



NATIONAL ACTION PLAN AGAINST COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN (NAPCSEC)

#ProtectOurChildren

Commercial Sexual Exploitation (CSE) of children, the worst form of human slavery, is a demand-driven phenomenon, facilitated and perpetuated by those who exploit women and children, calling themselves as 'clients' and exacerbated by the nexus of traffickers and conspirators. The main targets of this organized crime are minors and young girls in particular. Research shows that 40 per cent of the victims of CSE are children (MWCD and UNODC, 2008). Table 1 shows key statistics pertaining to commercial sexual exploitation of children.

Taking cognizance of this, the Government of India and several State Governments have, over the years, intensified the fight against trafficking of children for CSE, with the Ministry of Women and Child Development (MoWCD), Ministry of Home Affairs (MHA) and the judiciary leading the efforts alongside their aligned state counterparts, think tanks and key civil society organizations. The focus of these initiatives has largely been on Rescue, Rehabilitation and Prevention, against which, the Government of India has enacted legislations like the Protection of Children from Sexual Offences Act, 2012 (POCSO), Immoral Trafficking (Prevention) Act, 1956 (ITPA), Juvenile Justice Act, 2015 (JJA) and various provisions under the Indian Penal Code (IPC). The Government of India has also set up specialized units called Anti Human Trafficking Units (AHTUs), nodal centers in the ministry and states and a host of programs and projects to address issues of CSE of children. The Government of India is also currently in the process of reviewing and revising the legislation on issues related to trafficking.

Amid a gamut of socio-cultural and economic variables, the predominant contributor to children's ever-rising demand in the industry continues to be their perceived long 'shelflife', scope for extreme levels of exploitation with impunity and low investment with high profits, coupled with minimal risk factors. If the amount of revenue generated from one brothel in India per year through CSE related business ranges between USD 0.3 to 2.4 million, extrapolation of these figures indicates that the total CSE industry in the country generates revenues amounting to between USD 30 and 343 billion per year (Global March against Child Labor Report, 2014). The movement of money is quick and creates a mirage for all players involved.

Despite continued efforts by the government and all stakeholders (government and civil society partners), trafficking of children for CSE continues to be a criminal enterprise and an industry. CSE of children is perceived to be a highly lucrative trade practice and this is one the main reasons for it to have emerged as an international business which organized crime syndicates and independent traffickers are operating within. An interplay of several perpetuating factors creates a complex environment and predisposes the already vulnerable sections of the society (especially children) to the continually growing threat of being commercially exploited for sex.

Trafficking of children for CSE is multi-deterministic in nature and is a result of several socio-cultural and socio-economic factors. It thrives on a demand and supply cycle which in turn is facilitated by societal agents and is aided by the easy availability of a large vulnerable population. While there has been ample deliberation on factors perpetuating the supply of children, the demand side factor has seldom been explored nor acted upon. Figure 1 illustrates various factors that perpetuate the demand for children for CSE.

Like any economic model, supply of trafficked victims is dependent on demand. The NHRC Study (2002-03) showed how trafficking was and continues to be a demand-driven phenomenon where, profitability from exploitation of the victim is dependent on the extent and intensity of violence unleashed on them by the 'customers'. The absence of a robust, structured mechanism to converge the efforts of various stakeholders and absence of focused attention to 'choke' and 'eradicate' demand, has only exacerbated the situation (Nair, 2010). Perpetrators continue to drive the vicious cycle of exploitation of children by demanding young girls and boys.

Figure 2 drives home the point, centricity of 'customer', creating and perpetuating 'demand' for children, in the entire network of organized criminals contributing to the process in a concerted manner. Therefore, to end commercial sexual exploitation of children, there is a need for concrete action to deter both existing and potential perpetrators. While, the existing legal and governance framework has put efforts

Table 1: Key Statistics

Problem Statements	Key Statistics
Total number of child trafficking cases reported in India in 2015*	3490
Offender conviction rate in 2015*	14.3%
Percentage of human trafficking cases involving minors**	50%
Total percentage of girls trafficked to be forced into prostitution of total minors trafficked**	90%

* Source: NCRB, 2015.

** Source: Global March Report.

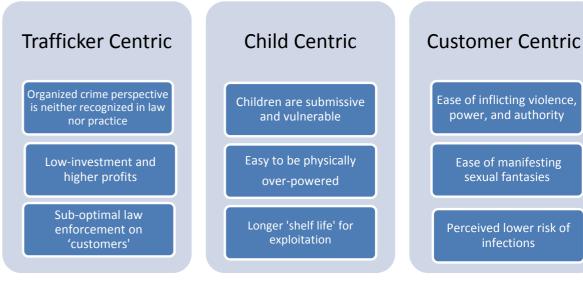


Figure 1: Underlying factors driving demand of children for CSE



Figure 2: The Centricity of 'Customer' in the World of CSE of Children

on reducing vulnerability of the children across the country (supply aspect of the issue), measures to deter perpetrators (demand side of the issue) have been few and far-between.

It would be interesting to note that choking demand was also a strategy proposed by the Department-Related Parliamentary Standing Committee on Human

Resource Development Hundred Eighty-Second Report on Immoral Trafficking (Prevention) Amendment Bill, 2006. The Committee in its report noted that, "Section 5C, ITPA provides for punishment to any person who visits or is found in a brothel for the purpose of sexual exploitation of any victim of trafficking in person, i.e. clients who seek sexual services of a trafficked victim. Some witnesses welcomed it because criminalizing demand would discourage the supply which would limit prostitution as commercial activity." The Committee also expressed that there is a strong case for bringing separate legislations to cover all forms of trafficking in persons.

Overview of Challenges in Existing Legislations which Govern the Prevention. Rescue and Rehabilitation of Children Pushed into CSE

Despite recent legislations, like the Juvenile Justice Act, 2015, and amendment of the IPC in 2013, we do not have stringent and explicit provisions in the law to punish customers, who constitute the core of the organized crime of trafficking. Effective deterrence of trafficking, especially child trafficking and child sexual abuse is possible only when the 'customers' are dealt with sternly, effectively, and promptly. The requirement is to make appropriate changes in the relevant laws, and to ensure that these legislations are effectively implemented. Further, even in the given context, the punishment to the customers is a rarity. The main reasons for this are poor understanding of the law, lack of priority and interest, and lack of focus on customers, despite the fact that the crime cannot be contained without action on 'customers'.

An overview of existing legislations with key highlights and challenges may be seen in Annexure 3.

Challenges in the Existing National Plan of Action for Children (2016) of Ministry of Women and Child Development

In 2016, the Ministry of Women and Child Development released the National Plan of Action for Children, which has one of its focus areas as 'child protection'. The theme aimed to create "a caring, protective environment for all children, to reduce their vulnerability in all situations and to keep them safe at all places, especially public spaces." The action plan identifies vulnerable children as "child labor/migrant children/ trafficked children" and uses the 'rights-based' approach to create a protective environment for children. The focus of the action plan is on provision for adequate infrastructure, rehabilitation and restoration of victims of trafficking and child sex abuse. It also laid emphasis on professional and expert counseling services for victims and perpetrators.

However, the action plan falls short of addressing the issue of commercial sexual exploitation of children holistically. There is much evidence to suggest the organized nature of this crime and thus the need for closer co-ordination with law enforcement agencies and necessary support by relevant ministries, a strategy which hasn't been proposed in this plan. Further, without appropriate course-correction in strategies of law enforcement, any plan of action on child trafficking will fall short of creating a secure environment for children. The action plan relies on evidence-based strategy building; however, much of the data is incorrect and grossly underreported. One of the key strategies, thus, is to improve the management information system to have a more realistic reporting and to demand commensurate action. Considering the increasing use of technology to exploit children, there is need for an integrated data platform to do a real-time data tracking to resolve and prevent crimes against children.

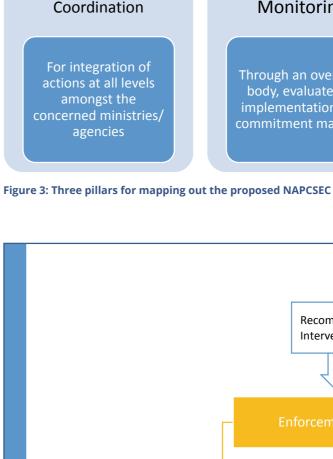
Overall, the National Plan of Action for Children continues to focus on the post-exploitation phase for children but doesn't emphasize enough on prevention by breaking the 'demand' side of the chain, to break the impunity of customers.

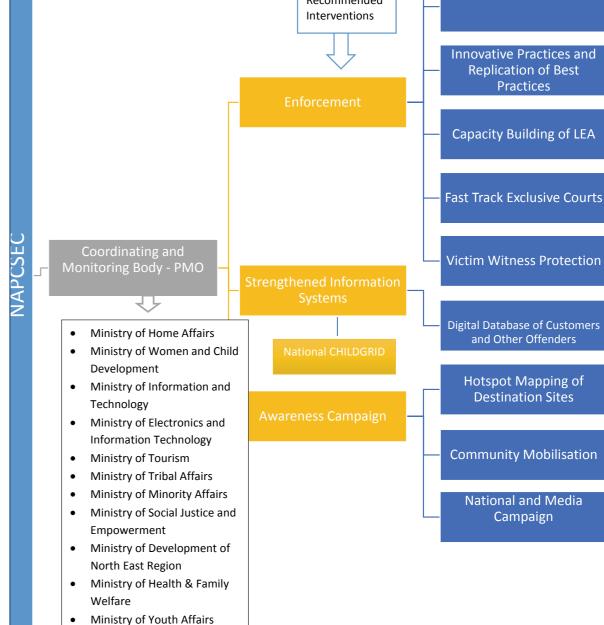
Therefore, the National Action Plan against Commercial Sexual Exploitation of Children (NAPCSEC) proposes to address these challenges in the following action plan.

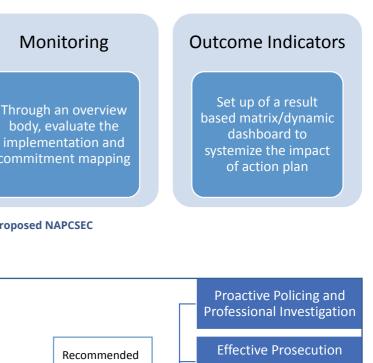
The proposed National Action Plan against Commercial Sexual Exploitation of Children (NAPCSEC)

The proposed National Action Plan focused on 'choking demand' has the following features:

- Focus on inter-ministerial, inter-departmental, and interagency convergence;
- Brings on ground the policy in an effective mechanism which will deliver;
- Highlights core issues, as its primary concern and for focused attention;
- Several ministries and agencies have to converge; hence, the PMO will be the pivotal centre to orient, guide, monitor, and ensure compliance of the activities under the plan of action.







Based on the aforementioned pillars of NAPCSEC, detailed below is a framework of recommended interventions. This outlines the key stakeholders, and possible measures of action that may be undertaken by them in order to combat 'demand' of children for commercial sexual exploitation. The three prongs of this framework constitute: enforcement, strengthened information systems, and awareness campaigns.

Proactive Policing and Professional Investigation

- Best deterrence to child trafficking and CSE is to choke the demand and punish the customer. This requires effective and proactive policing. The foremost requirement is to identify the customers, arrest them and bring them to book
- Specialized investigative agencies like CBI, etc. with the central government and AHTU with the state governments, as well as the regular police and the border guarding forces, need to undertake professional investigation to ensure effective deterrence against demand.
- Ensure appropriate and timely arrest and action, naming and shaming of customers, confiscation of illicit assets, etc. which are important steps in deterrence.
- Simultaneously, the police should adopt an outreach approach by identifying the 'customers', and taking appropriate steps to prevent such crimes.
- · Since child trafficking and CSE are trans-border and organized crimes, the law enforcement agencies across states must be brought on a common platform. The functioning of the state police agencies, the UT police coming under MHA, the CBI under the Department of Personnel & Training (DoPT), the border guarding forces and immigration under MHA, the customs and related agencies under Ministry of Finance (MoF), all have to converge their activities.

Effective Prosecution

- Since prosecution has remained the weakest link in the Indian criminal system, it is time they get at par with Police Modernization Scheme of MHA, a program of Prosecution Modernization, starting with focus on protecting children.
- · Database on customers and other offenders across the country shall be made available to the prosecutors so that they can utilize the information and intelligence. Combined training for police prosecutors, caregivers, and civil society partners need to be imparted with focused attention on choking demand.
- Legal provisions, methodology of action and the technological integration, skills in investigation prosecution, etc. should be the focus of training.

- Since, 'customers' constitute the demand in trafficking, the focus of attention in the capacity building programs should be to punish the customers and ensure effective deterrence
- AHTUs in the states and UTs must be imparted professional training and made accountable, as many of them have become dysfunctional.

Innovative Practices and Replication of Best Practices

The best practices of tracking, prosecuting, and convicting customers across the world need to be documented, and the law enforcement agencies in India should be oriented to those methods and methodologies. This would also involve technological integration.

Fast Track Exclusive Courts

Special courts under POCSO and children's courts, NCPCR, and special courts under ITPA need to be established in every state. Wherever the demand is high, exclusive courts need to be set up, beginning with all metro cities (except Mumbai where such a court is available).

Community Mobilization

- Reach out to men (especially youth) to dissuade them from soliciting sexual activities with children, this would help prevent demand. Engaging with educational and vocational institutes to set up child rights or Anti-Human Trafficking clubs can help in sensitizing men that soliciting sex from children is punishable under law.
- Similarly, the public can be mobilized through other youth bodies like NYKS, etc.

National and Media Campaign

- Media to be used as a demand deterrent practice in 'shaming' individuals who solicit commercial sex from children by publicizing the identities of people arrested for such crimes through news outlets, law enforcement websites, billboards, as well as other forms of media.
- Integrating child protection including the prevention of sexual exploitation of children in campaigns like Beti Bachao Beti Padhao through media campaigns.

National CHILDGRID

As discussed above, there is a need to re-strategize our methodologies and initiate a paradigm shift where the existing institutional mechanisms become 'proactive' rather than being 'reactive', in choking demand. One step to achieve this is to enable immediate access to requisite information on the suspects and perpetrators through a **data sharing platform** which can integrate the various databases from important agencies of the concerned Indian ministries.

The integrated information system would be to strike the demand side of the problem, dry the industry of its 'clients' and 'customers', while also targeting the suppliers. It can be effectively utilized by the relevant stakeholders in addressing the demand of CSEoC.

In this context, a **National Grid for children**, termed as a 'Child Grid' is proposed to synergize country's databases for tracking of child sex offenders and their swift prosecution and conviction. It is proposed to be run and managed by National Crime Records Bureau (NCRB).

The achievements and output of the proposed Grid will be farreaching. It will generate an India of children. It will generate the idea of Children's India, an India free of violence and exploitation of children, an India where the children are free, an India where their dignity is supreme, and an India where the children are safe and sound, without any compromise whatsoever, where the rights of children are non-negotiable. A proposed operationalization of the NATCHILDGRID can be found in Annexure 4.

References

- Department-Related Parliamentary Standing Committee on Human Resource Development, Hundred Eighty Second Report on the Immoral Traffic (Prevention) Amendment Bill, 2006 (presented to the Rajya Sabha on 23 November 2006; laid on the table of the Lok Sabha on 23 November 2006).
- Global March against Child Labor report, 2014.
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- National Crime Records Bureau (NCRB), 2015, 'Crimes in India'
- NHRC, A Report on Trafficking in Women and Children in India 2002-2003.
- UNODC and MoWCD, 2008, India Country Report to Prevent and Combat Trafficking and Commercial Sexual Exploitation of Children and Women.

ANNEXURES

Annexure 1: Proposed below are the roles for key stakeholders to drive action against 'perpetrators' to combat **CSE of children**

Key Stakeholders	Proposed Roles/Activities
Prime Minister's Office (PMO)	 To steer convergence among relevant Ministries, Departments and autonomous agencies to ensure a coordinated action to curb demand of children in CSE. Drive and monitor strategic inter-sectoral policy reforms to address operational issues which impede effective law enforcement, prosecution and conviction processes.
Ministry of Home Affairs (MHA)	 Advisory/Protocols/Indicators for monitoring enforcement at the ground level in containing demand, which includes punishing 'perpetrators' and others who cause, generate and perpetuate the demand for children. MHA, with the support of NCRB, helps law enforcement agencies to build up a national database on perpetrators, with details of persons involved, the modus operandi, the hotspots that emerge from law enforcement, for prompt action to contain demand. MHA, with the support of the Bureau of Police Research and Development (BPRD), and research institutions, to organize regular review of the delivery and impact of this aspect by the States and UTs. Organize a national consultation with key stakeholders, including law enforcement agencies, Anti Human Trafficking Units and civil society organizations to develop a 'National CHILDGRID' against 'demand' of children for CSE.
Ministry of Women and Child Development (MoWCD)	 Undertake a national mapping of 'demand areas', with the help of an external agency of repute and capacity to undertake such research, and bring out a 'National Map on Demand of Children for CSE'. Ensure protection of the rescued children from being re-trafficked and ensure national-level coordination of the post-rescue and rehabilitation process. Develop public awareness campaigns focused on the viciousness of 'demand' for children for CSE. Strengthen mental health services for post-rescue and rehabilitation of victims. National level assessment to understand behavior of perpetrators – people demanding commercial sex from children.
Ministry of Electronics and Information Technology (MeitY) Ministry of Law and	 To monitor growing crimes on online sexual abuse by creating e-surveillance on demand (who, where and how's of online abuse of children). Provide innovative technologies to build up a national database on demand. Ensure pro-bono lawyers to fight cases on CSE of children and provide support
Justice	 to victims. Utilize services of students of law to galvanize efforts to address/choke demand. Fast-track exclusive children's courts to convict offenders of CSE of children.
Ministry of Human Resources Development (MHRD)	 Develop campaigns and establish AHT clubs in all higher education institutes to increase awareness among youth on not engaging in CSE of children. Focus on adolescents and empower them on the dimensions of demand and methods of containing them, in the physical world and also online trafficking/CSE.

Annexure 2: Key provisions in our existing laws to deter the demand of CSE of children

Legislation	Provisions for Choking Demand*
Immoral Trafficking	Sec. 5 - Procuring, inducing or taking person for the sake of prostitution — (1) Any person
(Prevention) Act, 1956	who:
	(a) procures or attempts to procure a person whether with or without his/her consent, to prostitution; or
	(the customer is deemed to be a person who procures or attempts to procure a child for CSE)
	(d) causes or induces a person to carry on prostitution;
	(the customer is deemed to be a person who <u>causes or induces</u> a child for CSE)
	Sec. 7 - Prostitution in or in the vicinity of public place. — (1) Any person who carries on
	prostitution and the person with whom such prostitution is carried on, in any premises:
	(the customer is deemed to be a person - with whom such prostitution is carried on and the
	person who carries on prostitution could be adult woman/ minor/ child)
Protection of Children	All under-mentioned provisions of POCSO, 2012 can be used along with ITPA:
Against Sexual Offences	Sec. 3 - Penetrative sexual assault.
(POCSO) Act, 2012	Sec. 5 - Aggravated penetrative sexual assault.
	Sec. 7 - Sexual assault.
	Sec. 9 - Aggravated sexual assault.
	Sec. 11 - Sexual harassment.
	Sec. 13 - Use of child for pornographic purposes.
Juvenile Justice (Care and	Sec. 81 - Sale and procurement of children for any purpose.
Protection of Children)	
Act, 2015	
Indian Penal Codes	Sec. 370 - Trafficking of person: (1) Whoever, for the purpose of exploitation, (a) recruits, (b)
	transports, (c) harbors, (d) transfers, or (e) receives, a person or persons, by
	(e) receives, a person or persons, by by inducement, including the giving or receiving of
	payments or benefits
	(Since case law is yet to develop on this section, it cannot be stated with certainty if customers are
	punishable; however, traffickers are clearly punishable under this provision. However, this provision
	could be used for charging customers under the term – <u>receives.</u>)
	Sec 370 A - Sexual exploitation of a minor person
	Sec. 375 – Sexual Assault
	Sec. 366(A)- Procuration of minor girl - Whoever, induces any minor girl under the age of
	eighteen years to go from any place or to do any act with intent that such girl may be, or
	knowing that it is likely that she will be, forced or seduced to illicit intercourse with another
	person
	Sec 366 B - Importation of a girl from foreign country
	Sec 372 - Selling minors for prostitution
	Sec. 373 - Buying minor for purposes of prostitution, etc. — Whoever buys, hires or
	otherwise obtains possession of any person under the age of eighteen years

* Note: The text in brackets and in italics is the interpretation of the section and not a verbatim reproduction of the legal provision.

Annexure 3: Overview of the challenges in our present legislations which govern the Prevention, Rescue and Rehabilitation for children pushed into CSE:

Legislation Ministry Challenges Key Highlights Immoral Ministry of Fragmented understanding of Key law pertaining to sex trafficking Trafficking Women & Child in India, aimed at combating sexual trafficking as a process and of the respective roles and responsibilities by (Prevention) Act, Development exploitation but does not prohibit 1956 and prostitution per se. authorities at field level leading to Ministry of piecemeal approach to combat it. Addresses the issue of trafficking Home Affairs through both supply side (by Non-coordinated approach between measures to punish traffickers) and districts and state authorities as well as demand side (penalties for clients) departments of MHA and MoWCD at all mechanisms. levels. Field level implementation of the Paucity of data on incidence of policy crafted by MoWCD is trafficking, prosecutions, or convictions dependent on existing police force leading to reduced scope for evidencethat is governed by MHA. based planning. Rehabilitation is not a mandatory requirement under the law, as it is still deemed to be a welfare act. Despite being a special legislation, it doesn't provide for confiscation of illegal assets. Clarity required on valid documents for Protection of Ministry of Act formulated to specifically **Children Against** Women & Child address issue of 'child' protection confirmation of age of minors when Sexual Offences Development and prevent different forms of rescued, (esp. from brothels) and sexual abuse of children. fraudulently declared as adults. (POCSO) Act, 2012 Act provisions more child-friendly Conflicts reported in levying provisions w.r.t. recording of evidence, of Indian Penal Code (IPC) and POCSO reporting, investigation and trial, Act 2012 which causes unfair trial shifting the burden of proof on the proceedings. accused; e.g. special courts for Provisions more often flouted than children. complied with due to the overburdened courts in India and subjective implementation of child friendly clauses (NHRC). **Juvenile Justice** Ministry of Strengthened provisions (incl. Inadequate focus on issue of children Women & Child rescue) for both children in need of who are victims of trafficking (Care and **Protection of** care and protection and children in Development Lack of centralized database for a Children) Act, 2015 conflict with law. record on juvenile traffickers. Provision in place for identification and rescue for children who are being or are even likely to be abused/exploited for sex. Inclusion of new offences committed against children not adequately covered under any other law; e.g. sale and procurement of children. While MHA has recognized that Laws against Ministry of Since the organized crime perspective **Organized Crimes** Home Affairs trafficking is an organized crime has not been invoked or enforced, the Vide (2012) advisory (Gol, 'Advisory 'customers', who constitute the core on Human Trafficking as Organized element of demand in the organized Crime') yet there is no legislation on crime of trafficking, are seldom dealt with under the law. this count. Indian Penal Codes Ministry of Different provisions of the IPC Various anomalies do exist in respect of Home Affairs including the latest amendments of categorization of persons as adults, Section 370, 370, and 370A, deal with different minors, and children, in the different aspects of trafficking and related Section 366. provisions of IPC versus special Section 366(A), offences like buying and selling of legislations like POCSO Act, JJ Act. Section 372, persons, importation of girls, etc. The existing laws do not bring out Section 373. explicit provisions for stringent Section 339, punishment of customers. Section 340

integrated system to ensure safety of our children

Annexure 4: Concept note: National CHILDGRID - An into one model can become an intelligence system to keep offenders of crime against children in check. The National A National CHILDGRID is proposed to synergize the Child Grid could be designed with several assignments and country's databases for tracking of child sex offenders and tasks. Firstly, it will be an intelligence sharing database where their swift prosecution and conviction. This can eventually be the relevant government bodies will be either 'providers' of expanded to include all organized crimes against children. information on perpetrators (end customers, trafficking It will be a proactive measure with necessary provisions for agents and brothel owenrs) of CSE of children, or on 'end enforcement, through a time-bound approach to prosecuting users' to locate and obtain information on these perpetrators, and convicting perpetrators exploiting children. Stringent not only to disrupt their activities and convict/prosecute and timely action is more important than capital punishment. them, but also to prevent them from any act of violence against children. Secondly, the Nat Child Grid, will have cross-Proposed Framework for National Child Grid: A Multilinkages with all the stakeholders so that timely intelligence Stakeholder Approach on 'demand' is generated and acted upon. Figure 5 graphically represents the potential end-users, engagement platforms host to a number critical databases, which if integrated and different stakeholders involved.

Currently various ministries and government agencies play

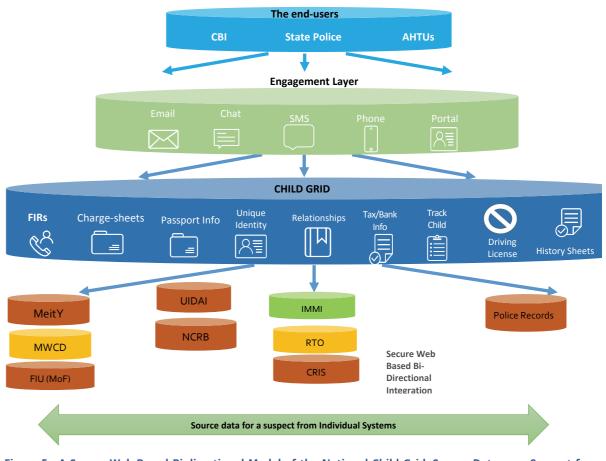


Figure 5: A Secure Web-Based Bi-directional Model of the National Child Grid--Source Data on a Suspect from **Individual Systems to the Access Layer Units**

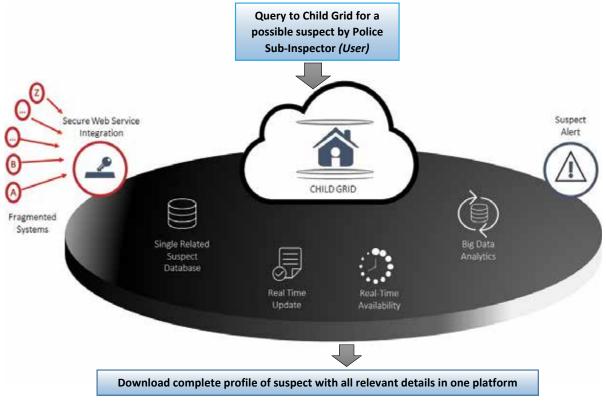


Figure 6: Proposed Operation of the National Child Grid

Proposed Operationalization of ChildGrid

When a user (for example, the Police Sub-Inspector) sets up a query on the Childgrid Website for a possible suspect, they will be redirected to the relevant databases such as TrackChild, History Sheets, etc. enabling them to download a 360 degree profile of the suspect, as demonstrated in Figure 6.

As a surveillance mechanism, Child Grid would track offenders and create a **nation-wide data server** which will integrate the various databases from all the important agencies of the concerned Indian ministries. However, it is important to note that CHILDGRID will be a work-in-progress system. It must be updated on a regular basis as per the latest technological developments and new and innovative methods used by criminals to circumvent the law. New stakeholders must be incorporated in the network as and when the need arises in view of the changing landscape of the criminal nexus.

Expected Outcomes of the Proposed National CHILDGRID

- Expediting investigations of suspects, arrests and prosecution of perpatrators by providing timely information to responders because of seamless flow of information between key enforcement and intelligence units.
- Creation of proactive system for responders by providing data on trends and statistics based on profile of both the victims, offenders and perpetrators in question, thus producing a method for hotspot mapping.
- Enhance accountability mechanisms of the key responders thus deterring the nexus which exacerbates the situation of CSE of children.
- Create fear in perpetrators of demanding children for CSE, since responders would receive information on the suspects' movements, monetary transactions, places of residence etc.

Hence, CHILDGRID can act as an efficient deterrent mechanism to reduce organized crime, such as sex-trafficking of children and as an accountability mechanism for law enforcement agencies.