights centres etc. The categories served by the YAR forum partners include the street children, child labourers, school dropouts, abandoned orphans, young prisoners or children in conflict with law, refugees, children affected by AIDS etc. Homelink is a technological database started by YAR National office to provide documenting tools for the staff. Homelink has become a common platform for NGOs and currently there are over 68 NGOs working for children who have been linked on YAR network. ([www.donboscoindia.com](http://www.donboscoindia.com))

## **National Centre for Missing Children (NCMC)**

NCMC is an Indore based NGO in Madhya Pradesh working for missing children. It has a web enabled portal for imparting information on children reported missing, traced and also generates missing kids alerts. Any individual can post information on a missing child and find the status of a missing child if he is traced. ([www.missingindiankids.com](http://www.missingindiankids.com))

## **Historical Milestones: Government Initiatives and Court Orders on Missing children**

Children going missing in India have been a problem in the country over the years. While there is an urgent need to recognize this issue as a national problem and tackle the root causes, over the years significant efforts have been made by the government and the court which requires to be mentioned. These historical milestones are enumerated as below.

### **The Supreme Court of India, 2002**

In 2002, The Supreme Court of India issued interim directions/guidelines pertaining to missing/kidnapped children as passed in Writ Petition (Crl.) No.610/1996 (Horilal vs. Commissioner of Police, Delhi). These guidelines have been ordered by the Supreme Court to be followed by the Police in all the states in a missing person case:

1. Publish photographs of the missing persons in the Newspaper, telecast them on Television promptly, and in case not later than one week of the Receipt of the complaint. Photographs of a missing person shall be given wide publicity at all the prominent outlets of the city /town / village concerned that is at the Railway Stations , Interstate bus stands , airport , regional passport office and through law enforcement personnel at Border checkpoints. This should be done promptly and in any case not later than one week of the receipt of the complaint. But in case of a minor/major girl such photographs shall not be published without the written consent of the parents /guardians.
2. Make inquiries in the neighbourhood, the place of work/study of the missing girl from friends, colleagues, acquaintances, relatives etc. immediately. Equally all the clues from the papers and belongings of the missing person should be promptly investigated.
3. Contact the Principal, Class teacher and Students at the missing person's most recent school /educational institutions. If the missing girl or woman is employed somewhere, the most recent employer and her colleagues at the place of employment should be contacted.
4. Conduct an inquiry into the whereabouts from the extended family of relatives, neighbours, school teachers including school friends of the missing girl or woman.
5. Make necessary inquiries whether there have been past incidents or reports of violence in the family. (Writ Petition (Crl.) No.610/1996, Horilal vs. Commissioner of Police, Delhi)



### **Zonal Integrated Police Network (ZIPNET)/ Police, 2007**

In the period 2007-2012 Delhi Police collaborated with other neighbouring states to set up the zip net network. The issue of missing children is one of the aspects being covered by ZIPNET along with other cries. ZIPNET helps not only in tracing the missing children but also keeps information related to unidentified found children. ZIPNET works with the objective to help the government, the parents of the missing children and NGOs working in this field to find them. ZIPNET was launched in 2004 under the aegis of Home Ministry, Govt. of India. It is a network of 6 states and one union territory. In 2008, The Home Minister of India announced that by 2012, all the police stations of India will be connected through this network with a mega budget of 2000 crores. The project "Crime and Criminal Tracking Network System" will connect 14000 police station and 600 supervisory officials.

### **Ministry of Women and Child Development, Integrated Child Protection Scheme (ICPS), 2009**

In 2006 the Ministry of Women and Child Development (MWCD) proposed the adoption of the Integrated Child Protection Scheme (ICPS). In 2009 the central government gave the scheme its approval and has begun the extensive task of providing children with a protection and safe environment to develop and flourish. The purpose of the scheme is to provide for children in difficult circumstances, as well as to reduce the risks and vulnerabilities children have in various situations and actions that lead to abuse, neglect, exploitation, abandonment and separation of children.

The specific objectives of the scheme are:

- To institutionalize essential services and strengthen structures
- To enhance capacities at all systems and persons involved in service delivery
- To create database and knowledge base for child protection services
- To strengthen child protection at family and community level
- To coordinate and network with government institutions and non-government institutions to ensure effective implementation of the scheme
- To raise public awareness about child rights, child vulnerability and child protection services.

Within care, support and rehabilitation services the scheme will provide CHILDLINE services, open shelters for children in need in urban and semi-urban areas, offer family based solutions through improving sponsorship, foster-care, adoption and after-care services, improve quality institutional services, and general grant-in-aid for need based/ innovative interventions. Within statutory support services the scheme calls for the strengthening of CWCs, JJBs, SJPU, as well as seeing to the set up of these services in each district. Beyond this ICPS also outlines the need for human resource development for strengthening counselling services, training and capacity building, strengthening the knowledge-base, conduct research studies, create and manage a child tracking system, carry out advocacy and public education programmes, and monitoring and evaluation of the scheme.

In order to ensure the objectives and approaches of ICPS are met, the scheme also calls for the establishment of new bodies within a service delivery structure.

At the district level there are:

- District Child Protection Society (DCPS)
- District Child Protection Committee (DCPC)
- Sponsorship and Foster Care Approval Committee (SFCAC)
- Block Level Child Protection Committee
- Village Level Child Protection Committee

At the state level there are:

- State Child Protection Society (SCPS)
- State Adoption Resource Agency (SARA)
- State Child Protection Committee (SCPC)
- State Adoption Advisory Committee

At the regional level there are:

- Child Protection Division in the four Regional Centres of National Institute of Public Cooperation and Child Development (NIPCCD)
- Four Regional Centres of Childline India Foundation (CIF)

And lastly at the national level there are:

- Childline India Foundation- Headquarters
- Child Protection Division in the National Institute of Public Cooperation and Child Development (NIPCCD)
- Central Adoption Resource Agency (CARA)

The scheme outlines a specific implementation plan. It discusses the need of convergence of services to give the child the integrated plan. This is achieved through coordination of all department and ministries and NGOs involved. The annexure of the scheme lays out guidelines on how to achieve each service provided in the scheme. (Source: Integrated Child Protection Scheme- A civil society partnership, Ministry of Women and Child Development)

### **Delhi High Court, 2009**

In 2 March 2009, The Delhi High Court had taken a suo moto cognizance and ordered detailed guidelines for Delhi Police. The Court stated that the Police should without any delay register all complaints of missing children as FIRs, along with the following directions:

1. 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's web bases ZIPNET programme. The Home Ministry is directed to issue appropriate directions to neighbouring States of Delhi to adopt web based ZIPNET programme with regard to missing children.
2. It shall be mandatory for Delhi Police to forward both by e-mail and by post a copy of each FIR registered with regard to missing children to Delhi Legal Services Authority (hereinafter referred to as "DLSA") along with addresses and contact phone numbers of parents of the missing children.
3. DLSA will in turn constitute a team comprising a lawyer and a social worker to follow up the case with the Delhi Police. The said team will not only provide all possible legal aid to the parents and families of the missing children but shall also act as an interface

between the parents of the missing children and the Delhi Police. DLSA will maintain a record of all cases of missing children.

4. Both DLSA and the Delhi Police shall ensure that the Supreme Court interim directions/guidelines pertaining to missing/kidnapped children passed in Writ Petition (Crl.) No. 610/1996 (Horilal vs. Commissioner of Police, Delhi) and I the case of Lalita Kumari vs. State of U.P. & Ors.(Writ Petition(Crl.) No. 68/2008) are strictly complied with. (details given in guidelines by Supreme Court).
5. Whenever a missing child is traced or he/she comes back on his/her own, the Investigating Officer will examine all relevant angles such as involvement of organized gangs, application of provisions of Bonded Labour Act and such other relevant Acts.
6. Whenever, the involvement of any organized gang is found, it shall be the responsibility of the Investigating Officer to refer the matter to the Crime Branch of Delhi Police or the Special Cell constituted in the CBI.

#### **The Ministry of Home Affairs, 2011**

In 2011, the Ministry of Home Affairs published a detailed Advisory to all states for taking steps for tabulating each and every missing case and also the various ways and methods for the Police to recover these cases. The Advisory recognised the fact that trafficking in human beings was a organised crime and the response to the same should also be organised. The advisory was issued on 31<sup>st</sup> January 2012 after wide scale consultations with State Police agencies through zonal workshops and national level workshops with various stakeholders.

The details in the advisory inter alia include:

1. Implementation of the guidelines of Honourable Supreme Court of India dated 14/11/2002 in Horilal vs Commissioner of Police Delhi and court orders issued on 12/10/2011 in Sampurna Behrua case. These instructions need to be complied and monitoring ensured.
2. Implementation and Monitoring of NHRC guidelines on Missing Children.
3. A officer of the rank of DIG should be declared Nodal Officer in each State.
4. Supervision of investigation of cases by senior police officials of the rank of Addl. SP /Dy. SP.
5. Heinous offences related to organized crime should be transferred to the State CID.
6. Convergence between District Missing Children Unit and Missing Persons squad needs to ensured.
7. All cases of trafficking should be treated as organized crime and real time data and profile of the gang members need to be maintained.
8. Police officials need to be sensitized and trained on Procedural laws, Investigation techniques and data collection and compilation.
9. AHTU should be involved in the Missing persons work at the district level.
10. SP should review all cases of missing children in the Monthly District Review.
11. In International trafficking investigators can network with Interpol for search of the missing child.
12. All missing cases should be uploaded at the District level and data disseminated and the same needs to be updated.
13. At the Police Station Level SHO should ensure that the data on missing children is shared with DCRB and SCRB.

14. Integration of Childline in the search and recovery of missing children needs to be ensured.
15. Police should be trained to take preventive steps.
16. Involvement of Community/Panchayats/Resident Welfare Association needs to be ensured for prevention and protection measures.
17. Community awareness on missing children needs to be ensured at District level. School level sensitization should also be ensured.
18. Appointment of Nodal NGOs at the state level needs to be ensured. Wherever possible NGOs partnership should be evolved for counseling and awareness raising activities.
19. The protocols and SOPs developed by MHA-UNODC project including protocols on interstate transfer of rescued victims should be effectively utilized.([www.mha.nic.in](http://www.mha.nic.in))

### **Missing Children: Psycho-Social Aspects**

Missing children can face a variety of risks, and the dangers they are exposed to while missing are numerous. While missing children themselves are in a difficult situation, the people they leave behind can also experience a range of difficulties. The parents themselves undergo great confusion and distress. The affected family members have to deal with a range of emotions. There may be guilt, because members of the family blame themselves for the child going missing, anger at being unable to help their child, and anxiety about the condition of the missing child. (Source: Payne, M., Understanding 'Going Missing': issues for social work and social services, 1995)

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Families of missing people face a wide range of experiences and impacts, which can extend to a number of family members and affect every aspect of their lives. Their experiences and emotions are interconnected; practical problems can have a deep emotional impact, while the effort of dealing with a variety of emotions can have an impact on families' lifestyles, jobs, education and relationships. (Source: Holmes, L, *Living in Limbo: The experiences of and the impact on families of missing people*, 2008)

The grief and loss that family members and friends can experience when someone goes missing have been referred to as ambiguous loss. Ambiguous loss is also known as an unresolved loss. Boss, 1999, defined ambiguous loss as the grief or distress associated with a loss (usually a person or relationship) in which there is confusion or uncertainty about the finality of the loss. The unresolved grief associated with ambiguous loss impacts the family of a missing child tremendously. For families and friends, ambiguous loss can exist when an individual is physically absent but psychologically present. This is because it is unclear whether their missing family member or friend is alive. When someone is missing, there is no proof of death, no funeral, minimal public grieving and no closure. The sense of not knowing creates ambiguity and the result is high stress. As a result, ambiguous loss can be the most stressful loss that people can face. (Source: Boss P., *Ambiguous Loss: Learning to live with unresolved grief*, 1999).

The parents of the missing children tend to completely neglect their own needs and those of the other members of the family; they focus all their energy and attention on searching for their missing children. With time, they may withdraw socially and emotionally from those around them, thus missing out on vital support from outside. (Source: *Missing persons and their*



families, International Committee for the Red Cross 2003)

Over and above the emotional trauma, there are financial impacts as well. Financial impacts are caused by a range of factors, including the costs associated with searching for the missing child, the loss of income during the search for the child, the cost of short and long distance travel to investigate all possibilities and even the costs incurred due to health problems in family members caused by the incident.

Thus, it is clear that when children go missing, there are psychological, social, financial and emotional impacts on the affected families. These families waiting for information on the fate of their child have specific material, financial, psychological and legal needs and often require help from the authorities and various organizations. It is important to recognise that for each missing child the impacts are likely to affect each and every member of a family and therefore steps must be taken to meet these needs. Appropriate systems have to be established for support to the families of missing children taking into consideration the needs at psychological, social and financial levels.

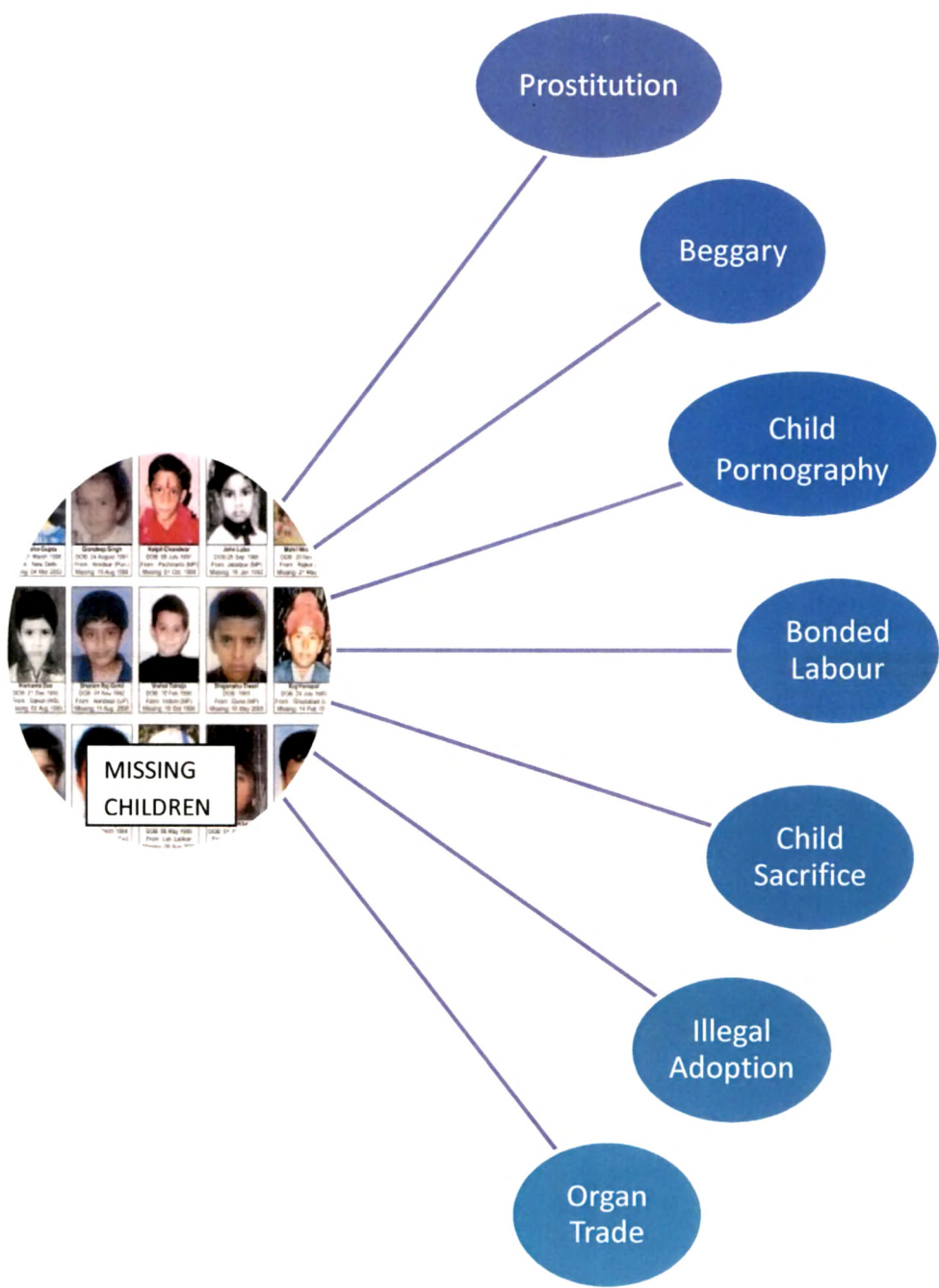
## **Missing Children: A multi-faceted problem**

In conclusion, the concept of missing children represents a conglomeration of a number of problems. The study of the phenomenon of missing children (NISMART or the National Incidence Study of Missing, Abducted, Runaway and Thrownaway Children) published in 1990 in the United States specifies that the problems frequently lumped together as “missing children” were “extremely dissimilar social problems” affecting different children and different families.

Although each of these groups of children represents very different social problems, law enforcement officials may be called upon to search for the missing children in any of these situations, and it may not always be possible to distinguish the type of incident at the outset of an investigation. In addition, many cases of missing children are not reported to the police at all, and police involvement in the resolution of the different kinds of cases varies widely.

There is a need to address all these issues relating to missing children, for which we have to gain an understanding of the prevalence of missing children problem, how and why children go missing, what happens when they do and what is being done to recover them. The problem of missing children is a social issue of particular concern to police, parents, teachers, counselors and all associated with the welfare of children. It is important to recognize the enormity of the problem, and tackle it politically, legally, and socially with significant commitment from the State and civil society.

**Figure 3: Dangers faced by children reported missing**



Source: Childline, 2006