



**Bachpan
Bachao
Andolan**

MISSING CHILDREN OF INDIA

**A PIONEERING STUDY BY
BACHPAN BACHAO ANDOLAN**

A SYNOPSIS

Introduction

There is no greater vacuum, no greater void than the helplessness felt by parents whose children have gone missing. A missing child in the Indian legal system is generally not considered a heinous crime with little attention being paid, until some time has elapsed, on recovering the child. The genesis of this research study arose from the case of missing children in Nithari in 2006 when BBA was involved in organising initiatives to bring the matter into public limelight. The case demonstrated the worst forms of abuse and exploitation of children, with more than 30 children having gone missing and brutally murdered.

The significance of timely recovering of the missing child can only be understood if one empathies with feelings of the missing child or that of a mother who is unable to locate her child irrespective of the circumstances under which a child goes missing. This situation is compounded by the fact that there is no clear cut definition of missing children in the Indian legal system. Therefore, efforts to trace missing children remain ad-hoc and slipshod. Unfathomable is the agony of the child who goes missing, as the child is highly vulnerable to all kinds of exploitation and trafficking. India is a hub of trafficking with children being trafficked in hundreds of thousands and the majority of missing children are also vulnerable to trafficking.

The first comprehensive information in India on missing children was the collection of information by National Crime Record Bureau which started in 1953. A report on child prostitution (B. Bhamati for UNICEF in 1996), wherein the hidden linkage of 'missing children' to child trafficking was detailed, was one of the first efforts on the issue. A more liberal approach to expand the issue was taken by the National Human Rights Commission (NHRC) in its research on trafficking of women and children in India in 2004. The 2007 recommendations by NHRC were probably more informed and sophisticated in approach on missing children when Nithari massacre came into light and concentrated more on the issue of policy gaps that existed and the issue of governance rather than correlating the Nithari case with numbers, regions, districts, states, etc.

Nevertheless, the figure of 44,000 missing children as estimated by NHRC in 2004-05 and the figure of 1,17,480 missing children (in 392 districts), as reflected by Bachpan Bachao Andolan (BBA) report is just the tip of the iceberg.

When BBA initiated a campaign on missing children in Delhi, it came across dozens of cases which (at that time) had not been registered or investigated by the police or any other statutory authority. The parents were tired of running from pillar to post and many had given up all hopes of ever being able to recover their children. The parents were also giving clues to the police, however their complaints were only recorded in the station records but no FIRs were lodged and investigated. Concerned with the situation, BBA wrote to the Chief Justice of India asking him to intervene into the matter understanding that the issue of missing children was much wider in scope and much worse probably in its dimension in other remote corners of the country. The campaign kick started and the issue was later taken up by the Delhi High Court taking cognizance of the issue as a *suo moto* writ petition. In the petition, Mr. H.S. Phoolka, Senior Advocate and BBA's counsel was designated as *amicus curiae* in the matter to assist the court. In due course of time, the court directed the police to register criminal cases and to investigate each and every missing child in Delhi. The biggest impact of elaborate direction by the court have resulted in a case being filed and investigated by the police (since 2009).

Objectives

This research study has been carried out not only to understand the nature and extent of the problem of missing children but also to come out with a situational analysis of the policy framework. This study also tries explore gaps and suggests recommendations to move forward collectively on this issue. This research study also focuses on sensitising general public, the government machinery as well as draw attention of all concerned to the issues of child rights.

Existing Dimension

As it currently exists, a missing child in Indian law could be a victim of kidnapping/abduction for various purposes (as per Sec. 363 to Sec. 369 of the Indian Penal Code) including for the purpose of ransom, begging, wrongful confinement, marriage/illicit intercourse, murder, grievous hurt, slavery, unnatural lust, etc. Apart from the above, a missing child could be also a victim of kidnapping/abduction for labour, other illegal activities, sexual exploitation, entertainment and sports, adoption, child soldiers or combatants in armed conflicts, amongst various other forms of abuse/exploitation.

Research Methodology

In an attempt to collect the necessary information on the causes, nature and extent of missing children in India, both qualitative and quantitative data collection approaches were used. Extensive field research was carried out to understand the current situation of missing children in India, to document linkages between 'missing children' and 'trafficking' and to map the exploitative environment that the trafficked children live in.

Both primary and secondary data sources are used to finalise the study. Parents' complaints to BBA are the main primary data source whereas information collected from Right to Information (RTI) applications, NCRB, NHRC and Zonal Integrated Police Network (ZIPNet) website and information from other Non-Government Organisations (NGO) are secondary data sources used in the study. Right to Information applications and database of BBA have been used as data collection tools for this research study.

The data has been collected and classified state and district wise for the period of 2 years from January 2008 to January 2010. The missing children data has been classified under three major headings - Reported Missing, Traced and Untraced.

Data has been received from 20 states and 4 union territories in India. However, there are quite a few significant states for which the data have not been received, or anomalies have been found in the data made available by states, namely Punjab, Rajasthan, Gujarat, Orissa, Tamil Nadu, and Jammu and Kashmir.

Government Railway Police (GRP) is also an important institution in the context of missing children. The data of persons missing reported in the Government Railway Police Stations (GRPS) is independent of the district police stations. Large numbers of missing children cases take place in the railway stations and therefore this number is significant. Some of the states provided data with respect to GRPS also.

The raw data has been verified manually, sorted and entered in computer using MS Excel software. Tabulation has been done for the purpose of representation and analysis of data with the help of tables, graphs and maps. In order to flag the seriousness of the problem and to have a relative understanding of challenging regions, the states have been categorised on the basis of proportion of untraced children.

Many challenges were faced while carrying out the research study. These challenges vary at different levels and stages with the advancement of the research, hindering the pace of processing of data. Some of the challenges included lack of information from the concerned departments, incompleteness of the data received, irregularity in the structure of data with regard to age, sex, time period etc, lack of uniformity in time frame in furnishing information, duplication and differences in the data from the same state, illegible writing, bad or very light photocopy, mistakes due to misprinting and other human errors. In order to overcome these challenges, certain steps were taken including contacting the concerned officers where there was a delay in data delivery or when the response was not received. The date for entering data was fixed on 31 January 2011 after which the data received were not incorporated in this edition of the report.

The Existing Institutional Framework

Various statutory units, known as institutions, are deliberately constructed and reconstructed to seek specific goals. This report takes into account such government as well as non-government institutions. Their roles have been discussed in this research study in connection with the phenomena of missing children. These institutions include Zonal Integrated Police Network (ZIPNet)/Police, National Institute on Public Cooperation and Child Development (NIPCCD), National Human Rights Commission (NHRC)/State Human Rights Commission (SHRC), National Commission for Protection of Child Rights (NCPCR)/State Commission for Protection of Child Rights (SCPCR), National Commission for Women (NCW)/State Commission for Women (SCW), National Crime Records Bureau (NCRB), Anti-Human Trafficking Unit (AHTU), JAPU (Juvenile Aid Police Unit), District Missing Persons Unit (DMPU), cell for missing children in Central Bureau of Investigation (CBI) etc. These are some of the government institutions working on the issue of missing children. Many non government organisations or civil society organisations are also active in this field including organisations like BBA, National Centre for Missing Children (NCMC), Childline India Foundation, Don Bosco, etc.

Findings

The recent official figures (of Census 2011) related to children are yet to be published, but, figures regarding missing children (as per RTI applications) show that 1,17,480 children were reported missing, 74,209 were traced and 41,546 remained untraced in two years between 2008 and 2010.

Among 20 states and 4 UTs, Maharashtra (26,211) has highest number of children reported missing followed by West Bengal (25,413), Delhi (13,570) and Madhya Pradesh (12,777). Karnataka (9956) and Uttar Pradesh (U.P) (9,482) are the last two among the top six states. Maharashtra (18,706) has the highest number of children being traced followed by Delhi (11,870), Madhya Pradesh (9,537), Uttar Pradesh (7,586), West Bengal (6,653) and Karnataka (3,522).

41,546 untraced children constitute more than 1/3rd of the total children reported missing nationally. West Bengal has maximum number of untraced children. Maharashtra, Karnataka and Madhya Pradesh come next in the line.. As much as 45% of the total reported missing children have still not been found. The border districts of West Bengal, such as 24 Paragna, Midenapur, Malda, Dinajpur, Murshidabad, Nadia etc, have large number of untraced children.

NHRC's Action Research on trafficking had put the number of untraced missing children at 11,000 for the year 2005. The figure of 20,773 (as per RTI applications filed by BBA) for 2008-09 shows almost 200% increase in 5 years. With 74% of the children still missing out of the state's total of missing children, West Bengal leads the table of untraced children followed by Nagaland, Bihar, Jharkhand and Assam.

According to the data procured through RTI applications, 24,744 children reported missing from metros cities of Hyderabad, Kolkata, Bangalore, Mumbai and Delhi. Delhi has highest number of missing children as well as children untraced where 12% of total reported missing is still untraced. Each year 6,785 children disappear from Delhi with 850 children remaining untraced. Out of the total untraced children from these metro cities, Delhi and Kolkata alone constitute 89%.

Data from 392 districts show that 1,17,480 children are reported missing within a span of 2 years. However, the fact remains that the number of missing and untraced children in India is startling. If the average number of 150 reported missing children per district (from available data) is extrapolated to all 640 districts in the country, the total number of missing children in India every year would come to the tune of 96,000. In the same way, if average number of 54 untraced children per district is extrapolated to all districts including GRPFs in the country, the total number of untraced children in the country in a year would be 34,500.

Causes/Possible factors

According to unofficial estimates, the number of missing children can be as much as ten times than what is stated in this research because the majority of trafficking victims are not included in missing cases or they do not have any official record. Whatever be the figure of missing children, the government does not agree with these estimates. However, the figure of missing children is increasing every day, pushed by numerous potent factors which are as follows-

- **Trafficking-** Trafficking is the process which results in exploitation. The children are being trafficked for the following purposes-
 - Forced labour
 - Commercial Sexual Exploitation (CSE)
 - Illegal adoption racket
 - Armed conflict
 - Organ trade and medical testing
 - Other crimes (including begging, pick pocketing, addiction, etc.)

Apart from the purposes for which a child may be trafficked, there are other factors which force a child to become victim of trafficking including:

- Runaway children
 - Abandonment (on the basis of gender, health/disability, children born out of wedlock)
 - Animosity
 - Theft of kids (for personal reasons)
 - Natural calamities
 - Sacrifice/religious beliefs
 - Missing from government/NGO institution
- **Social Perception-** The plight of parents of missing children, who may not come forward to report a missing child, is because of various reasons. One of the main issues hampering the causes of missing children is the societal

perception that trafficking cases are not actually missing children cases. In many cases where children are trafficked (especially of poor and illiterate parents or parents with limited means) or where girls have been abducted through deception and trafficked across the state, this happens under the garb of a better life. However, these girls may end up being exploited in the guise of CSE or forced labour or domestic servitude. Such perceptions lead parents to not report a missing child.

- **Demography-** Socio-economic condition, education, health and gender are also serious causes contributing substantially to the phenomena of missing children. It is our observation that socio-economic condition is the most significant contributor to the missing children phenomenon.

In a nutshell, both endogenous (compelling factors and vulnerability factors that make one to leave home like unhappy family relations, destitute parents, etc.) and exogenous factors (kidnapping, abduction, lure, coercion, deceit, etc) work in the case of children going missing.

Why truth is 'Missing' in case of 'Missing Children'?

According to NCRB, total number of missing children (kidnapped and abducted, procuration, selling and buying of minor girls) stands at 17,279 for the country. However, figures through RTI applications tell a different story. As per data collected by BBA through RTI, 1,17,480 children are reported missing and 41,546 children are still untraced from India. Whereas, as per NCRB data, 13,554 children are missing from only 20 states and 4 union territories. Interestingly, the number of untraced children (41,546) in RTI data is 2.5 times more than number of children missing provided by NCRB (17,279). Hence, only 12% of the total reported missing and 33% of the total untraced children (as per RTI) get registered in the NCRB database as missing children.

As per NHRC report on trafficking, on an average 44,476 children are reported missing in a year whereas as per RTI figures 58,740 children are reported missing every year (in 392 districts). The reported missing has shown an increase of 32% over a period of 7 years. However, besides reported missing, the children remaining untraced have also shown an increase in the percentage change. As per NHRC report (2001-02) 11,000 children remain untraced whereas according to RTI figures (2009-10) 20,773 children were untraced. In 10 years time the percentage of untraced children to reported missing children went up from 25 to 35 which is an increase of 40%.

Gaps

The research study on Missing Children is an initiative which aims to identify the overall framework of legislation, policies, societal perception, demography, causes and ways in which the problem of missing children can be tackled and dealt with, in our country.

The second main issue that has emerged from this research is that the restraints of law and enforcement mechanism as well as investigation rests on an individual police officer's approach and knowledge as well as the socio-economic background of the parents of the missing children.

In India, there is no specific definition of missing children and therefore, it is very difficult for a police officer in lower ranks to really understand the nature and the context of missing children, and under what law and statute should the investigation be conducted.

The second biggest gap in the policy or legislation in India is that there is no clear cut definition of trafficking, despite trafficking in persons being prohibited in the existing Constitutional framework. There is no comprehensive legislation on human trafficking, except for few acts pertaining to protection of children. Moreover, there is no Standard Operating Procedure (SOP) for the Police on how to respond to a case of missing children (barring a few states like Delhi).

There is no knowledge management system at national, state or district level wherein the information pertaining to missing children can be stored and accessed. There is some information but not a comprehensive and centralised database of children who have gone missing in the previous years or in the current year which can be shared. Even, there is no sharing of information amongst the law enforcement agencies through experience sharing or other forms of training. Obviously there is not much training of enforcement agencies either on the issue of missing children.

Another significant gap is the lack of resources. The maximum crunch is that of human and monetary resources at the level of police station where dedicated police officers should be posted and trained and social welfare workers should be appointed.

There is no institutional framework at the national, state or district level to ensure that the plight of parents as well as the missing children is taken into consideration.

Despite NHRC bringing the issue to the fore, no concerted effort has been made by NCRB or state governments to address the issue of missing children. Political will at all levels is called for addressing the issue in a comprehensive manner.

Findings

Some of the most significant findings of this study are:

- No clear-cut definition of missing children as per legal system, which leads to confusion as to how the cases should be treated.
- No provision on addressing the issue of missing children in the Indian legal system.
- No comprehensive SOPs/Protocol for addressing the issue of missing children at the national level, involving all states/UTs and other stakeholders.

- No proper mechanism to document and update the database and information on the number of registered, traced and untraced cases of missing children.
- Lack of coordination between the agencies dealing with the missing children for example police, NCRB/SCRB/DCRB and NGOs/CSOs.
- Urban centres have high number of children reported missing.
- Areas with better connectivity and facility of transport and communications have high number of missing children.
- States and districts with international borders also have large number of children registered missing.
- Regions with migratory population, including slums, are registering more missing children.
- Children and families from socially and economically poorer background formed the majority of victims.

Recommendation and Plan of Action

Based on its research, BBA makes the following recommendations:

- Defining a missing child is very important to help investigating agencies to deal with the phenomenon. It is important to have a clear policy guideline on definitions of trafficking and missing children.

For example, the SOP developed by the Delhi Police has defined a missing child as, *“A child (a person who is below 18 years of the age) whose whereabouts are not known to the parents, legal guardians or any other person who may be legally entrusted with knowing whereabouts/well being of the child whatever may be the circumstances/causes of disappearance. The child in need of care and protection will be considered missing until located and/or his/her safety/well-being is established.”*

- Compulsory registration and investigation of all cases in case of missing children.
- Special Operating Procedure should be carefully drafted to support investigating agencies. An expert committee should be constituted to undertake this exercise.

- Creation of a highly skilled investigation and rapid response agency/task force on missing children. This agency will comprise of highly skilled and trained individuals from various disciplines.
- The government should establish a National Centre for Missing and Exploited Children (NACMEC). This needs to be adopted and implemented by the government in a definite time frame and without any delay.
- Nodal officers on missing children in every district should be appointed. He/she should be notified by the respective state governments and the official should be made accountable to take all steps to trace/give care and protection to the missing child. Adequate legal administrative/financial support should be provided by the state government.
- Each state government should set up an Advisory Body including all government departments concerned as well as appropriate NGOs working in the field of missing children/trafficked children/child labour, etc. The body should be given statutory powers to ensure monitoring of the enforcement of law.
- The Childline to have national linkage.
- Training/capacity building of Police officers, Prosecutors/Judicial Officers, Executive Magistrate, Labour Department Officials, Welfare Department Officials, officials of other departments concerned, counsellors/care providers, forensic department, media, NGOs working in the same field, Panchayati Raj Institution (PRI) representatives and other stakeholders.
- Developing tools and knowledge products like handbooks, SOPs, films, posters, etc. for capacity building.
- National Centre for Missing and Exploited Children, when established, will be the repository of all the data including collation, collection, analysis, interpretation, documentation, dissemination etc.
- Creation of a comprehensive plan for rehabilitation of rescued children who need rehabilitation or other assistance.
- Nationwide awareness generation programmes on the issue of missing children and trafficking.



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