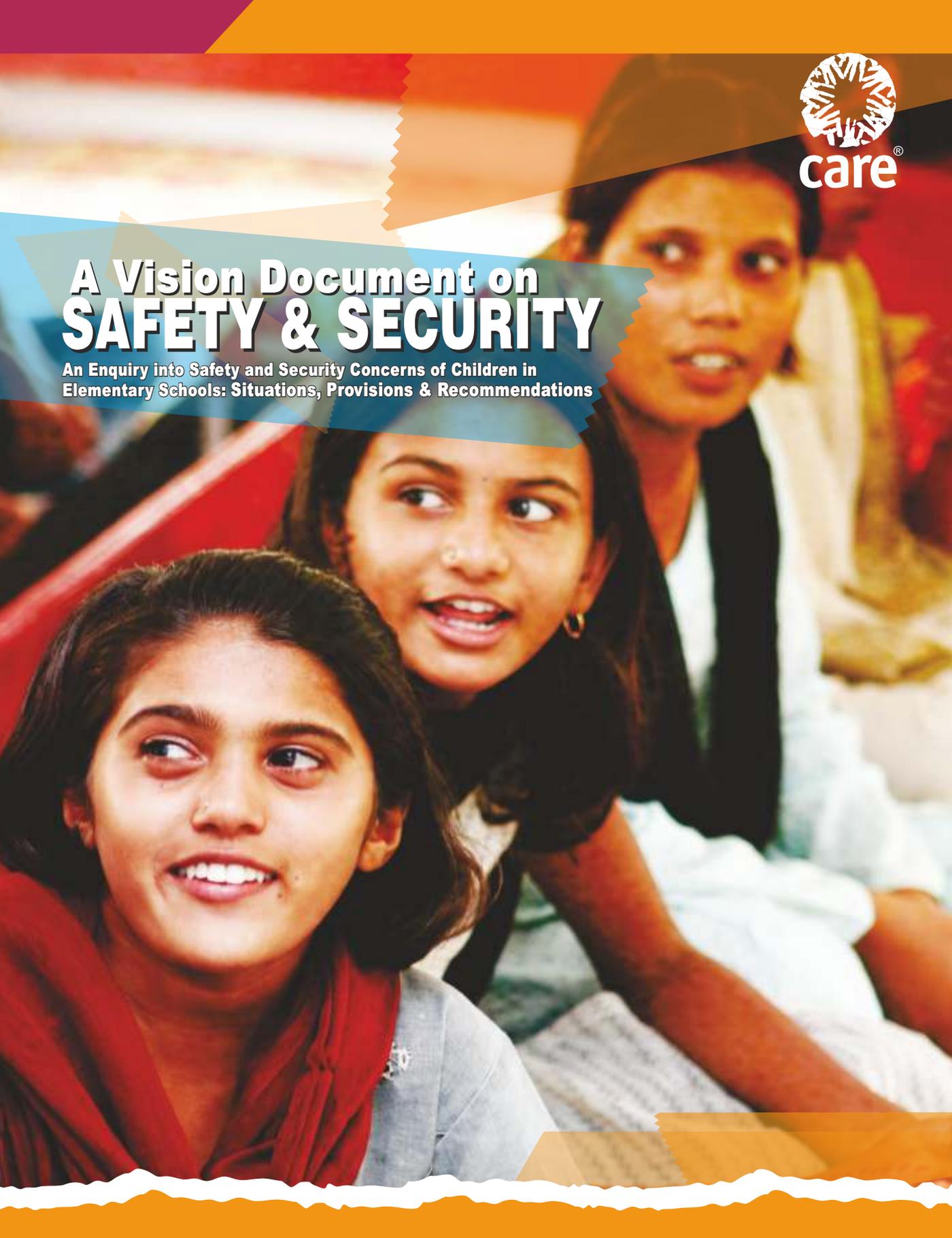




A Vision Document on **SAFETY & SECURITY**

An Enquiry into Safety and Security Concerns of Children in
Elementary Schools: Situations, Provisions & Recommendations



A Vision Document on

Safety & Security

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Foreword

CARE India has been working over 20 years to increase the life opportunities for children from marginalised sections of the society especially girls from Dalit and Adivasi communities. One of the key objectives of our work is to ensure effective implementation of educational provisions and policy for rights, entitlements and empowerment of girls from these communities. The Right to Education Act-09 aims at providing free and compulsory education to all children in the age group of 6 -14 years. It recognises the obligation on the State Government to ensure compulsory admission, attendance and completion of elementary education by each and every child. An important duty of the state government/ local authority is to ensure that there is no discrimination against children belonging to weaker and disadvantaged sections of society, and that no child is subjected to physical punishment and mental harassment.

The overall thrust of newly enacted legislation is thus on providing equitable quality education in a safe and secure environment wherein all the children can develop their physical and mental abilities to the fullest extent. With this intent, CARE has an emphasis on equity as a key area to focus across all its programming. In past ten years, issue of safety and security for children especially girls has been identified as one of an important cause for children's absenteeism in elementary schools. The statistics show that less than 18 out of 100 girls enrolling in primary schools complete their secondary education.

With an intention to identify the key issues which children, especially girls, are facing in terms of their safety and security, CARE India undertook an action research in selected geographies, and developed a Vision document cum framework to establish a comprehensive understanding of different stakeholders at all levels in the education system on various domains of safety and security. These efforts were undertaken to ensure all children learn in safe and secure environment and enjoy their right to education.

The Vision document spells out national and international legislations in this regard and provisions made by the Government of India to guarantee safety and security for children in schools. We believe that usage of this document will help in addressing key issues and significantly contribute to continuity of children especially girls in schools.

I would recognise the solid support of the Team of Centre for Social Equity and Inclusion, Josh, New Delhi and Dr Anandini Dhar in developing this document by laying out and supporting an intensive process of discussions on various technical domains of this issue and threading them together into a document . I would also like to acknowledge immense support of Sarva Shiksha Abhiyan Uttar Pradesh and Girls Education Program (GEP), CARE India team at the headquarters and state (Uttar Pradesh) in leading this entire initiative.



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CHAPTER 1

Introduction

1.1 Context and background of issue

In 2011, the crimes against children reported a 24% increase from the previous year with a total of 33,098 cases of crimes against children reported in the country during 2011 as compared to 26,694 cases during 2010. The State of Uttar Pradesh accounted for 16.6% of total crimes against children at national level in 2011. Daily news too evidences the increased violence and abuse against children.ⁱ

Instances where young marginalized children face concern for their safety and security within their school premises is reflective of the general state of difficulties that children face at school today. Despite the government's efforts in making education free and compulsory for all children between the ages of 6-14 years, through the Right to Free and Compulsory Education Act, 2009, the issue of children's safety and security are concerns that remain to be fully addressed.

Children as young as those attending pre-school and primary school are often most vulnerable to abuse by figures of authority at their schools. A few cases reported below reflect the intensity of this problem:

- 16th Sep, 2014 - the headmaster of a government school in the Tirunelveli district in Tamil Nadu was arrested on charges of sexually abusing an 11-year-old girl.ⁱⁱ
- 22nd Aug 2014 - a nine year old visually challenged girl was raped by unidentified persons in a government residential school for specially challenged children in the Raibag taluk of Belgaum district in Karnataka. The incident came to light when the parents took the child to the KC General Hospital on being informed that their child had fallen ill. The school did not take cognizance of the incident nor inform the parents of the same.ⁱⁱⁱ
- 21st April 2014 - four minor girls in a government school were abused by the head teacher and two other teachers, in Bagri, 70 kms from Pali, Rajasthan. The girls were 7 years old studying in class 2.^{iv}

- 18th April 2013 - a five year old kindergarten male student was sexually assaulted by his teacher in a school run by the Municipal Corporation in Jagatpuri, East Delhi.^v
- 13th April 2012 - a case of repeated sexual abuse was filed by the girls of a government boarding school in Kushinagar district, UP. The girls alleged that two class four employees would get drunk and sexually abuse them.^{vi}
- 26th Sep 2011 - The headmaster of a government school in Uttar Pradesh's Allahabad district was arrested on charges of forcing girl students to remove their uniforms on the pretext of a medical examination.^{vii}

These recent ongoing cases of harm against children at school indicate the current state of children at schools, which hinder their education, learning, and growth. As the nation progresses towards ensuring all children receive an education, it becomes imperative to understand the issues of safety and security that face children, and must also be addressed along side the implementation of the RTE Act.

1.2 Why this document?

This document seeks to provide insight and information into the various issues concerning children's safety and security inside and outside schools and on their journey to schools.

Schools are the prime spaces for extending education in contemporary India. The expectations from schools are manifold: to provide safe and secure space for children, ensure infrastructure and

facilities essential for children to spend long hours of the day in school, create a joyful and free from fear environment to learn, provide the basic materials for teaching and learning, and ensure trained teachers who can teach them and transform children into confident responsible citizens. The Right of Children to Free and Compulsory Education (RTE) Act, 2009 is the translation of the Constitutional mandate of providing universal elementary education to all children till the age of 14 years (Art 45) and the culmination of the long struggle by civil society for a national system of public education of equitable quality with inclusion. Further, Article 46 of the Constitution mandates the state to promote with special care the educational interests of the weaker sections of the people, in particular of the Scheduled Castes and the Scheduled Tribes.

Various reports, media highlights, and interaction with children and parents, reveal that schools are falling short of the expectations from them, particularly with regard to safety of the children. While much progress has been made in making available primary schools within accessible distance, various gaps in terms of safety and security, teacher availability and quality teaching are reported, which hinder education as a whole. Many children experience discrimination, neglect, fear, violence and abuse that curtail their learning and development. Large numbers

of children drop out in class VIII, X and XII without acquiring an education that can enhance their lives and livelihoods. This creates a large gap in how the nation can reap the benefits of population dividend for building a strong and secure nation and a global presence.

This document will provide information on the various issues of safety and security affecting children at school. It provides conceptual clarity and a framework to understand safety and security issues in education. It documents the already existing measures – legal and policy – and redressal mechanisms available for safety of young people. However, this document highlights that despite these measures, children are unsafe in the existing school and learning environment. The purpose of this document is to function as a resource guide for creating further training documents for teachers, School Management Committees, and other stakeholders for ensuring safety of children at schools. This will help sensitize the stakeholders of children’s education towards the issues of safety and equip them with knowledge about the various legal and policy measures, redressal mechanisms available to them to ensure a safe and secure environment for children’s learning. Overall, it aims to break the silence around children’s safety in the discourse around education.

In particular, the UP Government and UP Sarva Shiksha Abhiyan, took the initiative to learn about and address the current state of vulnerabilities faced by marginalized girl children in UP. This information document, hence, serves as a resource both in the nation and for UP in learning about and addressing safety and security of children. The document also offers next steps and practical ways forward in how to implement this knowledge about the issue to ensure safety of young people.

1.3 Structure of the document

The first part of the document provides the background of how this document came into being, as well as the background of what constitutes as “safety and security” issues for children at schools. Chapter two provides the steps involved in producing this document: the timeline, the small study conducted, and organizations involved in producing this document. Chapter three outlines the conceptual frame and various domains that constitute safety and security. Chapter four and five provide the overview of the present and existing legal and policy provisions in the country, as well as the redressal mechanisms in place to address children’s safety at the national, state, and local level, respectively. Finally, the last part of this document lists the various stakeholders for children’s safety, and provides recommendations and ways forward.



CHAPTER **2**

Steps for Developing the Vision Document

2.1 Steps in developing the vision document

conceived of by Sarva Shiksha Abhiyan (SSA) U.P. and CARE India. To gain input on marginalized communities, CSEI and CARE came together.

Activity time line

The idea to create such a document was

Description of Activity	Timeline
Meeting between CSEI and Care India to being task of preparing this document. Plan for small study on data on safety and security	June 2014
Secondary literature review.	July – August 2014
Equity Mapping Tool (EMT) Especially related to the issues of equity and inclusion towards safety & Security of girls in education.	
Partner Consultation: Equity Mapping Tool Finalization Through Partner Consultation	August 2014
Orientation: Field Investigators Tools Familiarization of Field Enumerators	August 2014
Data Collection & Field Process	August – September 2014
Analysis and Learning Assessment	September – October 2014
Sharing Interface - consultation	November 2014
First draft of document shared with SSA UP and other stakeholders in Lucknow.	November 2014
Final draft of document and plans for consultations and workshops and development of IEC materials and teacher training.	December 2014

Meetings

An initial meeting was held with Care India and Sarva Siksha Abhiyan UP in June 2014 to discuss a study for examining safety and security issues of girls in schools.

In consultation with CSEI, an initial frame work for the study was created along with National Dalit Movement for Justice-National Campaign on Dalit Human Rights (NDMJ-NCDHR) and JOSH who partnered in the development of the resource document. Meeting with Basic Shiskha Adhikari,

Faizabad was also held during the field visit to UP in August 2014 to understand the current issues and the grievance redressal mechanism implemented by the state. Meetings were held with Mahila Samakya team members in Lucknow in September 2014. The draft document was presented in detail to the SSA and other concerned officers of KGBV and RTE cell in Lucknow 19th November. The suggestions were incorporated into the final draft.

Tool design

To develop this document, CSEI and Care believed that a small study identifying the issues of safety and security and the gaps in implementation of redressal tools was required. The findings of the study enhance the information presented in this document. For the study an in-depth open ended questionnaire was developed that focused on four important areas:

- i) issues of children in schools/hostels with regards to safety (physical, social, sexual and emotional);
- ii) safety and security issues related to infrastructure and facilities in school and the education system;
- iii) existing prevention and supportive measures; and
- iv) existing Grievance redress mechanisms. A set of 5 tools focusing on children, parents, teachers, SMC/PRI members and education administrators were developed and used in the study. In addition, focus group discussions and participant observation was also used as a tool during one KGBV workshop.

KGBV Workshop

A two days workshop was held in KGBV, Faizabad in which various issues were explored through Play for Peace Experiential learning methodology, and Focus Group Discussion involving a total of 60 girls. Teachers, warden and other staff members were interviewed to find out the safety and security issues of the children and also understand their own strategies for promoting safety and security. Observation visits were made to neighbourhood school along with KGBV Visit.

Field visits

Care India proposed three districts namely Balrampur, Bahraich (Dalit and Muslim concentrated) and Faizabad where Dalit and Muslim population are concentrated. Two panchayats out of these 3 districts, including 6 schools, were selected for the sample observation and study. In Balrampur and Bahraich Focus Group Discussions were held with school going girls, school going boys, and parents from Dalit and Muslim communities. During the engagement with children participatory games and exercise like drawing and writing were also conducted. In addition a community meeting with people from diverse background was also planned to identify the intensity of the issues. Teachers were interviewed in selected middle schools and primary schools

in the above said districts (4 primary schools and 2 middle schools). Apart from interviews and FGDs, some case studies were documented.

2.2 Key findings from field

- Social exclusion and untouchability:** In Bhairampur panchayat, Balrampur district, community members reported untouchability practices in the mid day meals. Children from general castes did not eat mid day meals when the cook came from Dalit or Muslim community. Further, Muslim community reported that they do not eat mid day meals when the cook is from Dalit community. Dalit community reported that Dalit children did not eat mid day meals when the cook was from the Muslim community. Children also did not build friendships with children from other communities and tended to remain within their own community. Muslims and Dalits attended separate schools in the same compound as per parents demand (as told by teacher). There is no special effort in school level to address this issue.
- Absence of religious pluralism and diversity:** Schools displayed Hindu religious pictures, spaces and symbols. There was no representation of minority religions. This is particularly stark as Muslim children also attended the schools in considerable numbers.

The visits showed that KGBV teachers encouraged children to engage with each other and promoted social harmony. But they said that they still found it difficult to get Muslim girls to attend KGBVs.

- Teachers explained the lower school performance of Dalit children as owing to their lower intelligence. In their opinion, poverty and malnutrition negatively impacted the intellectual capabilities of Dalit children.
- Schools don't have mechanism to ensure children's safety during disasters like floods. It was found that children did not attend schools, even after two weeks of the floods as the compound remained flooded and access roads were broken.
- Muslim girls reported that if they fail in any class their parents stopped them from going to school and had to stay on in their homes, helping in household chores.
- There were reports of added intimacy of some male teachers with girl students in one of the villages, which was disclosed by the teachers to our field researcher. A male teacher in a village of Bahraich district used to abuse girls in the age group of 12-14. None of the girls opposed it since they were not aware of the consequence. Even though the other teachers were aware of this abusive situation, none of them reported it as they were afraid of the male teacher. The teachers consider him as rowdy and knew he was part of a dominant and influential community from the local area. This abusive male teacher has now been appointed as a full time teacher in some other school.

- Many girls in Balrampur panchayat reported that they will not be able to continue their studies after class 8. The government high school was located 8 kms away and to reach the same, they had to walk, take a local auto-rickshaw and then take a bus. Parents were not willing to send their girl children so far. There was the daily cost also that could hinder this process. Their access to upper primary (middle) school was also not confirmed as there was only one upper middle school in the panchayat that was the feeder school for four primary schools in the panchayat. Families reported that even boys dropout as many had to take up employment to support their families. There was no concept of making schools accessible to children with disability, neither to the schools nor within the schools.
- Girls in the KGBV repeatedly expressed their discomfort and anxiety at the poor infrastructure and facilities – there was no boundary wall and they were concerned that people could enter the KGBV, particularly at night. Further, the door to their sleeping rooms was broken and people could come in. About 40 girls slept in a room, two girls sleeping on a cot, with no electricity. The heat in the room was unbearable even during day time. The girls reported that they do not have a good night's sleep in the heat and with the mosquitoes. The toilets near their bedrooms could not be used as the flooring had caved in and water seeped down to the office room downstairs. They were afraid to go down and use the toilets at night as the bathroom doors were broken and there was no light at night. The kitchen had huge holes on the floor and was a living space for rats. The electric wiring was open and dangerous. Many girls reported seeing snakes in the compound. If anything were to happen, there was no transport facility except the 108 service which according to the KGBV responded quickly. However, medical facility was one hour away. A lady police personnel was added to increase security at night, though it was not clear how effective she would be in any emergency.
- The middle school in Bahraich reflected similar poor infrastructure; the floors had caved in and hence one of the rooms was not being used. In the absence of a kitchen room, one of the class rooms was used as kitchen. The head of the lone water handpump was missing and there was no drinking water available in the school. There was no toilet in the school too.
- The middle school in Amine had three classes. There were two sanctioned teachers, but one was on long leave for delivery. The three classes were managed by a single teacher who moved from one class to another. There was no substitute teacher put in place since the past six months.
- In Thailiya village, Bahraich, all teachers in the primary schools had sticks. They also tended to use them often. There was no concern that beating was prohibited. Children also reported other forms of corporal

punishment - “murga banana” (to sit crouching and holding one’s ears), standing in the sun, hands up, ear holding and kept standing, stick beating, “murga banana” and then putting brick on back for boys. Girls were mostly only beaten with sticks.

Some of the instances of evidence described in the above findings are used in the next chapter to help characterize the various domains of safety and security that children do not experience at schools. These findings are presented as short case studies in Chapter Three.

Infrastructure - What children required from the ‘SARKAR’

- High boundary wall
- Iron door on main gate
- Generator to handle power failure
- Change of school uniform- children don’t like Khaki colour and the stitching style.
- More plates & spoons
- Bring table & chair in classes & dining hall
- Timely & sufficient supply of books & copy
- Supply shoes & sweater in time (not after winter is over)

2.3 Findings from the experiential learning session and FGD with children in KGBV School

About 30 girls of the KGBV played a game called ‘As You like It’ where they had to make choices and give reasons for their choices. To the question – ‘To get married or not to get married,’ except for about 5 girls, the remaining said they wished to get married. Reasons included that their parents expected them to get married. If

they do not get married, people will talk. They said “it was the normal thing to do once girls grew up.” The few who did not want to get married, the reason was that they wanted to pursue studies, gain an employment, and do something in their life.

Twenty five girls were requested to chose their place on a line graded from 1 to 10. Position 1 represented high levels of insecure and unsafe feelings. Position 10 represented complete safety and secure feeling. They were asked to close their eyes for a minute reviewing their situation and chose a place. Quite surprisingly, out of 25

girls 3 girls took their position on 1. Two girls took position at 3. The remaining 20 girls took position at 2. On probing why girls decided to stand on position 2, one girl said that what made them feel little safe and secure was the presence of the warden and full time teachers who stayed with them and shared love and care for them. Otherwise they felt quite unsafe and insecure.

2.4 Literature Review

Recognizing the increasing trends in child abuse, government departments and non government organizations have evolved documents, modules and guidelines for supporting key stakeholders to promote safety and security in education system. More modules and materials are currently available at the global level. The USA turns out to be ahead of other countries in developing safety and security guidelines with individual states developing contextual understanding and strategies. A few are available across other countries too. A review of some of them contributed to developing this document.

Major dimensions addressed in the documents include promoting safety and security in school layout and physical infra-structure and school environment;^{viii} training documents for teachers, community members and students on safety and security related to protection from gender-based violence;^{ix} addressing

gender based violence against women and girls from marginalized communities;^x best practices to address safety and security in conflict situations;^{xi} safety and security issues for children with special needs.^{xii} UNICEF has evolved strategies on promoting safety and security for girls' education—recruitment of female class room assistants in Guinea and Sierra, girls education advisory councils in Ethiopia. UNICEF strategies for promoting child friendly schools, child participation through children's governments.^{xiii} The Public Health Department, Toronto, Canada evolved Healthy School Toolkit incorporating nutrition, physical activity and emotional well-being.^{xiv}

Safety and security documents and guidelines are also available at the national level and with few states in India. National Policy on children, 2013, recognises 'a safe, secure and protective environment a precondition for the realization of all other rights of children.'^{xv} The National Commission for the Protection of Child Rights (NCPCR) has developed guidelines for eliminating corporal punishment in schools.^{xvi} The Ministry of Human Resource and Development (MHRD) has issued guidelines against discrimination in schools and model grievance redress mechanism.^{xvii} The National Advisory Council (NAC-UPA) also developed guidelines to address discrimination in schools.

Kerala state with help from Mahila Samakya developed help desk in schools, self defense training programmes for girls, and gender education training for school teachers. The education department in collaboration with the police department has set up complaint boxes in schools. The Kerala motor vehicles department issued guidelines for school buses and drivers.^{xviii} Karnataka state has issued safety measures and guidelines for school children in July 2014, after repeated incidents of rape and violence in the schools.^{xix} The Bangalore police have also issued 'child safety

guidelines' to all schools.^{xx} The Delhi Commission for the Protection of Child Rights (DCPCR) has prepared an extensive document, 'Guidelines on the Prevention of Child Abuse,' in 2013.^{xxi} Assam, Gujarat and Jharkhand have developed guidelines for child protection in the context of disasters. Evidently safety and security are increasingly being recognized as essential components for promoting education and children's rights.



Understanding Safety and Security – Conceptual Framework and Domains

3.1 Safety – Security and Child Abuse

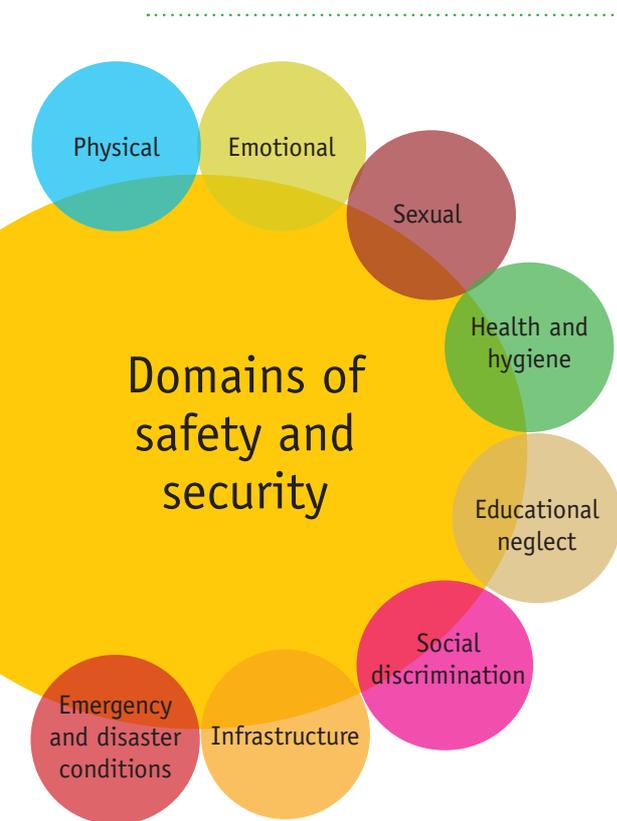
Safety and security concerns are emerging as important factors in children’s learning and completing schooling. In the context of education, safety and security measures are required to prevent, protect, redress and rehabilitate children who may be abused physically, emotionally, sexually or socially creating barriers for their education or whose educational opportunities for equitable quality education in an inclusive environment is being neglected. It is important to locate safety and security in a rights based framework provided through the Constitution, legislations, entitlements and global conventions, principles and norms in the best interests of the child. A focus on social equity and inclusion in promoting safety and security are also important dimensions to level the playing field for marginalized and

socially excluded children to overcome historical deprivation. To gain clarity on safety and security issues, some foundational inputs on child abuse is relevant.

Child abuse defined as ‘maltreatment or neglect through acts of commission or omission by parents or other care-givers/duty bearers.’ It covers a wide spectrum from ‘abuse to violation of children’s rights to crimes and children to exploitation’ – the spectrum from common practices that may not be recognized as child abuse to intentional actions against children for gains and benefit. Child abuse in the educational context consists of acts of commissions or omissions of maltreatment or neglect that stand in the way of the most marginalized child accessing ‘education of equitable quality in an inclusive environment.’ The lens of equity and inclusion to quality education is important given the educational inequalities across social groups and the historical exclusion of marginalized communities from education.

A working definition of 'Safety and Security' in schools denotes the following in this document:

- Conditions in schools that are designed to ensure protection from physical danger, threat or injury, including corporal punishment.
- Conditions in school that are designed to ensure protection from verbal abuse, mental harassment, social discrimination, humiliation or indignity.
- Conditions in school that are designed to ensure protection from sexual harassment, abuse and other sexual offences, as under the Protection of Children from Sexual Offences (POCSO).
- Conditions in schools that are designed to promote equitable quality learning in an inclusive environment.
- Conditions that are designed to provide additional support to children with special needs or other vulnerabilities in accessing and performing in education.
- Conditions that promote participation, inclusion and excellence in learning in keeping with the purpose of schooling and objectives of education.



3.2 Domains of safety & security

3.2.1 Safety and Security Issues in Education in the Physical Domain

Physical abuse in schools is commonly referred to as 'corporal punishment' and is defined as the deliberate infliction of pain intended to change a person's behavior or to punish her/him. Corporal punishment is often passed off as the means to discipline the child and in the best interest of the child. Teachers insist that children will not learn without corporal punishment and that teachers cannot manage a class without corporal punishment. Parents too believe that children need the fear of corporal punishment and they will study. However, *across the globe there is growing realization that the line between punishment and abuse is rather thin and blurred and there are other more judicious and effective ways to enforce discipline than beatings.*

Common Forms of Physical Abuse in Schools:

Burning	Beating with hand	Making a child stand with books/weight on the head
Hitting	Beating with stick	Making a child stand in the shape of a chair
Punching Scratching	Beating with iron ruler	Making a child stand as a murg
Shaking	Beating on the knuckles	Making a child stand under the sun
Kicking	Beating on the back of the child	Making a child run around the play-ground or around the school
Slapping with palm	Acid attack on girls	Making a child do a number of sit-ups
Twisting ears	Making a child hit his head against another's	Hitting a child's head against the wall

Case Study

Hamid, aged 12 years, is student of class 7. He did not attend classes regularly. His father is an agriculture worker and mother is not literate. He was not interested in sitting in class because of severe corporal punishment like beating, murga banana, stand in sun light. The teacher also made another boy hit his head against his. Hamid does not eat Mid Day Meal because a Kori (Dalit) woman made the food and she eats pork, which is prohibited in his religion. He goes to Madrassa regularly. He said, "when teacher beats me I feel like running away from this school and get admission in some other school. But my ambition is to learn the Quran and become a Moulana because Moulanas get respect from the community. And I will get money also if I get job in some Masjid." (Balrampur)

3.2.2 Safety and Security Issues in Education in the Emotional Domain

The 2007 GoI study on child abuse provides a working definition of child abuse:

Emotional abuse also known as verbal abuse, mental abuse, and psychological maltreatment. It includes acts or the failures to act by parents or caretakers that have caused or could cause, serious behavioral, cognitive, emotional, or mental trauma. This can include parents/ caretakers using extreme and/or bizarre

forms of punishment, such as confinement in a closet or dark room or being tied to a chair for long periods of time or threatening or terrorizing a child. Less severe acts, but no less damaging, are belittling or rejecting treatment, using derogatory terms to describe the child, habitual tendency to blame the child or make him/her a scapegoat.^{xxii}

Harassment covers a wide range of behaviors of an offensive nature. These are behaviors intended to disturb or upset and it is characteristically repetitive. In the legal sense, it is intentional behavior which is found threatening or disturbing.

Some of the common forms of mental/emotional abuse are:

Humiliate/shame a child	To be forced to beat a fellow classmate	Bullying by fellow students
Calling a child by any visible disability	Making a child stand outside the class room	Threatening a child that their name will be removed from the school register
Calling a child stupid, dumb etc	Creating fear in the child suggesting that the child has to go and meet the Principal so that the Principal may question the child.	Publicly announcing a child's shortcoming
Labelling a child –stupid, fool, dumb etc		Humiliating parents when they come to school on any issues
Isolating a child and asking other children not to engage with him/her		Making a child stand on the bench
Making sarcastic comments to a child	Demanding that a child bring parents to school in an isolated incident	Making a child stand at the back of the class room
Using humiliating adjective linked to the name of a child	Making a boy child remove clothes and stand in class	Asking a girl child to remove their clothes for medical check up

Case Study

60 children from the Dalit community (Nutt community) were reported to have dropped out of the local primary school in their Dadraul village, Shahjehanpur district. Parents said that the dominant community objected to Dalit children studying in the same school as their children. When parents did not heed the objections and continued to send the children to the school, the dominant community members resorted to beating and threatening the children at the school gate. The Dalit parents and children reported that the school did not take action against this matter. In fact, the school management routinely discriminates against them, calling them by caste names and discriminating against them during the mid day meal program. The Basic Shiksha Adhikari said the matter was being enquired into. August 30, 2014.^{xxiii}

Bullying

Bullying is a common cause of mental harassment for children. Bullying can be distinguished from teasing, as in the case of bullying there exists a difference in the power relations between the one who is bullied and those who are bullying. Groupism often exists amongst children, whereby children with common traits hang out together. Often the group with more power as a result of their physical strength, or socially perceived

conditioning of superiority over children of other castes, such “powerful” groups of children gang up against those who are different from them, weaker than them, and socially considered “backward.” Bullying occurs in various forms: such as verbal harassment and physical harm. It has been reported in Delhi as a serious and widespread problem. For instance, a Delhi based clinical psychologist reports

that: “bullying has become a menace with cases of violent bullying reported from primary and even pre-primary classes. We are getting cases of children in class 1 forming groups and bullying”.^{xxiv} Bullying termed ragging has become a menace and reported with serious consequences including suicides in higher education and the UGC has issued guidelines for “curbing the menace of ragging in higher education.”^{xxv}

3.2.3 Safety and Security Issues in Education in the Social Domain

Social harassment can be defined as the harassment or violation of children’s rights based on the social identity or any identifying characteristic (caste, religion, disability, gender, language, parental occupation, regional/nationality, food habits, clothing, cultural practices) of the community. The abuse often is along socially sanctioned (previously socially sanctioned) practices – calling by caste names, teasing about community customs and practices, segregated sitting, discrimination because of food and eating habits, and hereditary occupations and tasks etc.

It becomes important to recognize and address the barriers and challenges faced by children from Dalit, Tribal, Nomadic and de-notified communities and Muslim

minority communities owing to their social identities. Studies by academic institutions and the government highlight that social exclusion and discrimination are important reasons for scheduled caste, Scheduled tribe and Muslim children’s falling behind in their education. A study by the National Institute of Advanced Studies reports that: “by design and through overt and covert practices, education became part of the systemic exclusion of non-elite students... Neither the make-up of the education system nor the lack of participation by Adivasi student is by accident.”^{xxvi} The 10th Joint Report of the SSA highlights that “for girls and socially marginalized groups the issue is not merely one of bridging quantitative gaps in enrolment and retention but also of ensuring the rights of children from these communities to an education that is free of discrimination and one that empowers them to participate as equals in all aspects (for example, class room practices, teacher behavior, peer relationships and so on.”^{xxvii} Despite special provisions, children from these communities fall way below other children in their education access and performance. Addressing the domain of social discrimination will pave way to promote their educational interests and reduce the barriers to their education. Social abuse needs to be recognized as distinct from mental and emotional abuse as these are based on social relationships and perceived norms of purity-pollution, and perceived lack of value and worth of certain social groups. It negatively impacts children’s self image, dignity and confidence, which are essential to learning and participation.

Forms of Social Abuse

Calling by caste name in derogatory manner	Made to sit separately	Not encouraged to come to lead class in reading, writing on board. etc.
Humiliated on the basis of parental occupation	Made to sit at the back, not allowed to sit in the front	Teachers do not respond when a socially marginalized child asks doubts
Made to do cleaning of school compound, class room	Not seated together at mid-day-meal times	Teacher's dismiss children's aspirations and limit children to their family based occupations
Made to clean toilets, fill water in toilets	Prohibited from touching mid-day-meal, making tea for teachers	Are not given leadership roles
Parents not treated well, humiliated	Not given adequate food during mid-day-meal	Not given scholarship on time

Case Study

Social exclusion and untouchability is reflected in the reaction of different communities within Balrampur to the mid day meals. The cook of the mid-day meal belonged to the Kori community. A Muslim man in Balrampur asked during a Balrampur Panchayat meeting: "how can Muslim children eat from the school when the cook is a Kori woman? They eat pork." A woman present from the Yadav community said that their children will not eat the mid-day-meal if the cook was from Dalit or Muslim community. Interestingly, the cook from Dalit community said Dalit children will not eat if cook is from Muslim community because they eat beef. She also said "we are Hindus, Sreerams's people, so we cannot eat food from the Muslims." Such messages are communicated by parents and community elders to the children attending this school, which affects children's health, social identity and learning at school.

Case Study

Oct 30, 2014 Dalit girls in Ravelvas khurd girls high school in Hissar, Haryana were asked by the head teacher to clean the toilets as part of the swach bharat abhiyan. The argument was that the girls received scholarships from the government and the abhiyan had to be implemented.^{xxviii}

3.3.4 Safety and Security Issues in Education in the Sexual Domain

Sexual abuse is defined as the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared, or one that violates the laws or social

taboos of society. Children may be abused by adults or other children, who are by virtue of their age or stage of development in a position of responsibility, authority, trust or power over the victim.^{xxix} While sexual abuse is often more prevalently experienced by girls, boys are also victims of sexual abuse.

Forms of sexual abuse and harassment :

Sexual assault	Unwanted touching in	
Making child fondle private parts	Pull duppata	
Making child exhibit private parts	Touching breast	Single mothers of children being approached by members
Photographing a child in the nude	Touching body parts as if appreciating them	Boys lecherously watching girls doing sports/games
Exhibiting private parts to the child	Making sexual remarks when girls are walking home/school	
Children shown pornographic materials	Some may encourage girls to relate to them in love	
	Humiliation regarding puberty at school	

3.3.5 Safety and Security Issues in Education in the Domain of Educational Neglect

Neglect is the failure to provide for the child's basic needs. Neglect can be physical, educational, or emotional. Physical neglect can include not providing adequate food or clothing, appropriate medical care, supervision, or proper

weather protection (heat or cold). It may include abandonment. Psychological neglect includes the lack of any emotional support and love, never attending to the child, substance abuse including allowing the child to participate in drug and alcohol abuse. Educational neglect includes failure to provide appropriate schooling or special educational needs, allowing excessive trancies.

Forms of Educational Neglect

	Upper primary and high schools are not adequate in numbers, not enough seats	Schools do not provide note books and pens etc which becomes costly to families
Lack of transport to reach schools beyond primary levels	Middle and High schools are beyond the mandated 3 and 5 kms	Scholarships, books are not supplied on time and hampers studies
Shortage of teachers	Toilets not suitable to support in puberty	When children fail, parents and teacher do not encourage them to continue studies
Infrastructure gaps –boundary wall, lack of toilets in schools pushing girls out of schools	Toilets not available for adolescent girls	Lack of watchman, guard were reported as security issues
Not providing pads to girls with pads		

3.3.6 Safety and Security Issues in Education in the Infrastructure Domain

Infrastructure gaps have occupied much of the educational provisions and reforms attention. Even as there are standard norms for infrastructure construction under the PWD norms for school buildings, under SSA for students: class room ratio, student-toilet ratio, student - water points ratio, provision of separate toilets for girls, provision of facilities for children with disability, these are rarely followed.

After three years of RTE implementation, the government reported that only about 10% of the schools complied with the RTE norms, the majority of which are infrastructure norms.^{xxx} In our discussion with children in the KGBV, the lack of boundary walls, adequate drinking water and toilets were reported major problems. In addition, the lack of sufficient space for sleeping, lack of fans or coolers, lack of enough plates for eating all resulted in creating barriers for their studies. The RTE puts the onus on the School Management Committees (SMC) to assess the needs of the

school and children, which can be the basis for creating the school development plan. However, the department is yet to use their plans as the basis of school planning.

3.3.7 Safety and Security Issues in Education in Disaster and Emergency Situation

Given that children are vulnerable owing to their age, and special groups of children may be more vulnerable owing to gender, disability or identity special measures are required to identify these vulnerabilities and ensure protection, relief and rehabilitation at the times of disaster and emergencies. Disaster management recognizes the 'first call of children' for all protection, relief and rehabilitation in the context of disasters and the same can be extended to emergency situations too. Children's access to education can be limited owing to various reasons as given below.

Inability of children to reach school during rains and floods – roads inaccessible, transport non-available, compound flooded	School buildings used as relief camps during disaster, and hence, disrupting education	Schools destroyed during earthquakes, land slides, floods
Seepage and dampness of school and class rooms during rains and floods	Children without adequate clothing or shoes during floods	School buildings used as security camps during emergencies or conflicts
Boats unavailable during floods to reach school	Children not adequately clothed during severe winters to come to school	Children not able to come to schools during shut down's, caste or communal violence
Parents anxious about sending children due to presence of security or other potential violence	Possibility of poisoning or insect/snake bites during flooding	

3.3.8 Safety and Security Issues in the health domain

Poor health conditions limit children's ability to be regular in schools. Their ability to concentrate and their ability to participate are also hindered due to ill health, or malnutrition. The mid-day-meal was a response to the reality of school hunger.

In addition, other nutritional deficiencies also negatively impact children's ability to learn. Through school health programmes, early disabilities, like poor eye-sight, low hearing, can be identified and addressed in the early on-set.

Adolescent girl children have special needs that could be addressed through school health care processes. Treating anemia and making available sanitary pads, having separate toilets for girls are important issues related to health and hygiene needs of girls that need to be addressed at schools. .

Health information, and health messages, healthy habits can be supported through health programmes at school. After learning about health through these programs, children can also become messengers of good health to their families. Hence, there are many ways in which health at school becomes a safety and security issue.

3.4 Children who are especially vulnerable

Children who are considered as especially vulnerable are those who need extra and special attention to complete a full cycle of school education. Those who do not have access to equitable quality education are also categorized as vulnerable children. The following can be considered as comprising this category who need particular focus with regards to safety and security issues in education:

1. Girl children
2. Children with disability
3. Scheduled Caste Children
4. Scheduled Tribe Children
5. Minority (Muslim) children
6. Street and homeless children
7. Children without adult care and protection
8. Child workers
9. Children themselves and whose parents are engaged in stigmatized occupations like sex work, waste picking, document scavenging
10. HIV+ children and children whose parents are HIV +

11. Migrant children (by some estimates 6 million children in India accompany their parents when they migrate for work^{xxxi})
12. Children in conflict with law
13. Children from de-notified, nomadic and semi-nomadic tribes, and particularly vulnerable tribal groups and;
14. Children living in conflict-affected areas.
15. First generation learners.

Legal and Policy Provisions and Measures

4.1 Many Issues–Multiple Agencies–Provisions

The international community, especially the United Nations agencies and law makers of India, have for over two decades or more now, accorded a privileged status to children, wherein special legal and policy provisions are drafted for their needs and care. The number of rights and privileges given to the children in the Constitution of India, duly supported by legal protection, also reflect India's national commitment to making children safe and providing a legal framework for their needs and rights.

During the last decade, various path-breaking legislations have been made to suitably strengthen the legal provisions for children. Some of the most recent include: The Child Labour (Prohibition and Regulation) Act, 1986, and proposed Amendments (2012),

Juvenile Justice (Care and Protection) Act, 2000, Commission for the Protection of Child Rights (CPCR) Act, 2005, the Right to Free and Compulsory Education (RTE) Act, 2009, Protection of Children from Sexual Offenders (POCSO) Act, 2012, Prohibition of Child Marriage Act, 2006; Hindu Succession (Amendment) Act, 2005.

The Government of India is committed to promote the survival, protection, development and participation of children in a holistic manner. A series of measures cutting across the boundary of gender, caste, ethnicity or region have been initiated in the past several years, in the realm of policy work, to realize inclusive growth devoid of exclusion and discrimination. The 12th Five Year Plan paves the way in terms of budget provisions to such commitments. The following provides a broad and brief overview of the Constitutional provisions, legislations and policies that protect and promote children, their rights, and well being.

4.2 Strengthening the school education system to promote safety and security for children

The RTE Act and various other policy guidelines provide norms to promote basic safety and security of children to ensure a complete cycle of schooling for them. These are codified in terms of:

- i) Promoting physical access – RTE Act lays down distance norms, child mapping and child tracking need. SMCs are to monitor out of school children and regularity, norms for schools in dangerous contexts and difficult terrain, in conflict areas and in disaster situations (disaster management Act). Transportation norms and specific provisions for children with special needs norms are also available. Residential schools and welfare hostels, KGBVs to ensure schooling access.
- ii) Promoting infrastructure access – RTE Act provides norms for infrastructure in boundary walls, school buildings, class rooms, kitchens, play grounds, water points, sanitation facilities, disabled friendly access and facilities. These are further boosted by various building norms under the Public Works Department and Building as Learning Accessory (BALA).
- iii) Promoting economic access – Mid-day-meal is expected to eliminate school hunger provision of uniforms and school materials, scholarships for children from vulnerable sections, special budget provisions under SCSP, TSP, MsDP to reduce inequalities in education.
- iv) Promoting social access – RTE Act mandates non-discrimination or any other forms of abuse/harassment that will prevent a child from completing elementary schooling, age appropriate education and admission to out of school children, elimination of child labour, other legislations and criminal procedure codes to address discrimination and violence. MHRD has provided guidelines against discrimination.
- v) Preventing physical violence – norms against corporal punishment,.
- vi) Preventing mental harassment and emotional abuse – RTE Act stipulates norms against mental harassment, UGC guidelines against ragging,
- vii) Preventing sexual abuse – POCSO Act and rules
- viii) Promoting complete school cycle and ensuring quality – RTE norms on SCR, PTR.

4.3 Children and Youth – Important Constitutional Provisions in India

1. Art 14 – provides for equality before the law and equal protection to all citizens (which include children)
2. Art 15 – non-discrimination on any ground – religion, race, caste, sex, place of birth, or any of them

3. Art 15 (3) – state shall make special provisions for women and children
4. Art 16 – equality of opportunity in matters of public employment including reservation
5. Art 19 (1) (a) – all citizens have the right to freedom of speech and expression
6. Art 21 – Protection of life and liberty
7. Art 21 (a) – Right to free and compulsory education for children of 6 to 14 years
8. Art 23 – prohibition of trafficking in human beings and forced labour
9. Art 24 – prohibition of child labour
10. Art 39 (e) – the health and strength of women and children are protected
11. Art 39 (f) – children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and childhood and youth are protected against exploitation and against moral and materials abandonment
12. Art 45 – provide early child hood care and education
13. Art 46 – promote the educational and economic interests of SCs, STs and other weaker sections
14. Art 51 (A) (k) – duty of parents and guardians to provide educational opportunities to children of 6-14 years

4.4 Important Union laws Guaranteeing Rights and Entitlement to Children

1. The Guardian and Wards Act, 1890
2. The Reformatory Schools Act, 1897
3. The Children (Pledging of Labour) Act, 1933.
4. The factories Act 1948
5. The Hindu Minority and Guardianship Act, 1956
6. The Hindu Adoption and Maintenance Act, 1956
7. The Immoral Traffic prevention Act, 1956
8. The Women’s and Children’s Institutions (Licensing) Act, 1956
9. The Young Person’s harmful Publication’s Act, 1956
10. The Probation of Offender’s Act, 1958
11. Orphanages and Other Charitable Homes (Supervision and Control) Act, 1960
12. The Apprentices Act, 1961
13. The Child Labour (Prohibition and Regulation) Act, 1986, proposed Amendments 2012
14. The Infant Milk Substitutes, Feeding bottles and Infant Foods (Regulation of Production, Supply Distribution) Act, 1992 and its amendment of 2003
15. The Pre- conception & Pre-natal Diagnostic Technique (Regulation, Prevention and Misuse) Act, 1994 and its amendment of 2002.

16. The Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995
17. The Juvenile Justice (Care and Protection of Children) Act, 2000, repealed the Juvenile Justice Act 1986. The 2000 act also has been amended in 2006, 2010, and 2014.
18. The Commissions For Protection of Child Rights Act, 2005
19. The Prohibition of Child Marriage Act, 2006
20. Protection of Children from Sexual Offences, (POCSO) 2013

The above mentioned legislations consider different and varying age limits in defining children under them, however, all cover children in primary schools. For example:

- The Factories Act (1948) 'a child below 14 years of age is not allowed to work in any factory. An adolescent between 15 and 18 years can be employed in a factory only if he obtains a certificate of fitness from an authorized medical doctor....'
- The Child Labour Prohibition and Regulation Act (1986) 'Child means a person who has not completed his fourteenth year of age.'
- Prohibition of Child Marriage Act (2006) declares 'Child means a person who, if a male, has not completed twenty-one years of age and, if a female, has not completed eighteen years of age.'
- The Juvenile Justice (Care and Protection of Children) Act 2000, amended in 2006, 2010

declares "juvenile" or "child" means a person who has not completed eighteenth year of age.'

- Indian Penal Code in its Criminal law states 'Nothing is an offence which is done by a child under age of 7 years. The age of criminal responsibility is raised to 12 years if the child is found to have not attained the ability to understand the nature and consequences of his/her act.'

4.5. National Crime Records Bureau (NCRB)

The NCRB, Ministry of Home Affairs, collects and publishes data on crimes across the country and a section that is reported is regarding children and crimes. Children get involved in situations of crime as victims or as offenders and both are of concern. These are serious issues which demand immediate attention of law makers, law enforcers, social activists and Society as a whole. These reports show the increasing trend in the incidences of both 'Crime against children' and 'Crime committed by children'.

Crimes against children

Generally, the offences committed against children or the crimes in which children are the victims are considered as Crime against children. Indian Penal Code and the various protective and preventive

'Special and Local Laws' specifically mention the offences wherein children are victims. The age of a child has been defined to be below 18 years as per Juvenile Justice (Protection and Care of Children) Act, 2000.

Categorization of Crimes against children

The cases in which the children are victimised and abused can be categorized under two broad sections: **Indian Penal Code (IPC) and Special and Local Laws (SLL)**.

Specific Sections/Acts under IPC are:

- a) Murder (302 IPC)
- b) Foeticides (Crime against a foetus) (Section 315 & 316 IPC).
- c) Infanticides (Crime against newborn child) (0 to 1 year) (Section 315 IPC).
- d) Abetment to Suicide (abetment by other persons for commitment of suicide by children) (Section 305 IPC).
- e) Exposure & Abandonment (Crime against children by parents or others to expose or to leave them with the intention of abandonment) (Section 317 IPC).
- f) Kidnapping & Abduction:
 - i) Kidnapping for exporting (Section 360 IPC).
 - ii) Kidnapping from lawful guardianship (Section 361 IPC).
 - iii) Kidnapping for ransom (Section 364-A IPC).
 - iv) Kidnapping for camel racing etc. (Section 363 IPC).
 - v) Kidnapping for begging (Section 363 - A IPC).
 - vi) Kidnapping to compel for marriage (Section 366 IPC).
 - vii) Kidnapping for slavery etc. (Section 367 IPC).
 - viii) Kidnapping child for stealing from its person (under 10 years of age only) (Section 369 IPC).
- g) Procurement of minor girls (for inducement to force or seduce to illicit intercourse) (Section 366-A IPC).
- h) Selling of girls for prostitution (Section 372 IPC).
- i) Buying of girls for prostitution (Section 373 IPC).
- j) Rape (Section 376 IPC)

Specific Sections/Acts under SLL are:

- a) Immoral Traffic Prevention Act, 1956 (where minors are abused in prostitution).
- b) Child Labour (Prevention & Regulation) ACT, 1986.
- c) Prohibition of Child Marriage Act 2006
- d) SC/ST Prevention of Atrocities Act, 1989

Status of Crimes against children in the country

It is alarming that, in 2011, the Crimes against children reported a 24% increase

from the previous year with a total of 33,098 cases of crimes against children reported in

the country during 2011 as compared to 26,694 cases during 2010. The State of Uttar Pradesh accounted for 16.6% of total crimes against children at national level in 2011, followed by Madhya Pradesh (13.2%), Delhi (12.8%), Maharashtra (10.2%), Bihar (6.7%), and Andhra Pradesh (6.7%).^{xxxii}

4.6 National Policies and Programmes for Children

India has instituted a number of child centric policies addressing the issues of child survival, child development and child protection. The important among them are:

1. National Policy for Children 1974 is the first policy document concerning the needs and rights of children. It recognized children to be a supremely important asset to the country. The goal of the policy is to take the next step in ensuring the constitutional provisions for children and that the UN Declaration of Rights are implemented. It outlines services each state should provide for the complete development of a child, before and after birth, and throughout a child's period of growth for their full physical, mental and social development.
2. National Policy on Education, 1986 called for "special emphasis on the removal of disparities and to equalize educational opportunity," especially for Indian women, scheduled tribes (ST) and the scheduled caste (SC) communities. To achieve this, the policy called for expanding scholarships, adult education, recruiting more teachers from the SCs, STs, incentives for poor families to send their children to school regularly, development of new institutions and providing housing and services. The NPE called for a "child-centred approach" in primary education, and launched "Operation Blackboard" to improve primary schools nationwide.
3. National Policy on Child Labour, 1987 contains the action plan for tackling the problem of child labour. It envisaged a legislative action plan focusing and convergence of general development programmes for benefiting children wherever possible, A project-based plan of action for launching of projects for the welfare of working children in areas of high concentration of child labour was also envisioned.
4. National Nutrition Policy, 1993, was introduced to combat the problem of under - nutrition. It aims to address this problem by utilizing direct (short term) and indirect (long term) interventions in the area of food

- production and distribution, health and family welfare, education, rural and urban development, woman and child development..
5. National Population Policy, 2000, aims at improvement in the status of Indian children. It emphasized free and compulsory school education up to age 14, universal immunization of children against all vaccine preventable diseases, 100% registration of birth, death, marriage and pregnancy, substantial reduction in the infant mortality rate and maternal mortality ratio.
 6. National Health Policy, 2002: The main objective of this policy is to achieve an acceptable standard of good health amongst the general population of the country. The approach is to increase access to the decentralized public health system by establishing new infrastructure in deficient areas, and by upgrading the infrastructure in the existing institutions. It aims to ensure equitable access to health services across the social and geographical expanse of the country.
 7. National Charter for Children (NCC), 2003 highlights the Constitutional provisions towards the cause of children and the role of civil society, communities and families and their obligations in fulfilling children's basic needs. Well-being of special groups such as children of BPL families, street children, girl child, child-care programmes, and educational programmes for prevention from exploitation find special mention in the NCC. The Charter provides that the State and community shall undertake all possible measures to ensure and protect the survival, life and liberty of all children. For empowering adolescents, the Charter specifies that the states and communities shall take all steps in providing the necessary education and skills to adolescent children so as to equip them to become economically productive citizens.
 8. National Plan of Action for Children (NPA), 2005 was adopted by Government of India in the pursuit of well-being of children.. It focuses on:
 - Complete abolition of female foeticide, female infanticide and child marriage and ensuring the survival, development and protection of the girl child.
 - Addressing and upholding the rights of children in difficult circumstances,
 - Securing for all children legal and social protection from all kinds of abuse, exploitation and neglect.
- The various Schemes / Programmes are implemented by different Central Ministries, following the guidance of the national policies. They aim to tackle the

issues relating to the overall welfare of children.

The State/ UT Governments are responsible to execute the Center instituted programmes.

4.7 Important schemes for well-being of children

1. Integrated Child Development Service Scheme
2. Integrated Child Protection Scheme
3. National awards for child Welfare.
4. National Child Awards for Exceptional Achievements.
5. Rajiv Gandhi Manav Seva Awards for Service to Children.
6. Balika Samridhi Yojna.
7. Nutrition Programme for Adolescent Girls
8. Early Childhood education for 3-6 age group children.
9. Welfare of working children in need of Care and Protection
10. Childline services
11. Rajiv Gandhi National Creche Scheme for children of working mothers.
12. UJJAWALA : A Comprehensive Scheme for Prevention of trafficking and Resue, Rehabilitation and Re-integration of Victims of Trafficking and Commercial Sexual Exploitation
13. Sarva Shiksha Abhiyan
14. National Rural Health Mission
15. Rajiv Gandhi Scheme for empowerment of Adolescent Girls – SABLA.
16. DhanaLakshami – Conditional Cash Transfer for Girl Child with insurance cover

Grievance Redressal and Complaint Mechanism

'... if we face any problem in school we tell our parents, there is no other mechanism that we know of...'

Student of IVth standard, Prathmic Vidhalaya, Balrampur, UP.

'...when our child comes back and tell us about any issues that they have faced in school, we can only mention it verbally to the headmaster and request him to take action...'

Parent of student of Xth standard, Government Secondary School, Baharaich, UP.

'...there is no mechanism available with us, we at the most can raise the grievance to the Basic Shiksha Adhikari'

Head Teacher, Prathmic Vidhalaya, Balrampur, UP.

5.1 Grievance Redress Mechanism

Grievance Redressal is one of the most important components of the implementation framework of any legislation/program and scheme. Ensuring safety and security of children in schools depends upon possible mechanism to redress any grievances in cases where the rights of the child are violated.

A grievance has been defined by the Government of India as "Expression of dissatisfaction made to an organization related to its products, services and/or process (es) where a response or resolution is explicitly or implicitly expected."^{xxxiii} A system of redress is also needed since it:

- a. Addresses individual complaints of citizens, thus strengthening the short route of accountability of the public authority providing said service.
- b. Improves the delivery of the service, identifies systemic issues, enables timely action, lowers the costs of delivery^{xxxiv} and makes the process more efficient.^{xxxv}
- c. Brings dynamism to the functioning of the government and deepens coordination of the various departments providing the service.^{xxxvi}
- d. Establishes an effective internal mechanism to combat corruption and other irregularities within the system.
- e. Puts in place an independent and transparent mechanism to defend the system against false allegations and thus enhances faith in public services.

- f. Forms basis for collective pressure towards improvement of education by generating a bottom up demand for improvement of facilities.

Grievance redressal becomes especially important in the context of safety and security of children as it requires a responsive system and redressal process for speedy action. Although seen as a system which comes into play only in cases where there has been some violation, but the presence of a mechanism clearly notifying where and how to complain helps in keeping the environment of the school open and transparent and child friendly.

5.2. Why People Fail to Complain?

The importance and need for Grievance Redressal (GR) mechanism is widely acknowledged. However, it remains to be one of the most unused provisions of all schemes and programs, as most often people fail to complain and register instances of violation.

An array of grievance redress mechanisms exist, but are not used, because of inadequate and delayed action. This discourages people to register violations, which further results in weakening the implementation process of the programs and schemes. Complaints and grievances are also feedback to the system and offer suggestions for corrective measures. Lack of feedback serves to make the system non responsive.

The Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice in their Twenty-Fifth report observed that;

“The Committee is of the view that generally people are not aware that a system of redressal exists in many of the Government Departments and its offices where they are required to visit. ... The Committee also recommends that grievance- handling system should be accessible, simple, quick, fair, responsive and effective. It is not uncommon to hear from people complaining against harassment, waste of time, repeated visits to office etc.” xxxvii

The problems of delay, complicated procedures, and lack of information about such mechanisms are the main factors discouraging complaints. Past experience of the way complaints have been managed is also a deciding factor. History of complaints being successfully resolved is needed for people to be motivated to file them.

Along with need for a strong and responsive GR system, especially in the context of safety and security, there is also need to ensure safeguards for whistleblowers. There is a need for mechanisms to be put in place to make the processes of complaining safe, that is, offering protection to the whistleblowers and complainants alike.

The process of grievance redressal in education has been relatively poor. An independent audit of grievance redress mechanisms undertaken by the

Department of Administrative Reforms and Public Grievances gives the Department of Elementary Education and Literacy a score of 30 (of 100%). Only two departments, food and public distribution (27.1) and Defense Research and Development (29.30) from a total of 72 Ministries performed worse.^{xxxviii}

People with grievances vary in their ability and ability to access such mechanisms. Because India has a fairly large illiterate population, administrative mechanism must not entirely rely on the written word. This makes it difficult for neo-literates access any mechanism of redress that operates on the written word. Also, people find it difficult to understand complicated administrative procedures laid down by the system in order to access redressal mechanisms. Mere knowledge of a right is not enough to claim it. One can only claim their rights when there is adequate knowledge of which officials are to be approached to redress complaints, the powers vested in them (and what limits on their powers exist), the due process to be followed, and are also able to recognize when their complaints are being derailed.

In order to create a grievance redressal system that can be responsive to address issues of safety and security of all children, there is a need to not only designate officials to address complaints, but also put in place a processes of

creating awareness about its existence and specific provisions and to ensure the availability of an enabling environment to facilitate filing and addressing complaints.

5.3. The Available GR Mechanisms for Safety & Security

This section lays down the different provisions and mechanisms available for grievance redressal within education and the larger child rights framework.

The RTE Act provides a broad outline for a redress mechanism including a role for local authorities and quasi judiciary bodies/ human rights institutions. The education departments also have some form of complaint management systems. However, other legislations – especially the state specific Right to Public Services legislations and the proposed Central Grievance Redress Bill, also include provisions for redress of complaints pertaining to education. Judiciary and human rights institutions also play a role with regard to the same.

In the State of UP, apart from the available mechanisms under the RTE Act, the Department of Education has issued several orders to facilitate grievance redressal.

The present section will detail the different redressal mechanisms available in the State of UP to address grievances, especially those related to safety and security of children in school.

a. Provisions under the Right of Children to Free and Compulsory Education Act:

The RTE Act provides for a system of grievance redress. The framework of Sarva Shiksha Abhiyan (SSA) has also notified the path for the delivery of this Act.

For grievance redressal, the SSA Framework for Implementation states:

“The RTE Act has made local authorities the grievance redressal agencies and the SCPCRs the appellate bodies at the State level. In this context it is necessary to establish the modalities through which violations can be dealt with. A well defined institutional mechanism for grievance redressal involves a system of registering, investigating and responding within a well-appointed time frame. This will have to be done along with the implementation agency which is charged with the actual redressal of the grievance by ensuring that the right under consideration is actually restored.”

The Act laid down the larger guiding principles and the specific modalities of its implementation have been left to the respective states. Ministry of Human Resource Development in Feb 2012 issued a circular on Grievance Redress that further laid down the responsibilities of state governments (viz. identifying Local Authorities (LA) at village/ward, block/mandal and district levels, preparing the list of legal entitlements, creating awareness about this information and prescribe the manner in which grievances are to be filed).^{xxxix}

In the revised SSA framework, the LAs have been defined as the first line for redress, and the State Commission for Protection of Child Rights

(SCPCR) has been envisaged as appellate body for Grievance Redressal at the state level. The SCPCR is also entrusted with the responsibility of looking after overall monitoring at the state level, whereas the National Commission for Protection of Child Rights (NCPCR) is envisaged as Grievance Redressal authorities and overall monitoring at the national level. A maximum time limit of 3 months has been specified for action on grievance received by the local authority (or faster in matters of urgency), in order to afford adequate opportunity to concerned parties.

In instances of grievances pertaining to structures other than the LA, such matters are to be sent to the concerned authority and dealt with “expeditiously.” The guidelines recommend that LAs must keep aside fixed days/timing for hearing complaints and maintain a record of grievances filed and decisions taken and submit a periodic report to the state government.

The MHRD notifications, partly based on a set of recommendations submitted by the National Advisory Council (NAC), lay down a set of core principles for the redress system and made four sets of proposals for consideration of the government that include:

- a. Setting up of grievance redress architecture that enables complaint flow from local to state level

- b. Establishing mechanisms for dialogue and mediation ensuring collective processes of dialogue to ensure complaints are redressed
- c. Mechanisms for capacity building of the parties concerned in GR
- d. Further strengthening of the NCPCR and SCPCRs to enable them to play their designated function.

In Uttar Pradesh, formation for SCPCR has been recently initiated. There are, however, different government orders laying down the basic mechanism available for grievance redressal.

A Government Order dated 30th of July, 2012 makes provision of written complaints to be filed with the local authority in case of any violation of the entitlements of the RTE Act.^{xi} The local authority is directed to provide adequate hearing to the concerned parties and provide resolution to the grievance within a period of 3 months. The order identifies the gram shiksha samiti/ward shiksha samiti as the local authority to whom complaints may be filed and Basic Shiksha Adhikari/Nagar Shiksha Adhikari as the appellate authority to whom appeals can be made in case the local authority is unable to adequately redress the grievance.

The order also makes provision for second appeal. The Zilla Panchayat in case of rural areas and Nagar Palika in case of urban areas have been empowered to hear cases

of second appeal, which also stipulates the time period of 3 months for redressal. Also a provision is made for further hearing of all cases through an online mechanism by the Secretary, Uttar Pradesh Basic Shiksha Parishad, Allahabad.

In the context of ensuring safety and security of children in schools, another government order dated 19th August, 2010 also exists for grievances related to corporal punishment.^{xii} This order makes provision of complaint box in all schools to help children report against any form of physical and/or mental harassment. The SMC is entrusted with the duty to monitor the complaints filed through these boxes at regular intervals. It is also supposed to oversee that quick and adequate action are taken on the complaints received. There is however no time line mentioned in this case.

b. Processes undertaken by Quasi Judiciary Bodies NCPCR, SCPCRs and other human rights institutions as Appellate Authorities:

The importance of independent ombudsmen bodies have been progressively felt in addressing complaints pertaining to delivery of services. The RTE Act, makes provision for the National Commission for Protection of Child Rights (NCPCR) and the SCPCRs (State Commissions for Protection of Child Rights) play this role. NCPCR and the SCPCRs are statutory structures laid down under the Commissions for Protection of Child Rights Act, 2005. A unique feature of this mechanism is that these structures are independent of the implementing agency i.e. the Ministry of Human Resources Development (MHRD). They are located under the Women and Child Development Ministry.

In states that do not have an SCPCR, the state government has to assist in setting up of a Right to Education Protection Authority (REPA) as per the provisions of RTE.

i) National Commission for Protection for Child Rights (NCPCR)

Section 31 of the Right to Education Act entrusts the National Commission for Protection of Child Rights with the role of monitoring the RTE Act. Specifically, according to the Act, the functions of NCPCR are to –

- i. Examine or review the safeguards for rights provided by or under this Act and recommend measures for their effective implementation;
- ii. Inquire into complaints relating to child's right to free and compulsory education; and
- iii. Take necessary steps as provided under sections 15 and 24 of the said Commissions for Protection of Child Rights Act

In addition, the Commission has powers of: a) summoning and enforcing the attendance of any persons and examining him on oath, b) discovery and production of any document, c) receiving evidence on affidavits, d) requisitioning any public record or copy thereof from any court or office, and e) issuing commissions for the examination of witnesses or documents.^{xlii} The commission may take any of the following steps upon the completion of its inquiry: recommend the concerned government to initiate proceedings for prosecution or other action as the Commission may deem fit, approach the High or Supreme

Court for directions, orders or writs, or recommend to the concerned government for the grant of interim relief. The commission may also forward a complaint to a magistrate for action.^{xliii}

To address complaints filed, NCPCR has a system called the Complaint Management System (CMS). Complaints handled by the commission consist of registering the complaint, determining the grounds of admissibility, proposing the course of action, contacting the authorities, following up on the complaint, and action taken leading to the case's closure. To ensure transparency, an acknowledgement letter (also giving the case number) is expected to be shared with the complainant at the beginning of the process and the Action Taken report (ATR) prior to the case's closure. If the Commission feels that the matter should be handled by the respective SCPCR, it is forwarded to them. To ensure government response, there is a provision for two reminders, and the issuance of a Demi-Official notice. The Commission can also undertake an investigation.

ii) State Commissions for Protection of Child Rights (SCPCR):

At the state level, State Commissions for Protection of Child Rights (SCPCRs) have been constituted under the Commissions for Protection of Child Rights Act, 2005. The SCPCR is the equivalent body of the

NCPCR at the State level, but has no reporting relationship between them.

In the state of Uttar Pradesh, formation of SCPCR was notified vide government order dated 29th November, 2013. The SCPCR will have 7 members and will be presided over by the Chairperson. Apart from this, similar protection committees have also been formed at the block and village level.

At the block level, a Block Child Protection Committee, has been formed. This committee would comprise of 9 members and will be presided over by the Block President. At the village level, formation of a Village Child Protection Committee has been notified. The Village Child Protection Committee would comprise of 8 members and function under the chairmanship of the Village Pradhan.

Both these committees have been entrusted with the responsibility to oversee any grievances related to the safety and security of children and also oversee matters related to education, health and child labor. These committees are mandated to meet every 3 months to monitor matters related to the same.

iii) Other Human Rights Institutions and Quasi Judicial Bodies:

In addition, other human rights institutions including NHRC (National Human Rights Commission) and the specific commissions for Women, Persons with Disability, SC, ST and Minority retain the right to intervene

in cases of violation of child rights from within their core constituencies.

This overlapping jurisdiction sometimes creates confusion for complainants who face a bewildering array of options in terms of the potential commissions to approach. NHRC is expected to play the connecting role between the various commissions. It is also the oldest and most experienced commission for dealing with human rights violations and one that has the most rigorous mechanism for complaint management.

Another trend noted during the preceding years is that some issues pertaining to corporal punishment and other such violations pertaining to violence and abuse are also reported to the Child Welfare Committees (CWCs) and can form an alternate space for seeking redressal.

5.4. Legal Redressal

Legal mechanisms for redress have historically been used to both ensure action on individual complaints and to review mechanisms of regulation governing service delivery.

A range of legal options exist for ensuring redress. These include the processes of litigation pertaining to the violation of rights of individual affected children. Some cases would also be criminal cases (for example, gross corporal punishment, SC/ST atrocity, corruption etc). There is

also an option of appeals in the form of Public Interest Litigations, which would enable cases of individuals who are unable to raise cases directly to be taken up. Courts have, in the past, been fairly flexible in the processes of accepting complaints, with PILs being accepted based on postcards or letters sent to the High or Supreme Court. Furthermore, the Legal Services Authorities Act, 1987 makes a provision for free legal aid to individuals from marginalized communities and the poor. This could be another tool in the struggle for ensuring child rights.^{xliv}

Further, there are several constitutional and legal provisions that can be evoked while seeking legal redress:

Child Sexual Abuse:

In the case of grievances related to sexual abuse, the following legal provisions can be used. Sexual abuse is any kind of sexual behaviour, which is unwanted or forced. It includes rape, sodomy, harassment and eve teasing. The law only recognises certain kinds of sexual abuse as an offence and there is no special offence for sexual abuse of a child by his or her relative.

The forms of child sexual abuse recognised by the Indian Penal Code are:

- Outraging the Modesty of a woman or a girl (Section 354)
- Rape (Section 376).
- Sodomy or Unnatural Offences (Section 377).

HIV/AIDS:

In cases of discrimination or abuse faced by children with HIV/AIDS, there are certain basic rights that the Constitutional of India guarantees, these are:

- Right to Informed Consent.
- Right to Confidentiality.
- Right Against Discrimination.

Caste Discrimination:

In cases where caste based discrimination leading to abuse and other grievances are reported, the Constitution guarantees the following rights:

- Equality before the law and equal protection of laws to each and every person in the country (Article 14).
- Prohibits discrimination on grounds of race, caste, sex, descent, place of birth or residence (Article 15).
- Abolishes 'Untouchability' and declares practice of 'untouchability' in any manner whatsoever, a punishable offence (Article 17).

The first Indian law that came into force to provide for punishment for the preaching and practice of 'Untouchability' and for any matter connected with it was 'The Protection of Civil Rights Act, 1955', under this law calling a scheduled caste by her/

his caste name e.g. calling a 'chamar' a 'chamar' is a punishable offence. Later in 1989, the Government of India enacted 'The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act,' which recognises various kinds of acts of violence and discrimination inflicted upon the Scheduled Castes and the Scheduled Tribes by Non-Scheduled Castes and Non-Scheduled Tribes as punishable offences. It also provides for establishment of Special Courts at district level to try the offences under this Act, appointment of Special Public Prosecutors for the purpose of conducting cases in Special Courts, and imposition of collective fine by the State.

5.5 Conclusion

At present, there are a gambit of both legal provisions and redressal mechanisms available for stakeholders to avail in cases where children are in an unsafe and dangerous environment. However, the lacunae lies in the awareness about and use of these available mechanisms for children's safety. Hence, it is important to outline the key stakeholders who are responsible for providing a safe and secure environment for children in and around schools – at the local, state, and national level – must take action in ensure these mechanisms are adopted and made use of. The next chapter will highlight the stakeholders, and identify the ways forward for them in ensuring safety for children in their learning environment.



Stakeholders Responsible, Recommendations and Ways Forward

6.1 Stakeholders

- Immediate child duty bearers
- Grievance redressal board
- Policy makers and legal stakeholders
- **Immediate child duty bearers-**
 1. Head Teacher, Assistant Teachers and Para Teacher
 2. Parents
 3. School Support Staff- peon, cook, watchman/woman, sweeper
 4. School Office Staff- accountant, clerk
 5. SMC members
 6. Community members
 7. Service provider- Driver, Helper, Messenger
 8. Administration – DM, BSA, BEO, DC
- **Grievance redressal board**
 1. SMC members
 2. Local Authority-VEC/WEC members
 3. Block Education Grievance Redress Officer (BEGRO)
 4. District Education Grievance Redress Officer (DEGRO)
 5. State Education Grievance Redress Officer (SEGRO)
 6. State Commission for the Protection of Child Rights (SCPCR)
 7. Integrated Child Protocol Schools Societies.
 8. National Commission for the Protection of Child Rights (NCPCR)
- **Policy makers and legal stakeholders**
 1. State Project Office- SSA
 2. State Department of Education
 3. State Government

6.2 Recommendations and ways forward

Safety and security measures are important and imminent to implement the fundamental Right of all Children to Free and Compulsory Education (RTE Act) 2009. Further safety and security measures need to be conceptualized and developed with the lens of the most vulnerable and marginalized children to ensure its efficacy for all children. The focus on safety and security ought to be in line with and serve the purpose of promoting equitable quality education with social inclusion creating and enhancing opportunities for all children. The frame while incorporating the RTE Act goes beyond looking into school education system as a whole. In strengthening the system effective grievance redress architecture is equally important.

Given the above issues outlined across various chapters, the education system needs to prepare itself to create adequate policies, provisions and mechanisms to ensure safety and security for all children. These are typically directed towards:

- Preventing all forms of harm to children,
- Protecting children from abuse,
- Supporting children who face the threat of abuse or safety,
- Create a supportive, safe, and secure environment for learning, particularly

for children from socially excluded and marginalized communities

- Activate all relevant mechanisms and measures to support children who are vulnerable to harm.

Such a process needs a system wide engagement, where necessary legislations, policies, provisions, personnel, and budget are reviewed and made in line with promoting the safety and security needs. It needs the engagement of different commissions, ministries and departments within the government to work together. It needs active engagement of the different components of the education system – administrators, teachers, children and managements to work together, along with the stakeholders listed above. An important role is also that of civil society organizations and community based organizations. Creative and constructive mechanisms and processes need to be put in place to ensure safe and secure learning for all children.

How can these be put in place?

1. Creating materials for training and workshops for sensitization and awareness of issue:

a. Training documents

Using the information provided in this document, various stakeholders require training workshops. Experts and civil society organization, who have experience of working in this area,

can produce training material that addresses the following concerns:

- understanding exclusion, equity and inclusion
- appreciating diversity and integration of knowledge
- addressing teasing and bullying by community
- promoting discipline without corporal punishments
- sensitizing towards children's rights to safety and responsibility building
- awareness about legal measures and redressal mechanisms for safety of children

b. Legal literacy

c. IEC material

2. Strengthening the Policy framework

- Develop an institutional 'Safety and Security' Policy and Guidelines that can be adapted by schools
- Develop and disseminate guidelines to address corporal punishments, discrimination, sexual abuse and bullying in schools.
- Evolve self regulatory mechanisms including code of conduct for different duty bearers with regard to Safety and Security

- Guidelines to engage diverse child protection bodies and mechanisms with education safety and security
- Ensure that Safety and Security issues are flagged and budgeted in the Annual Work Plan and Budget
- Include Safety and Security components in JRM, other evaluations, monitoring and reporting
- Put in place effective Grievance Redress mechanism with easily accessible steps in implementation.

3. Budget allocations

Each state is required to allocate funds towards the implementation of the RTE Act 2009. We recommend that within this budgetary allocation, some funds must be set aside for the provisions of safety and security concerns of children. Without a safe environment children will be unable to truly have an education. This budgetary allocation shall be used towards the above training and workshops so as to inform and sensitize the immediate child care providers of learning with issues of safety and security.

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