

Inputs on Draft National Child Protection Policy by the Ministry of Women and Child Development

Submission By:



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The draft National Child Protection Policy is a welcome move by the Government of India, which aims at ensuring the safety of children in all settings. However, the draft policy in its current form, appears only as a set of guidelines and does not form a holistic policy document on Child Protection. Moreover, the present document needs to be called as “*Guidelines on Child Protection for agencies engaging with children*”. For this to be a National Child Protection Policy, inclusion of certain crucial elements is quintessential. To list a few:

- **Scope of the Child Protection Policy:** The policy document must clearly define its scope. Although, in the current document, under the Guidelines for Organizations, Institutions and Establishment (including media), it has been mentioned that the Child Protection Policy is applicable institutions/organizations. But, it fails to clearly state that:
 - a) What kind of organizations/institutions need to develop a child protection policy;
 - b) Who all will be covered by the Policy? Does the draft policy limit its applicability only to the staffs/employees of the organisation or goes beyond and includes consultants/vendors or any service provider associated with the organisation?
 - c) Will there be any exclusions/ exceptions to this Policy?

- **Definitions:** For a Child Protection Policy, it is pertinent to categorically define the terminologies used therein. As stated in the Preamble of the Draft National Child Protection Policy, it has been stated that the Constitution of India recognizes children as equal rights holder and grants highest priority for their protection and well-being. For this purpose, the National Child Protection Policy must be able to define what it means by child protection or child’s well-being. There needs to be an elaborate set of definitions of the terminologies used in the Child Protection Policy. The Policy must include following definitions:
 - a) Child
 - b) Child Protection
 - c) Child Abuse
 - d) Child Exploitation
 - e) Code of Conduct
 - f) Direct Contact with Children
 - g) Indirect Contact with Children
 - h) Employees of the Organization
 - i) Best Interest of a Child
 - j) Child Protection Committee
 - k) Inquiry
 - l) Child At Risk
 - m) Appropriate Authority
 - n) Child Friendly Zones
 - o) Safe and Conducive Environment

- **Core Principles/Guiding Principles and Values:** The National Child Protection Policy must find its basis in certain guiding principles, which are holistic in nature and are non-negotiable in any circumstance. Although, the current draft does talk about the medical establishments cannot refuse treatment or discriminate on the basis of gender, sexual orientation, disability, caste, religion, tribe, language, marital status, occupation, political belief or other status. But, such non-negotiables need to be spelt out distinctly. The National Child Protection Policy must define its guiding principles and include following elements:
 - a) Rights based approach
 - b) Best Interest of Child
 - c) Non-discrimination
 - d) Inclusion
 - e) Equality and Equity
 - f) Participation
 - g) Confidentiality
 - h) Transparency
 - i) Sensitivity
 - j) Zero Tolerance of Child Abuse
 - k) Individual and collective responsibility for child protection
 - l) Consent of a child

- **Purpose of the Child Protection Policy:** As correctly mentioned in the Vision Statement of the Current Draft of the National Child Protection Policy, ideally, it must be followed by the purpose of the child Protection Policy. Few examples of the purpose of the Child Protection Policy could be:
 - a) To enable or guide various organisations to evolve a full proof child protection policy which is instrumental in preventing child abuse and be able to protect children in the course of Organizations' work;
 - b) To prevent and protect any such situations in due course of any organization's work, which might cause concerns of child protection;
 - c) To provide the organization's' staffs and partners with clear guidelines on what to do in the case of suspected child abuse.

General Comments:

- **Applicability of National Child Protection Policy on Government agencies is absent:** The current Draft National Child Protection Policy is applicable to all institutions/Organizations. But, it has not included the government institutions and agencies. There are several specific government agencies and institutions, which deal with children directly and thus, such Child Protection Policy must be applicable to those government agencies as well.

- **Absence of grievance redressal mechanism and complaint mechanism:** The current draft is completely silent about the redressal mechanism and in case there is any child protection concern, how would one make complaint. Although the current draft does

mandate all organizations to designate a specific member/members of staff for ensuring that the procedures and arrangements are in place within the organization to protect children, but to maintain fairness and also to strengthen the adherence to child protection policy, it is quintessential to have a dedicated body or an internal child protection committee to safeguard the child protection. In order to make the child protection policy and its implementation efficient, there are few suggestions, which could be included in the policy draft:

- a) A clear grievance redressal mechanism should be laid down in case of any child protection concern within the organisation.
 - b) Mandatory constitution of internal child protection policy to deal with child protection concerns.
 - c) A complaint box must be placed inside every organisation, where anybody can freely and anonymously put down suggestions or child protection concerns and it should be opened periodically.
- Child-friendly zones need to be defined and elaborated based on the principles of easy access for all children, non-discrimination and other child friendly indicators.
 - Confidentiality of children must be maintained in all settings, especially for those organisations which are engaging with children on direct basis. The current draft misses out on maintaining the confidentiality of children who are at risk or who may be at risk.
 - The National Child Protection Policy must be able to address the child protection concerns with three important approaches:
 - a) Prevention
 - b) Protection and
 - c) Rehabilitation
 - The child protection policy must adopt a gender mainstreaming lense and it should be mandated for all the organisations working directly with children to develop age-appropriate and gender appropriate modules and materials for orienting children on child abuse, online safety and services available for them.
 - Since the National Child Protection Policy is going to have a long-term effect on policy intervention and child rights discourse in the country, it will not be wise to limit the behaviour/offences listed under Annexure 2 to the current laws, but it should also include any future legislation which will enlist the wrongful behaviour towards children.
 - The current draft also does not include children with disability in context of Rights of Persons with Disability Act, 2016.
 - The current draft does not extend to Bonded Labour Abolition Act, 1976; Mental Healthcare Act, 2017 and has a very limited approach.

- **“Annexure 1: Declaration by employees”** needs to be elaborated. Below is the suggestive format, which is extensive and includes the crucial aspects of child protection:

I,, (name and position of the employee), from..... (name of the organisation) hereby declare that:

I will:

- I. Always respect all children, regardless of age, disability, gender, racial heritage, religious belief, sexual orientation or identity;
- II. Encourage children, parents, family, guardians, employees and volunteers to speak up about issues that affect them;
- III. Support their right to equal protection from all types of harm or abuse;
- IV. Always report any case of child abuse, exploitation and neglect, child marriage which comes to my knowledge to appropriate authority and will not harm or abuse any child physically, emotionally or sexually.
- V. Ensure that, whenever possible, another adult is present when I am working with children, or in the proximity of children
- VI. Always maintain the confidentiality of children who come in contact with me during the course of my work.

I will not:

- I. Use inappropriate language – whether of an offensive, discriminatory, demeaning, abusive or sexual nature – when speaking with or whilst in the presence of a child;
- II. Engage in behaviour to shame, humiliate, belittle or degrade a child or young person, or otherwise emotionally abuse a child;
- III. Use corporal punishment on children;
- IV. Marry a person under the age of 18 or participate in any function or ceremony where child marriage is being solemnised;
- V. Act in a sexually provocative manner or engage children in any form of sexual activity;
- VI. Hold, kiss, cuddle or touch a child in an inappropriate, unnecessary or culturally insensitive way;
- VII. employ any child as defined under Child Labour (prohibition and regulation) Amendment Act, 2016, Bonded Labour Abolition Act, 1976 or any other labour laws, which are in effect;

(Name of the employee)

We would sincerely urge the Ministry of Women and Child Development to broaden the process of finalising the National Child Protection Policy, where all the stakeholders from varied perspectives could gather at the same platform and give their constructive inputs to strengthen the National Child Protection Policy. There is a clear need to include voices from diverse groups which work directly or indirectly with children in formal or informal settings.