

**Training Manual on Protection of Children from Sexual Offences  
(POCSO) Act & Rules, 2012 for Counsellors, Social Workers and  
Special Educators**



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## FOREWORD

Sexual offences against children are undoubtedly a violation of child's rights as these are the reflections of perverted, perpetuated and hatred feelings of adults who indulge in such acts driven by brutal and unsolicited gratification of their sexual needs. These harmful acts result in manifold effects on the lives of the child victims. Since each child victim develops his/her own coping mechanisms, the effects of sexual offences vary from child to child. Considering the serious nature of consequences of child sexual abuse, however, till recently, no single legislation was handling this aspect, other than certain provisions of IPC. As a result, there was no law to adequately penalize the perpetrators of such crimes. In order to deal with sexual offences against children, the Government has enacted a special law, i.e. The Protection of Children from Sexual Offences Act (POCSO), 2012 which came into force from 14 November 2012 along with Rules framed there under.

Some important features of this comprehensive gender-neutral Act, *inter-alia*, include child-friendly mechanisms for reporting, recording of evidence, investigation and speedy trial of offences through designated Special Courts. The Act defines six types of sexual offences for which provisions for penalty have been clearly defined. These six types comprise preventive sexual assault, aggravated penetrative sexual assault, sexual assault, aggravated sexual assault, sexual harassment and using child for pornographic purposes. The Act also calls for mandatory reporting of sexual offences. The Act further provides for 'in-camera' trial and prohibits revelation of victim's identity.

The Act also calls for effective role of different stakeholders in its implementation. Each stakeholder has a unique and crucial role to play at different stages of dispensing justice to the victims. Viewing the essential and vital role each stakeholder has to play, the Ministry of Women and Child Development, Government of India requested the Institute to develop training manuals in order to sensitise these stakeholders on various aspects of child sexual abuse with specific reference to implementation of POCSO Act and Rules, 2012. In view of this, the Institute has developed training manuals in respect of eleven stakeholders. These stakeholders are: Police/ SJPU; Chairpersons/ Members of Child Welfare Committee (CWCs); Superintendents and Caregivers of Child Care Institutions; Medical/ Health Professionals; District Child Protection Units (DCPUs); Counsellors, Social Workers and Special Educators; Faculty of Educational Institutions; Judicial Officers; Media Professionals; NGOs/ Youth Clubs/ Youth Groups; Elected Representatives of Local Self Government. This training manual deals with one of these stakeholders.

I would like to place on record the efforts and services put in by Shri Subhasis Ray, Assistant Director and in charge of this project and his team comprising Ms. P. Saroja, Project Associate and Ms. Josmi Joseph Srampickal, Project Assistant in developing these training manuals under the overall guidance and supervision of Dr. (Ms.) Tejinder Kaur, Joint Director (PC). My sincere thanks go to all of them.

  
(Dr. Dinesh Paul)  
Director 30/6/2015



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## Abbreviations

<b>Sl No.</b>	<b>Abbreviations</b>	<b>Explanation</b>
1	AIDS	Acquired Immuno Deficiency Syndrome
2	CCIs	Child Care Institutions
3	CPCR	Commission for Protection of Child Rights
4	Cr. PC	Criminal Procedure Code
5	CWC	Child Welfare Committee
6	DCPU	District Child Protection Unit
7	FIR	First Information Report
8	HIV	Human Immunodeficiency Virus
9	ICDS	Integrated Child Development Services Scheme
10	ICPS	Integrated Child Protection Scheme
11	ILO	International Labour Organisation
12	IO	Investigation Officer
13	IPC	Indian Penal Code
14	JJ Act	Juvenile Justice (Care and Protection of Children) Act
15	NCPCR	National Commission for Protection of Child Rights
16	NCW	National Commission for Women
17	NGO	Non-Governmental Organisation
18	POCSO	Protection of Children from Sexual Offences Act
19	PTSD	Post-Traumatic Stress Disorder
20	RTE	Right to Education
21	SCPCR	State Commission for Protection of Child Rights
22	SCW	State Commission for Women
23	SJPU	Special Juvenile Police Unit
24	STDs	Sexually Transmitted Diseases
25	UNCRC	United Nations Convention on the Rights of the Child
26	UNFPA	United Nations Fund for Population Activities
27	UNICEF	United Nations International Children's Emergency Fund
28	UTs	Union Territories



## **A.Introduction to the Manual**



## **I. Background**

Caring and nurturing of children entails commitment, concentration and efforts in order that they grow into healthy citizens of the country. The State owes to itself, the responsibility for care, nurture and growth of its citizens. The State has mandate to proactively promote the well-being of its citizens by adopting measures for the welfare of its citizens. Children, who constitute almost 41 per cent of total population of the country, are an important entity for the State. The Preamble of Constitution of India declares "... JUSTICE, social, economic and political; LIBERTY of thought, expression, belief, faith and worship; EQUALITY of status and of opportunity ...". The agenda is set in the Directive Principles of State Policy and rights of all citizens are guaranteed as Fundamental Rights.

Children and women constitute two vulnerable sections of our society. Vulnerability of women and children is multi-dimensional and multi-faceted. In social milieu, they strive to struggle against all odds, whenever faced with stigma and biases. This vulnerability primarily emanates from concocted gender misconception, authoritarian social roles, extreme disrespect towards individual's needs and rights. In a given situation, when children push themselves into taking risky action and resultantly face injury, stress, trauma and scar which may be a traumatic experience or a disability. Since children are a national asset, proactive planning and provision of services to children is an investment for the future of the country. Children have rights, and we, as adults, have duties and responsibilities towards them. Of late, child care and protection has emerged as a priority area for the Government. Recognition by the Government of this priority area is evident from the enactment of the Juvenile Justice (Care and Protection of Children) Act, 2000 and its Amendment Act, 2006 which focused specifically on child rights and rights-based approach. Following this, the Government launched the Integrated Child Protection Scheme (ICPS) in 2009 to provide structural, schematic and infrastructural support to child protection endeavour. Recognising the vulnerability of children, JJ legislation put in place provisions for ensuring a protective and caring environment under close supervision mechanism. The Act also departed from the judicial processes in place for adults and prescribed specialised procedures in order to address the 'best interest' of children in a consultative regime, with participation from a multitude of stakeholders, including children, to arrive at practical and meaningful solutions to the vulnerability of children.

The premise of adult jurisprudence emphasizes on punitive action and a reformative option for the individual to reflect and repent and reform as a consequence. The premise, on the other hand, in case of children, as enshrined in the child-specific statutes is to protect children, who have strayed, to counsel them and turn-around in order to gain understanding of the need to progress by providing ample opportunities to develop and advance into socially desirable and acceptable adult roles. Thus, the approach is contrasted between adults and children, in that, while, for the former, it is reformation, for the latter, it is a fresh start. This premise forms the basis for our work with children.

Sexual offences are a violation of human rights. They are condemnable, reprehensive and repugnant to what we stand for – human dignity and rights of individuals. These are acts of perversion, perpetuated with feelings of hatred, intended to hurt, brutal and unwilling and unsolicited gratification of personal needs. Child sexual abuse can result in both short term and long term harm, including psychopathology in later life. Physical and social effects, including depression, post-traumatic stress disorder, poor self-esteem, anxiety disorders, general psychological distress and disorder are instilled in them. In spite of the fact that not all victims of child abuse and neglected childhood experience behavioural consequences, studies have found

abused and neglected children to be at least 25 per cent more likely to experience problems such as delinquency, teen pregnancy, drug use and mental health problems, etc.

Sexual offences like rape, hitherto, including sexual offences against children, were dealt under IPC till now. The Juvenile Justice (Care and Protection of Children) Act, 2000 provided some penal provisions for adults committing crimes against children under Sec. 23 to 28. However, offences of such serious nature against children were neither adequately addressed by the existing laws nor were they adequately penalized. Therefore, to deal with such sexual offences against children, the Government has brought in a special law “The Protection of Children from Sexual Offences Act, 2012”. The Act has come into force with effect from 14<sup>th</sup> November, 2012 along with the Rules framed there under.

### ***An Overview of the Protection of Children from Sexual Offences (POCSO) Act, 2012:***

The Act is a comprehensive law to provide for the protection of children from the offences of sexual assault, sexual harassment and pornography, while safeguarding the interests of the child at every stage of the judicial process by incorporating child-friendly mechanisms for reporting, recording of evidence, investigation and speedy trial of offences through designated Special Courts.

The Act is gender neutral in nature and defines a child as any person below eighteen year of age and is gender-neutral. The Act identifies six types of sexual offences namely:

- Penetrative Sexual Assault (Sec. 3)
- Aggravated Penetrative Sexual Assault (Sec. 5)
- Sexual Assault (Sec. 7)
- Aggravated Sexual Assault (Sec. 9)
- Sexual Harassment (Sec. 11)
- Using child for Pornographic Purposes (Sec. 13)

The Act deems a sexual assault to be “aggravated” under certain circumstances, such as when the abused child is mentally ill or when the abuse is committed by a person in a position of trust or authority vis-à-vis the child, a family member, police officer, teacher or doctor. People who traffic children for sexual purposes are also punishable under the provisions relating to abetment in the Act. The Act prescribes stringent punishment, graded as per the gravity of the offence, with a maximum term of rigorous imprisonment for life, and fine.

In keeping with the best international child protection standards, the Act also provides for mandatory reporting of sexual offences. This casts a legal duty upon a person who has knowledge that a child has been sexually abused to report the offence, if he fails to do so, he may be punished with six months’ imprisonment and/ or a fine.

The Act calls for a role of child protectors among others, for the police as well, during the investigative process, makes provision for the medical examination of the child in a manner designed to cause as little distress as possible and provides for Special Courts that conduct the “in-camera” trial and without revealing the identity of the child, in a child-friendly manner.

The achievement of these objectives requires a coordinated response of all the key players, specially the Counsellors, Social Workers and Special Educators.

In short, the Act recognises almost every known form of sexual abuse against children as punishable offences, and makes the different agencies of the State as collaborators in securing justice for a sexually abused child.

### ***Role of State Governments in Implementation of POCSO Act, 2012***

The POCSO Act, 2012 envisages that the State Government shall:

- (i) in consultation with the Chief Justice of the High Court will designate for each district, by notification in the Official Gazette, a Court of Session to be a Special Court to try the offences under the Act (If a Court of Session is already notified as a Children's Court under the Commissions for Protection of Child Rights (CPCR) Act, 2005, then such Court shall be deemed to be a Special Court for cases under POCSO Act).
- (ii) set up the State Commission for Protection of Child Rights as per the CPCR Act, 2005.
- (iii) set up ICPS structures - DCPUs at the District Level to arrange training of all personnel for professional handling of cases and expand the non-institutional services under the JJ Act.
- (iv) pay the compensation awarded by the Special Court/Children's Court from the "Victim Compensation Fund" or JJ Fund or other Scheme or fund established for the purpose of compensating and rehabilitating child victims under Section 357 A of the CrPC or any other law for the time being in force.
- (v) training and awareness programmes for child protection functionaries.

### ***Objectives***

The main objectives of the Orientation Workshop are to:

- i. enhance the knowledge of the participants about salient features of POCSO Act, 2012;
- ii. sensitize the participants about the sexual offences being committed against children and consequent trauma faced by them;
- iii. develop an understanding of their role in implementation of the Act;
- iv. enable them to understand and contextualize the rights of children;
- v. orient them about different support and rehabilitation services available for victims of sexual offence under POCSO Act & Rules 2012; and
- vi. discuss about difficulties/problems encountered in the implementation of the Act and skills required in solving these problems.

### ***Programme Contents***

The contents of the Orientation Workshop would broadly include Communicating to Children about Sexuality; Salient Features of POCSO Act & Rules, 2012; Impact of Trauma and Abuse in Children; Understanding Counselling and its Different Approaches vis-à-vis Child Victims of Sexual Abuse; Role of Counsellors, Social Workers and Special Educators in Implementation of POCSO Act and Rules, 2012; Pre-counselling Assessment and Impact Reduction: Role of Counsellors and Social Workers; A Workshop on Practicing Essential Steps in Counselling Child Victims of Sexual Abuse.

## **Participants**

About 25-30 officials comprising Counsellors, Social Workers and Special Educators will take part in the Orientation Workshop.

## **Methodology**

The participants would be exposed to deliberations mainly based on participatory methods which may include presentations, lecture cum discussions, group work, panel/open house discussions, information sharing on each other's experience, case studies, etc.

## **II. Training Module and Programme Schedule**

The programme schedule sets the agenda for capacity building of Police/SJPU. It describes the issues to be covered during the training programme delineating the inter-linkages of various stakeholders.

The three-day programme covers key subject of relevance to the roles and responsibilities of participants underlying the necessity and relevance of legal framework and the schematic content of POCSO for child sexual abuse. The programme is a mix of theoretical constructs, context of child rights, legislations for child protection, roles and responsibilities of various stakeholders prescribed under the Act. Training techniques in the programme schedule include panel discussion/open house discussion, group work/role play/mock sessions, etc. The pre and post assessment of knowledge of participants is a hallmark of the programme.

The day-wise breakup of programme schedule is as under:

### **Day One**

9:30 a.m. –10.00 a.m.	Session I – Registration
10.00 a.m. – 10.45a.m.	Session II – Inaugural session
10.45 a.m. – 11.00a.m.	Tea Break
11.00 a.m. – 11.45a.m.	Session III – Rapport Building / Ice Breaking/Pre-Training Assessment
11.45 a.m. – 1.00 p.m.	Technical Session I – Communicating to Children about Sexuality
1:00 p.m. –2:00 p.m.	Lunch
2.00 p.m. –3.15 p.m	Technical Session II – Salient Features of Protection of Children from Sexual Offences (POCSO) Act and Rules, 2012
3.15 p.m. – 3.30 p.m.	Tea Break
4:00 p.m.- 6:00 p.m.	Technical Session II – Continued

### **Day Two**

9.30 a.m. – 10.45 a.m.	Technical Session III – Impact of Trauma and Abuse in Children
10.45 a.m.–11.00 a.m.	Tea Break
11.00 a.m. – 1.30 p.m.	Technical Session IV – Understanding Counselling and its different Approaches Vis-à-vis Child Victims of Sexual Abuse
1:30 p.m. – 2:30 p.m.	Lunch Break
4:00 p.m. – 4:30 p.m.	Technical Session V – Role of Counsellors, Social Workers and Special Educators in Implementation of POCSO Act and Rules, 2012

3.45 p.m. –4.00 p.m.	Tea Break
2.30 p.m. – 3.45 p.m.	Technical Session V – Continued

### **Day Three**

9.30 a.m. – 10.45 a.m.	Technical Session VI – Pre-counselling Assessment and Impact Reduction: Role of Counsellors and Social Workers
10.45 a.m. – 11.00 a.m.	Tea Break
11.00 a.m. – 12.00 noon	Technical Session VI – Continued
12:00 noon – 1:00 p.m.	Technical Session VII – A Workshop on Practicing Essential Steps in Counselling Child Victims of Sexual Abuse
1:00 p.m. – 2.00 p.m.	Lunch Break
2.00 p.m. – 4.00 p.m.	Technical Session VII – Continued
4.00 p.m. – 4.15 p.m.	Tea Break
4:15 p.m.- 4:30 p.m.	Post-Training Assessment
4:30 p.m.- 5:00 p.m.	Valedictory Session

### **III. Need of the Manual**

A **training** manual is a **book** or **booklet** of instructions, designed to standardize and maintain the quality of a training imparted and tasks performed thereafter by the trainees. A training manual also contains necessary supportive reading/reference material relevant to various sessions of the training to help the facilitator supplement his/her knowledge-base. It also guides the facilitators, in the form of tips, as to how to handle a particular training session. A training material also helps the facilitators to decide about the training aids and training methodology they are supposed to apply/use in a particular training session. Keeping these in view, this training manual has been designed to cater to the Counsellors, Social Workers and Special Educators who are the important stakeholders in implementation of the POCSO Act, 2012.

#### **Designing Training Manual**

The Manual has been designed in such a manner that it can serve as a helpful training tool. It has been ensured that materials have been designed to provide the most learning opportunities as a support material for each session. Ultimately, the manual is an attempt to help the Counsellors, Social Workers and Special Educators to achieve required competency in dealing with cases being dealt under POCSO Act, 2012.

#### **Utility of the Training Manual**

The manual is based on the interaction between trainers and participants. It emphasizes extensive use of participatory and interactive exercise to help participants in the learning process.

It is designed in the form of a reference document so as to assist the trainer to accomplish the task with tips for trainers and facilitators where necessary, games and exercise that can help facilitate the sessions and content specific information will help the trainers/facilitators/resource persons conduct training programmes successfully.

Trainers/facilitators in different States will have to look for State-specific information to assist the participants with tools that will help them perform their role suitably. These include State-specific situation of children, cases, issues and concern of children etc.

## **B. Role of the Facilitator**

- **Introduction**
- **Facilitator's Check List: "Do's and Don'ts" for Facilitators**



## **Introduction**

“A person who is acceptable to all group members, substantively neutral, and has no decision-making authority who helps a group improve the way it identifies and solves problems and makes decisions.” - Roger M. Schwarz

The definition of "facilitate" is "to make easy" or "ease a process". What a facilitator does is plan, guide and manage a group event to ensure that the group's objectives are met effectively, with clear thinking, good participation and full cooperation from everyone who is involved.

To facilitate effectively, you must be objective. This doesn't mean you have to come from outside the organization or team, though. It simply means that, for the purposes of this group process, you will take a neutral stance. You step back from the detailed content and from your own personal views, and focus purely on the group process. (The "group process" is the approach used to manage discussions, get the best from all members, and bring the event through to a successful conclusion. How you design this depends on many factors, and we'll explore this in a little more detail later in the article. The secret of great facilitation is a group process that flows – and with it will flow the group's ideas, solutions, and decisions too.)

Your key responsibility as a facilitator is to create this group process and an environment in which it can flourish, and so help the group reach a successful decision, solution or conclusion.

Guidelines for the facilitators: In order to promote experiential learning through optimum participation and interaction, the facilitators should pay attention to the following aspects:

### **Training Environment**

The facilitator should promote a friendly and cooperative environment. It is important to:

- Welcome everyone and create an atmosphere where each participant feels at ease expressing ideas and responding to those of others.
- Respond positively to questions from participants.
- Pay attention to the responses of all participants to encourage their continued attention and participation. It can be done with an encouraging comment such as “thank you” or a nod.
- If a participant seem to miss a point, it is important to ask for clarification or ask another participant for a response or suggestion.
- Well-placed humour is always welcomed.

## **Setting Ground Rules**

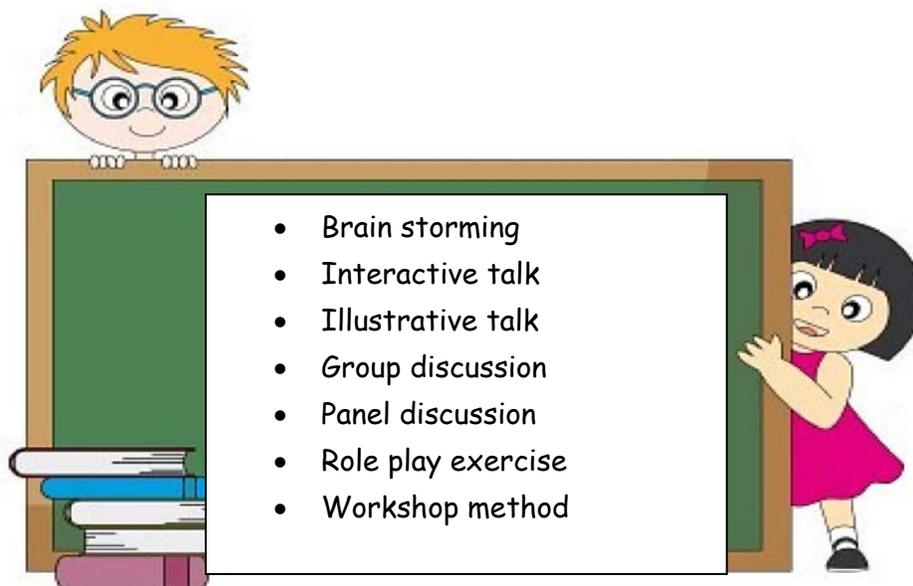
At the beginning of the training ask the participants to help you lay out the ground rules which are generally formed to guide the trainees on certain behavioural pattern so that they treat others equally, support each other, communicate, participate, cooperate and coordinate joint activities. When the ground rules are set in consultation with the trainees, these need to be written on a chart paper. Thereafter, ask the trainees if they agree to them or want to add anything. After finalizing the content, keep the chart paper displayed in the classroom. Some typical ground rules are:

- Everyone is encouraged to participate - at their own comfort level.
- Fairness and sensitivity within the training.
- Allow everyone to be heard - no one person should dominate the discussion.
- Participants ask questions in a positive, open and accepting atmosphere.
- All views will be respected - everyone's input is valuable.
- Confidentiality will be maintained - this can be extremely important if people are to be comfortable revealing personal stories.
- Participants must respect each other's right to participate and share thoughts.

## **Appropriateness of the Training**

- Although the contents and design of the training module are standardized for convenience, the facilitator should adapt ideas and concepts to suit local needs.
- Either summarize the discussion occasionally or encourage group members to do so.
- The medium of training and instructions should always be in the language best understood by the participants. Sometimes a mixed language approach may be followed if needed.

## I. Training Innovations (Methods and Techniques)



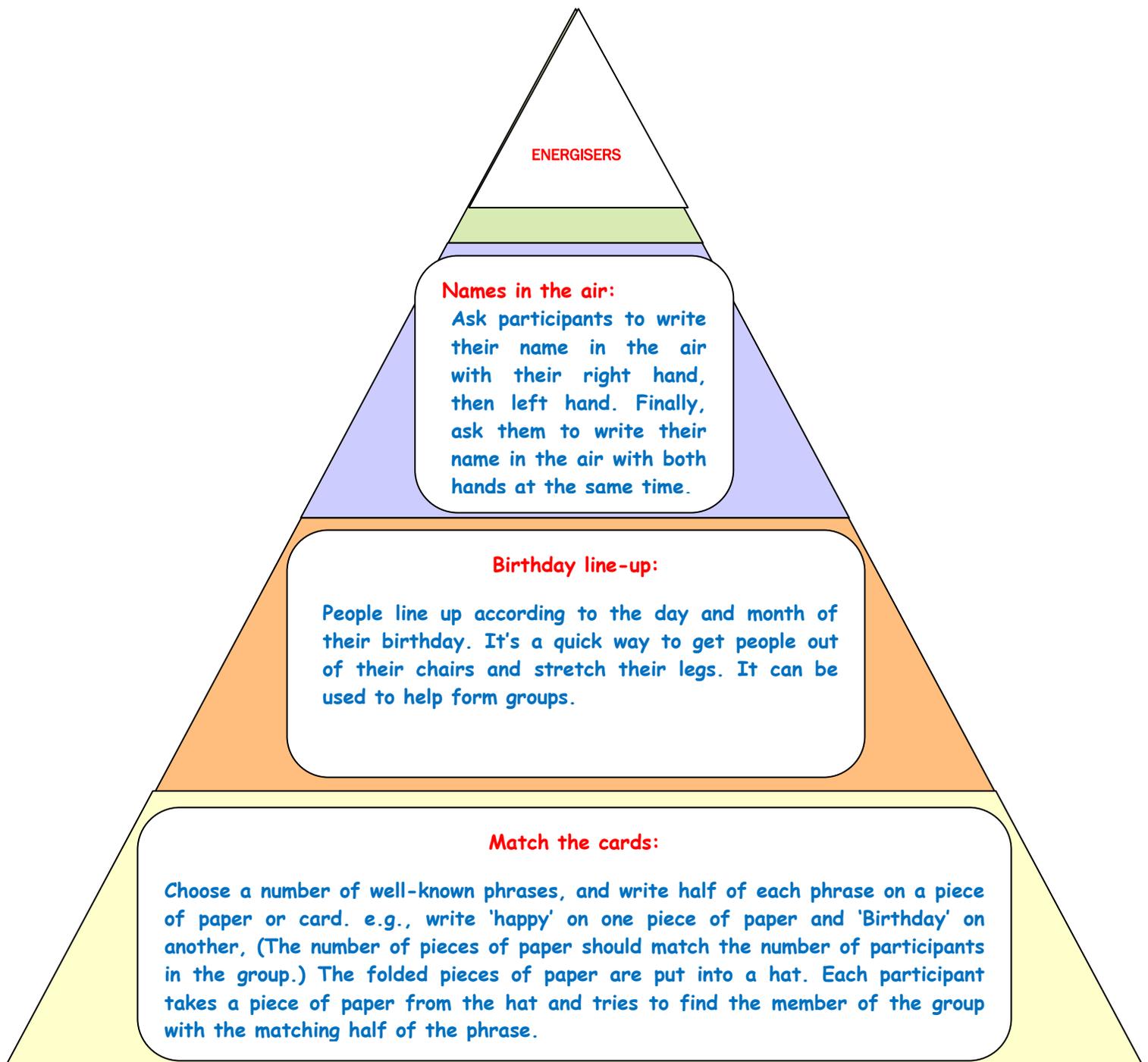
- Brain storming
- Interactive talk
- Illustrative talk
- Group discussion
- Panel discussion
- Role play exercise
- Workshop method

### Training Glossary

<b>Brain Storming</b>	<ul style="list-style-type: none"> <li>• This method is generally made as a first step to generate initial interest and essential involvement of the trainees in the training activity.</li> <li>• For this, the trainer asks the trainees to think of any ideas without evaluation or judgments.</li> <li>• The quantity, not the quality, is what matters. Ideas can be discussed later for practical consideration.</li> <li>• Sometimes ‘unwanted’ or seemingly ridiculous ideas lead to a more practical idea, which would otherwise not have been considered.</li> </ul>
<b>Interactive Talk</b>	<ul style="list-style-type: none"> <li>• This method is marked by encouraging the trainees to be quite active and analytical in their learning approach.</li> <li>• They are also motivated to be inquisitive and anxious to know new things by asking questions and exploring alternatives.</li> </ul>
<b>Illustrative Talk</b>	<ul style="list-style-type: none"> <li>• This is a lecture method supplemented by the use of proper illustration using training materials, including audio-visual aids.</li> <li>• Presentation of success stories and case studies is also one of the essential elements of this method.</li> </ul>
<b>Group Discussion</b>	<ul style="list-style-type: none"> <li>• Use of this method is based on the principle of the trainer taking on the role of a group promoter.</li> <li>• This method is also an effective instrument of participatory learning, whereby the trainer acts as a group adviser, a group facilitator and a group torch bearer.</li> </ul>

<b>Panel Discussion</b>	<ul style="list-style-type: none"> <li>• The use of this method is marked by greater involvement of trainees in promoting participatory learning.</li> <li>• In this situation the trainer's role is limited to be that of coordinator and moderator of the discussion, in which the trainees as panelists act as catalyst agents of the learning process.</li> </ul>
<b>Role Play Exercise</b>	<ul style="list-style-type: none"> <li>• This is one of the most effective training methods of participatory learning, in which the trainees are provided an opportunity to put into action the skills learnt through the training.</li> <li>• For this, an artificial situation is created, whereby every individual trainee is assigned a role which he/she enacts to demonstrate the skills learnt through the process of training.</li> </ul>
<b>Workshop Method</b>	<ul style="list-style-type: none"> <li>• This method is used not only to promote participatory learning, but also to make the best use of the mix of talent and skill of the individual trainees.</li> <li>• In the workshop method the trainees are arranged into a number of groups, keeping in view their interests and areas of learning.</li> <li>• In accordance to the leadership qualities demonstrated by some of the trainees during interactions with them, each group gets a leader to coordinate the discussions and present the decisions arrived at during the exercise.</li> <li>• Each group is assigned a theme of discussion relating to the topic being covered during the training session.</li> </ul>

## II. Training Games/Energizers (Some example)



### **III. Facilitator's Check List: "Do's and Don'ts" for Facilitators**

#### **The Facilitators MUST.....**

- Read the manual thoroughly before and work through the activities in each session to be familiar with the responses and explanations required.
- Be well prepared on the goals and structure of the training program.
- Make the sessions simple and easy to understand.
- Demonstrate enthusiasm for the topics covered in the training and for the work that the participants are doing.
- Be receptive to each participant's questions and needs.
- Ensure each participant gets a chance to be heard.
- Ensure everyone takes part in the discussion and encourage participants to go beyond one-word responses.
- Practice mock sessions with colleagues before conducting the actual training.
- Be updated on the latest information on Trafficking of Women and Children and the counselling needs, initiatives and interventions.
- Be well versed in psychological concepts and theories related to approaches to counselling with children.
- Be available to the participants even after the sessions for answering questions./queries of the participants.
- Think of and be prepared with a lot of energizers to be conducted in between sessions.

#### **The facilitators must ensure that they:-**

- DON'T cut off discussion because it is uncomfortable to them.
- DON'T let participants ridicule or otherwise not listen to one another.
- DON'T skip any discussions and questions.
- DON'T dominate the discussion or lead them from their own reference point and perspective.
- DON'T be judgmental.
- DON'T make the participants feel targeted.
- DON'T raise voice or express negative emotions verbally and/or non-verbally (through facial expressions or any other gesture) to control the flow of discussions.

## **C. Inauguration and Introduction**

- **Registration**
- **Introductory/Inaugural Session**
- **Pre-Training Assessment**
- **Reference Material**



## **Registration**

### **Introductory/Inaugural Session**

#### **Pre-Training Assessment**

##### **Learning Objectives:**

- To make the participants aware about the objectives and contents of orientation programme.
- To help the participants to open up develop rapport with each other
- 

**Material Required:** Flip Chart, Marker, Projector, Computer, Pre-Training Assessment Form, etc.

##### **Duration:**

**Session I:** 30 Minutes

**Session II:** 45 Minutes

**Session III:** 45 Minutes

##### **Instructions for Sessions I, II & III:**

#### **Registration and Inauguration**

- Distribute registration forms to the participants.
- Match the registration forms with the list of confirmed participants.
- Address issues of participants who may be attending the programme but their nomination papers are yet to be received. Sort out the issue in accordance with eligibility of the programme and regret letter for the participants. Final admission to the programme should be based on approval of the competent authority.
- Distribute training kit to the participants.
- Ensure that the training kit shall have copies of the following:
  - ✓ Programme Schedule
  - ✓ Registration Form
  - ✓ TA form, if applicable
  - ✓ Local Conveyance Form, if applicable
  - ✓ Note Pad and Pen
  - ✓ Copy of POCSO Act
  - ✓ Copy of POCSO Rules
  - ✓ Any other reading material relevant to the participants
- Welcoming the participants.
- Introductory remarks by the Head of the Institution.
- Ensure that the introductory session shall highlight the following:
  - ✓ Introduction to the training schedule, Briefing on the running programme, objectives, programme schedule, working hours, punctuality, leave rules, etc.

## **Rapport Building and Setting up of Ground Rules**

- Carry out at least two activities to establish rapport among participants.
- Ask the participants whether they need to have ground rules for the training programme or not.
- Ask them why ground rules are important in training programme.
- Let the participants come up with their own set of rules for the training programme.
- Quickly write down the responses on the flip chart/ chart paper.
- Paste the flip chart at a place where it is visible to all the participants.

## **Pre-Training Assessment**

- Explain why pre training assessment is important.
- Distribute the pre training assessment questionnaire to the participants.
- Instruct them to fill the form in 10 minutes.
- Collect the questionnaire for analysis.

## Pre-Training Assessment

Pre-Training is carried out to assess the knowledge level of the participants prior to the training programme. The following questions can be used as a pre-training assessment tool:

### Pre-Training Assessment Form

Note: Please read each question and answer the same as per your best knowledge and understanding. This is a group training exercise and not your individual assessment.

S. No.	Question	(Tick the correct option)
1.	Any idea about POCSO Act 2012?	(a) Yes <input type="checkbox"/> (b) No <input type="checkbox"/> (c) Somewhat <input type="checkbox"/>
2.	When did POCSO Act 2012 come into force?	(a) 14 November 2012 <input type="checkbox"/> (b) 12 May 2013 <input type="checkbox"/> (c) 30 March 2011 <input type="checkbox"/>
3.	The Act was passed in the Indian Parliament in May 2012	(a) Yes <input type="checkbox"/> (b) No <input type="checkbox"/>
4.	Who is a child under POCSO Act 2012?	(a) Any person below the age of 18 years <input type="checkbox"/> (b) Any person above the age of 18 years <input type="checkbox"/>
5.	Is the Act gender neutral?	(a) Yes <input type="checkbox"/> (b) No <input type="checkbox"/>
6.	The Act have a clear definition for all types of sexual abuses like sexual assault, sexual harassment and pornography.	(a) Yes <input type="checkbox"/> (b) No <input type="checkbox"/>
7.	What is an "aggravated" offence?	(a) Police Officer <input type="checkbox"/> (b) Armed Forces Or Security Forces <input type="checkbox"/> (c) Public Servant <input type="checkbox"/> (d) All the above <input type="checkbox"/>
8.	If someone fails/hides the information of the commission/apprehension of the offence shall be punishable with imprisonment for a term which may extend to one year with fine.	(a) Yes <input type="checkbox"/> (b) No <input type="checkbox"/>
9.	Match the punishments and fine for various offences in the POCSO Act 2012? <b>Answer:</b> <b>Offence</b> a) Penetrative Sexual Assault (Section 3) b) Aggravated Penetrative Sexual Assault (Section 5) c) Sexual Assault (Section 7) d) Aggravated Sexual Assault (Section 9) e) Sexual Harassment (Section 11) f) Using Child for Pornographic Purposes (Section 13)	<b>Punishment there for</b> i) 5 years and fine (Section 14) ii) 3 years and fine (Section 12) iii) 5-7 years and fine (Section 10) iv) 3-5 years and fine (Section 8) v) 10 years/imprisonment for life and fine (Section 6) vi) 7 years/imprisonment for life and fine (Section 4)

10.	Where will the cases of the POCSO Act 2012 are tried?	(a) Special Courts (b) High Courts (c) District Courts	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
11.	Whether the POCSO Act 2012 has incorporated the child friendly procedures for reporting, recording of evidence, investigation and trial of offences?	(a) Yes (b) No	<input type="checkbox"/> <input type="checkbox"/>
12.	Whether the POCSO Act 2012 has recognized the intent to commit an offence, even when unsuccessful for whatever reason and be penalized?	(a) Yes (b) No	<input type="checkbox"/> <input type="checkbox"/>
13.	Tick mark some of the specifications of POCSO Act 2012 Answer: 1. Recording the statement of the child at the residence of the child or at the place of his choice, preferably by a woman police officer not below the rank of sub-inspector 2. Child to be detained in the police station in the night for any reason. 3. Police officer to be in uniform while recording the statement of the child 4. The statement of the child to be recorded as spoken by the child 5. Assistance of an interpreter or translator or an expert as per the need of the child 6. Assistance of special educator or any person familiar with the manner of communication of the child in case child is disabled 7. Medical examination of the child to be conducted in the absence of the parent of the child or any other person in whom the child has trust or confidence. 8. In case the victim is a girl child, the medical examination shall be conducted by a woman doctor. 9. No frequent breaks for the child during trial 10. Child to be called repeatedly to testify 11. No aggressive questioning or character assassination of the child 12. In-camera trial of cases		
14.	Whether the abetment of the offence is punishable in the POCSO Act 2012?	(a) Yes (b) No	<input type="checkbox"/> <input type="checkbox"/>
15.	On whom lies the burden of proof in the heinous cases of POCSO Act 2012?	(a) Accused (b) Children (c) Both (d) None	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
16.	Where the cases under this Act reported?	(a) Special Juvenile Police Unit (SJPU) (b) Local Police (c) Both	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
17.	Who will monitor the implementation of the Act?	(a) NCPCR & SCPCR (b) NCW & SCW	<input type="checkbox"/> <input type="checkbox"/>
18.	Whether documentation or magisterial requisition is demanded before treatment in the emergency medical facility to the child?	(a) Yes (b) No	<input type="checkbox"/> <input type="checkbox"/>
19.	Is there any compensation awarded to the subject as the consequence of the abuse?	(a) Yes (b) No	<input type="checkbox"/> <input type="checkbox"/>

20.	The Act provides for Interpreters, translators and Special educators for convenience.	(a) Yes <input type="checkbox"/> (b) No <input type="checkbox"/>
21.	The District Court in appropriate cases on its own or on an application filed by or on behalf of the child, pass an order for interim compensation to meet the immediate needs of the child for the relief or rehabilitation at any stage after registration of the FIR.	(a) True <input type="checkbox"/> (b) False <input type="checkbox"/>
22.	When is a child referred to emergency medical care under POCSO Act, 2012?	(a) section 3 and 5 <input type="checkbox"/> (b) section 3 and 7 <input type="checkbox"/> (c) section 9 <input type="checkbox"/> (d) section 3,5,7 and 9 <input type="checkbox"/>
23.	The compensation awarded by the Court is to be paid by the _____	a) State Government <input type="checkbox"/> b) Central Government <input type="checkbox"/> c) State Government from the Victims Compensation Fund <input type="checkbox"/> d) Central Government from the Victims Compensation Fund <input type="checkbox"/>
24.	It is the responsibility of the doctor to keep the child and his parent or guardian or other person in whom the child has trust and confidence, and where a support person has been assigned, such person informed about the developments, including the arrest of the accused, applications filed and other court proceedings.	(a) True <input type="checkbox"/> (b) False <input type="checkbox"/>

**Note:** The same form can be used at the end of the training programme as Post Training Assessment Form

**Key:**

- 1) The answer is up to participant
- 2) (a)
- 3) Yes
- 4) Any person below the age of 18 years
- 5) Yes
- 6) Yes
- 7) (d)
- 8) Yes
- 9) a-vi, b-v, c-iv, d-iii, e-ii, f-i
- 10) (a)
- 11) Yes
- 12) Yes
- 13) Correct-1, 4, 5, 6, 8, 11, 12  
Wrong-2, 3, 7, 9, 10
- 14) Yes
- 15) (a)
- 16) (c)
- 17) (a)
- 18) No
- 19) Yes
- 20) Yes
- 21) False
- 22) (d)
- 23) (c)
- 24) False

**Minimum Score: 0**  
**Maximum Score: 24**

**Scoring Pattern:**

- Assign score 1 for the right answer and 0 to wrong.
- Sum of all scores is the Total Score
- Ranges for assessing knowledge level of participants are:

Very Poor	0-4
Poor	4-8
Average	8-12
Good	12-16
Very Good	16-20
Excellent	20-24

## **D. Technical Sessions**



## **Technical Session I: Communicating to Children about Sexuality**

### **Learning Objectives:**

- To enable participants to communicate effectively on sexuality issue
- To understand how sexuality affects different peoples' lives differently

### **Methodology:**

- Presentation, lecture and discussion

### **Material Required:**

Projector, computer, presentation on 'communicating to children about sexuality', marker

**Duration:** 1 hour 15 minutes

### **Outcomes:**

Participants will become aware of their level of comfort/inhibition related to the issues. The more comfortable they are with the subject and themselves, the better they will be able to address the queries, concerns and questions related to sexuality and sexual abuse.

### **Contents:**

- Significance of the need to talk to children about body and sexuality
- Defining sexual abuse
- Perspective on reproductive and sexual health including HIV/AIDS/STIs (Sexually Transmitted Infections)
- Handling these issues with children, especially with survivors of sexual abuse

### **Tips for the Facilitators/Resource Persons:**

- This session is important to make the participants understand the difficulties that children go through due to lack of awareness regarding sexuality
- Read the slides carefully before conducting the session
- Have an idea of the situation related to child sexuality in India
- As the session is theoretical, make it interactive by encouraging participants to share their experiences

## **SIGNIFICANCE OF THE NEED TO TALK TO CHILDREN ABOUT BODY AND SEXUALITY**

- **Concept of beauty and imaging**

Defined by social norms and notions, it is important to analyze who sets these standards and who adheres to these standards. Some factors that form our notions of beauty are:

- Likes/dislikes are based on the concept of beauty, which is based on feedback from others. For example, if others praise some aspect of our body or my appearance, we like it. Similarly, if it is criticized, then we also tend to dislike that aspect on us.
- Comparison with others: we compare ourselves with others and think that the other is better than us or 'I am not good enough'.
- Standards of beauty like fair, long hair, thin, tall etc. for women and tall, dark, handsome for men are defined by the society.
- It is important to emphasize and make people realize the importance of acceptance of body parts for the function that is performed by the body part, for example, eyes help us to see; with hands we can work and do what we want to do etc.
- The concept of exploring, recognizing and accepting ones "Inner beauty" needs to be emphasized. True beauty lies within the person – our nature, potentials, talents, abilities, strengths and acceptance of our weaknesses. We all should learn to get in touch with the person inside us who is evergreen and beautiful rather than judging ourselves based on external factors and definition of beauty

- **Impact of abuse**

- Due to abuse, the relationship with certain body parts gets disturbed and survivors start feeling conscious of those body parts, even if they like and derive pleasure from them.
- Even if one is not abused, there is a fear of violation of one's body all the time.

- **Message around body**

- So many times, we start disliking some body parts and feel conscious of them due to the 'shame' attached to these body parts. From childhood, children are told to hide and cover genitals and breast (especially girls).
- If these body parts get exposed, there is assassination of character of women, including young girls.
- They are made to feel that these body parts are dirty and therefore one should not talk about them and keep them covered all the time.

Natural and healthy sexual exploration during childhood is an information gathering process. At a very young age, children begin to explore their bodies by touching, poking and pulling their body parts, including their genitals. It is estimated that 40-85 per cent of children get engage in at least some sexual behaviors before turning thirteen years of age (Friedrich, et al, 1991). Children need to know about sexuality, it is easier for parents to talk to their children about the differences between right and wrong, than to talk about sexuality. If children do not receive information about sexuality from their parents, they will receive it from their peers, magazines, television, movies and other forms of media, which may provide them with misleading information and cause confusion. The more information that parents have about childhood sexuality the better they will be able to respond to their child's sexual development.

As children mature sexually, they're often both excited and scared about growing up — especially when they notice hair growing in new places, get their periods. They spend a lot of time wondering if it is "normal" and start comparing themselves with their friends. Little children need lots of reassurance as they head into this unknown territory. As kids continue to understand and experience their bodies, and the physical changes of puberty emerge, the attitude and acceptance will continue to play an important role in their healthy development. Puberty can be a very confusing time, with lots of physical and emotional changes, children need to know what to expect in the coming months and years, even if they're too shy to ask. By being open to the young child's questions about bodies, babies, love, and sex, a counsellor set the stage for continued conversations and openness when puberty begins. Welcoming the questions about the child's changing body and sexual issues — and not treating them as dirty or embarrassing subjects — will help foster a healthy sense of self-acceptance in the child, also makes it more likely for the child to use you as a resource for information and guidance.

Gathering written materials, like pamphlets or books, may help the counsellor find effective ways to provide the facts about sex, sexual health, and the physical changes the child may be going through.

### **WHAT IS SEXUAL ABUSE?**

Child sexual abuse is the involvement of a child in any sexual activity that:

- the child does not understand;
- the child is unable to give informed consent to;
- the child is not developmentally prepared for and cannot give consent to;
- and
- violates the laws or social norms of society.

Child sexual abuse occurs when a child is used by an adult or an older or more knowledgeable child for sexual pleasure. It can be physical, verbal or emotional. This may include:

- Sexual touching of any part of the body, clothed or unclothed;
- Penetrative sex, including penetration of the mouth;
- Encouraging a child to engage in sexual activity, including masturbation;
- Intentionally engaging in sexual activity in front of a child;
- Showing children pornography, or using children to create pornography;
- the adult showing his or her private parts to the child (exhibitionism);
- Encouraging a child to engage in prostitution.

Some general legal terms that are commonly used in cases of sexual abuse are:

**Sexual Assault** is a broad term describing all sexual offences against adults and children. It also describes a specific offence when a person has sexual intercourse with another person without their consent.

**Consent** occurs when a person freely and voluntarily agrees to sexual intercourse. Sexual assault occurs when someone is unable to and/or does not give consent. The law says that a person is unable to give consent when:

- asleep or unconscious
- significantly intoxicated or affected by drugs
- unable to understand what they are consenting to due to their age or intellectual capacity

- intimidated, coerced or threatened
- unlawfully detained or held against their will
- they submit due to the person being in a position of trust.

**Circumstances of aggravation** can include the:

- offender also seriously injuring or threatening to seriously injure the victim;
- offender being in a group of people when they commit the offence;
- offender breaking into a home to commit the offence;
- offender kidnapping the victim to commit the offence;
- victim having a serious physical disability or cognitive impairment.

- ***Body and Personal Safety***<sup>1</sup>

Talking to children about body safety can be difficult for parents. It seems that most parents think that if they talk to their children about body safety, they have to talk to them about "sex", which is not the case. This is where the counsellor has to play a crucial role, parents who often teach their children to look both ways when crossing the street, to wear their seat belt in a vehicle, and to not talk to strangers often find it difficult to talk to them and teach them that they have private parts in their bodies, and it is not okay for others to touch them.

- Counsellors should make sure that parents begin to teach their children about body safety between the ages of 3 and 5.
- Teach children proper names for all body parts, including names such as genitals, penis, vagina, and private parts.
- Teach them to bathe, toilet, and dress themselves starting at an early age.
- Teach them that privacy, modesty, personal behaviors, and boundaries are important.
- Teach them that it is not okay for anyone to invade their privacy or boundaries. Explain that it is not okay for others to look at or touch their private parts. Explain that these parts are private and need to be kept private.
- Let your child know that saying "NO" is okay and the right thing to do.
- Do not force the child to give hugs or kisses to people they do not want to. Respect their right to tell "anyone" that they do not want to give them a kiss or a hug.
- Let the child know that he or she should tell the parents right away if anyone attempts to look at or touch their private parts. Assure them that you will listen to them, believe them and keep them protected.
- Reassure the child that most touch are okay touches, but that they can say "NO" and need to tell parents about any touches that are confusing or that scare them.
- Ask the parents to talk to the children about personal safety during:
  - bath time: teaching the child to wash himself or herself
  - bed time: when they are focused on what the parent is saying
  - new situation: before going to camp, starting school, going to day care.
- Play "what if" games with the children if necessary and let them practice saying "NO". By role playing with children, you help them develop the skills they need in certain situations.

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<sup>1</sup>Children's Sexual Behavior and Body Safety - A Guide for Parents from The Children's Assessment Center in Grand Rapids, Michigan

## **'Good Touch' and 'Bad Touch'<sup>2</sup>**

Children as young as they are, can understand the basic concepts of good touches, bad touches and confusing touches. Use the words "sexual abuse" when talking with the child because if a child is victimized, they need to be able to tell you that they were "sexually abused". A child without the language to describe their victimization, is a child whose case is weakened in the court. Remember as a counsellor, you are not putting the responsibility on the child, instead, you are helping the child to understand the problem and identify safe people who will support them.

- Children need to hear information more than once. Discuss with the children "the problem that children might have" by introducing the concept of different touches. A one-time discussion is soon forgotten, repetition allows them to retain what they have learned. Also, repeating discussions will reinforce what they have learned and reintroduce points they may have forgotten. One should not rule out the possibility that, in the course of discussions, a child may exclaim, "Hey! That's happened to me!" While a parent can never be fully prepared for such a disclosure, a counsellor should be prepared to deal with circumstances as to how to respond to a child who discloses abuse, before they begin talking with the child.
- While teaching the child about sexual abuse, talk about 3 different types of touch: good touch, bad touch, and sexual abuse touch. "Good touches" are those touches that make us feel happy, safe and loved. Good touches can make us feel warm inside or can make us feel like a smile. Emphasize that most of the touch we get is good touch, also explaining them the importance of it. "Bad touches" are those touches that hurt us; they feel like an ouch. Some examples are kicking, hitting and biting. "Sexual abuse touch" is defined as "forced or tricked touch of private body parts." The key words are forced and tricked. A force is when someone makes you do something you don't want to do or don't understand. A trick is when someone lies to you, fools you, pretends or calls something a game, that really isn't a game, so that they can touch your private parts or have you touch theirs. Explain that sexual abuse is confusing because it doesn't necessarily hurts; the touch may feel good too, and that is confusing to children.
- Use the words "sexual abuse" to eliminate unnecessary confusion. The effort to call sexual abuse by another name (such as inappropriate touch) may become counterproductive – leading more confusion for children. After all, we can be assured that the sexual abuse offender will not call what he/she is doing as sexual abuse. By giving the child the correct language, you give them the power to discriminate between what is right and what is wrong.
- Teach the child that they have the right to trust their own feelings and to ask questions when they feel uncomfortable or confused by someone's behavior. Talk about times when they may have had an anxious feeling (forgetting homework, losing something, frightened by a loud noise, etc.). Discuss the importance of paying attention to our feelings in situations when we are feeling uncomfortable.
- Teach the child to say "NO!" to sexual abuse. Teach them that they can say "NO!" to anyone who might want to sexually abuse them; even if the offender is an adult; even if the offender is someone they know.
- Teach the child that it is very important to tell a trusted adult if someone sexually abuses them or hurts them in any way. Teach them that they can tell another person if they are not believed. Discuss and identify trusted adults in their life.
- Teach the child that if sexual abuse happens to a child, it is NEVER the child's fault. Older children may come up with ways in which it could be the child's fault; explain to

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<sup>2</sup> Based on an article 'Talking to child about Abuse' published on East Wood Guidance, hosted by Hudson City School District

them that sexual abuse is against the law and children are not responsible when someone breaks the law and sexually abuses them.

- Teach the child that a person who sexually abuses a child can be anyone. Most children, and even adults, think that the offenders are usually strangers. Children need to know that they have the right to say "NO!", and tell even when the offender is someone they know, love or even live with.
- Discuss with children that talking about sexual abuse can be very difficult, but that the abuse won't stop until they tell someone. An abused child doesn't start to feel better until they tell someone. Remind them that it's never too late to talk about sexual abuse.
- Let the child know that if sexual abuse happens to them, they are still a good person, they will still be loved by their family and friends, and that they will always be loved no matter what.

## **PERSPECTIVE ON REPRODUCTIVE AND SEXUAL HEALTH INCLUDING HIV/AIDS/STIs**

### *Recognising Signs and Indicators of Sexual Abuse*

Children who have been, or are being, sexually abused may show identifiable physical or behavioural signs. However, it is important to note that not all sexually abused children will show these signs.

As counsellors, we must all be aware of the physical and behavioural indicators (signs and symptoms) of abuse. It is often very difficult for a child to talk to anyone about the sexual abuse. Indicators may alert us to the possibility of sexual abuse.

When assessing indicators of sexual abuse, it is important to consider the age and ability of a child. What may be appropriate behaviour for an older child may indicate a problem for a younger child and vice versa. The following indicators may help counsellors to recognise child sexual abuse.

#### Behavioural indicators:

- excessive crying
- an increase in irritability or temper tantrums
- fears of a particular person or object
- disrespectful behaviour
- aggression towards others
- poor school performance
- bedwetting or soiling of pants
- unexpected change in behaviour, such as a lively outgoing child
- becoming withdrawn
- knowing more about sexual behaviour than is expected of a child of that age:
- child may hate own genitals or demand privacy in an aggressive manner
- child may dislike being his or her own gender
- child may use inappropriate language continuously in his or her vocabulary or may use socially unacceptable slang

#### Physical indicators

- unexplained pain, swelling, bleeding or irritation of the mouth,
- genital or anal area
- sexually transmitted infections (sores, a discharge, frequent itching of the genitals)
- unexplained difficulty in walking
- increase in headaches or stomach aches

### ***Medical Indicators of Child Sexual Abuse***

Child sexual abuse contributes to health disparities. People who have experienced sexual abuse as children are at higher risk for numerous adverse health conditions. The impact of sexual abuse may not become evident for some individuals until later in adulthood.

- Mental health conditions such as depression, anxiety, post-traumatic stress disorder (PTSD), insomnia, and lack of trust in others are reported more often by people who have experienced child sexual abuse.
- Physical health conditions such as HIV or other STDs, unintended pregnancy, alcohol or other drug abuse, hypertension, and obesity are all reported with greater frequency among people who have experienced child sexual abuse.

Many survivors of sexual abuse overcome adverse health conditions, and can prove especially resilient when provided with therapy and other supports that empower them to take control over their lives and relationships.

Sexual and reproduction consequences:

- Reproductive health problem
- Sexual dysfunction
- Sexually transmitted diseases, including HIV/AIDS
- Unwanted pregnancy

Significant progress has been made in the medical field in the determination of sexual abuse. Medical professionals are no longer limited to the presence or absence of a hymen as the indicator of possible sexual abuse, a variety of types of genital findings have been documented over time. In addition, notable progress has been made in identifying anal findings, physicians are able to describe the effects of different kinds of sexual activity, and subtle findings can be documented using magnification.

### ***Two High-Probability Physical Indicators***

Despite the progress noted above, the highest probability indicators are ones identified over 10 years ago. They are:

- pregnancy in a child and
- venereal disease in a child.

The reason these findings are high probability is because there is little dispute over the fact that they require sexual activity. Not all situations in which children become pregnant are abusive, and pregnancy in older adolescents can be a consequence of sexual abuse. Venereal disease may be located in the mucosa of the vagina, penis, anus, or mouth.

- High-probability findings specific to the genitalia include the following:
- Genital Findings
- semen in the vagina of a child,
- torn or missing hymen,
- other vaginal injury or scarring,
- vaginal opening greater than 5 mm, and
- injury to the penis or scrotum.
- Semen in the vagina is the highest probability finding, but it is uncommon.

Although there is a fair amount of variability among girl children in the extent, shape, and other characteristics of hymens, the complete absence of or a tear in the hymen of a young girl is indicative of sexual abuse. In older girls, it is important to determine whether other sexual activities may account for the absence or the tear. Conditions such as bumps, friability, and clefts in the hymen may be a result of sexual abuse, but they are also found in girls without a reported history of sexual abuse.

Absent explanation for an injury to the penis, which is consistent with the child's account of the abusive incident, the injury should be considered indicative of sexual abuse. Bite marks, abrasions, redness, "hickeys," scratches, or bruises may be found.

## **HANDLING THESE ISSUES WITH CHILDREN, ESPECIALLY WITH SURVIVORS OF SEXUAL ABUSE**

Effective communication skills are fundamental to delivering good care. The heart of compassionate and effective service provision relies on the service provider having the appropriate knowledge, attitudes and skills to communicate trust, comfort and care to children. It is through the dynamic process of communication (verbal and non-verbal) that positive, helpful relationships are developed and healing starts to occur. Health and psychosocial service providers can impact a child's healing based on their responses to a child's disclosure of abuse—in other words, what service providers say and how they say it.

For example, if a child discloses sexual abuse and perceives he/she is being blamed for the abuse by the service provider, the child may experience deeper levels of shame, anxiety and sadness. This may result in the child refusing to share further information or even deny the abuse altogether in subsequent interviews because he/she does not feel safe. However, if a service provider communicates immediate belief, care and empathy, the child survivor may be willing to engage further, thus helping the provider to offer appropriate care and treatment.

It is a common mistake to assume that children (from the age of six or so) are too young to be aware of what is going on around them or too young to be adversely affected by dangerous or distressing experiences such as sexual abuse. Children who have experienced abuse may find it extremely difficult to talk to others about what they have experienced. Some will find it difficult to trust adults, especially those they do not know well. Others will be afraid of being overwhelmed by their emotions if they express them to an adult, while some may use particular behaviors to "test out" whether adults will react critically or sympathetically toward them. For example, children may refuse to speak or they may react strongly (yell or scream) when questioned. The ability to communicate effectively with children is crucial to sharing information, as well as for encouraging further communication and protecting and assisting these children. Accurate and truthful information can be empowering to children and facilitates their involvement in subsequent decision-making.

### **Child-Friendly Communication Techniques<sup>3</sup>**

Children, ages six years and older, who are able to communicate verbally can benefit from the following strategies:

Talk with children about their life, school, family and other general topics before asking direct questions about their experiences of abuse. This helps the counsellor to gauge the child's capacity to be verbal and helps a child feel at ease with them.

- Use as many open-ended questions as possible. Avoid multiple-choice or yes/no questions, which can be confusing and lead the child to give inaccurate responses.

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<sup>3</sup> This section draws from the IASC Training Manual on Caring for Survivors, United Nations International Children's Fund (UNICEF). (2010).

- Avoid using the words “why” or “how come.” This will result in answers frustrating for you and the child: “I don’t know,” for example, or a shrug of the shoulders, or silence. Instead, ask for the child’s opinion as to why something is so: “What do you think the reason is...?” In addition, “why” questions can come across as blaming, such as “Why didn’t you...” for example.
- Use words that encourage the child to continue talking:
  - “Tell me more about that...”
  - “What do you mean by...”
  - “Give me an example of...” or “Describe for me...”
  - “Go on...”
  - “And then what happened...?”
- *Don’t put words in the child’s mouth.* Whether using verbal or non-verbal techniques, service providers need to be careful not to put words in a child’s mouth. For example, do not say, “Did he put his hands on your breasts?” Or if using a doll to help a child communicate what happened, do not point to the breasts on the doll and ask, “Did he touch you here?” Instead, ask the child to show you where he/she was touched. Other examples of useful questions or statements:
  - Has anyone ever touched you in a way that makes you confused or frightened?
  - Share with me how you were touched.
  - Tell me what happened next.
  - Use your own words. It is okay to go slowly.
- *Choose the right words.* Children, especially those under the age of six, take words literally, so the counsellor must be sure to use concrete language herself. For example, if you ask a young child, “Did he drive you away in his car?” the child may answer negatively—if the actual vehicle was a truck.
- *Empower children.* After children describe events or occurrences in their lives and talk about their reactions, they must be reassured that they “did the right thing” by telling another person about these events. It may be helpful to allow them the opportunity to explore their ideas and solutions: “What would you tell other kids to do if they were in the same situation?” If they are unable to reply, you can offer them paper and crayons and see if they want to draw their ideas.

### **Child-Friendly Non-verbal Techniques Using Art, Dolls and Other Activities to Communicate**

Children who have been sexually abused can benefit from non-verbal techniques to facilitate information sharing throughout all stages of the child’s care and treatment process. Non-verbal techniques can be used during assessment interviews with child survivors (for example, to help a child share his/her story or clarify specific information) and as part of psychosocial care (by helping children express their feelings through art, play and other activities). Non-verbal methods of communication offer many benefits:

- »» Children may feel less threatened using non-verbal methods than sitting in a room talking.
- »» Children may find it easier to express emotions through drawings or stories, especially younger children and children not used to expressing emotions or answering questions.
- »» Children express emotions, thoughts, ideas and experiences both during and after the non-verbal communication activity.

It's well known that good communication is the foundation of any successful relationship, be it personal or professional. It's important to recognize, though, that it's our nonverbal communication—our facial expressions, gestures, eye contact, posture, and tone of voice—that speak the loudest. The ability to understand and use nonverbal communication, or body language, is a powerful tool that can help you connect with others, express what you really mean, and build better relationships.

### **What is nonverbal communication and body language?**

When we interact with others, we continuously give and receive wordless signals. All of our nonverbal behaviors—the gestures we make, the way we sit, how fast or how loud we talk, how close we stand, how much eye contact we make—send strong messages. These messages don't stop when you stop speaking either. Even when you're silent, you're still communicating nonverbally.

Oftentimes, what comes out of our mouths and what we communicate through our body language are two totally different things. When faced with these mixed signals, the listener has to choose whether to believe your verbal or nonverbal message, and, in most cases, they're going to choose the nonverbal because it's a natural, unconscious language that broadcasts our true feelings and intentions in any given moment.

### **Why nonverbal communication matters**

The way you listen, look, move, and react tells the other person whether or not you care, if you're being truthful, and how well you're listening. When your nonverbal signals match up with the words you're saying, they increase trust, clarity, and rapport. When they don't, they generate tension, mistrust, and confusion.

If one wants to become a better communicator, it's important to become more sensitive to the body language and nonverbal cues of others.

### **Types of nonverbal communication and body language**

There are many different types of nonverbal communication. Together, the following nonverbal signals and cues communicate your interest and investment in others.

**Facial expressions** - The human face is extremely expressive, able to express countless emotions without saying a word. And unlike some forms of nonverbal communication, facial expressions are universal. The facial expressions for happiness, sadness, anger, surprise, fear, and disgust are the same across cultures.

**Body movements and posture** - Consider how your perceptions of people are affected by the way they sit, walk, stand up, or hold their head. The way you move and carry yourself communicates a wealth of information to the world. This type of nonverbal communication includes your posture, bearing, stance, and subtle movements.

**Gestures** - Gestures are woven into the fabric of our daily lives. We wave, point, beckon, and use our hands when we're arguing or speaking animatedly—expressing ourselves with gestures often without thinking. However, the meaning of gestures can be very different across cultures and regions, so it's important to be careful to avoid misinterpretation.

**Eye contact** - Since the visual sense is dominant for most people, eye contact is an especially important type of nonverbal communication. The way you look at someone can communicate many things, including interest, affection, hostility, or attraction. Eye contact is also important in maintaining the flow of conversation and for gauging the other person's response.

**Touch** - We communicate a great deal through touch. Think about the messages given by the following: a weak handshake, a timid tap on the shoulder, a warm bear hug, a reassuring slap on the back, a patronizing pat on the head, or a controlling grip on your arm.

**Space** - Have you ever felt uncomfortable during a conversation because the other person was standing too close and invading your space? We all have a need for physical space, although that need differs depending on the culture, the situation, and the closeness of the relationship. You can use physical space to communicate many different nonverbal messages, including signals of intimacy and affection, aggression or dominance.

**Voice** - It's not just what you say, it's how you say it. When we speak, other people "read" our voices in addition to listening to our words. Things they pay attention to include your timing and pace, how loud you speak, your tone and inflection, and sounds that convey understanding, such as "ahh" and "uh-huh." Think about how someone's tone of voice, for example, can indicate sarcasm, anger, affection, or confidence.

**Technical Session II: Salient Features of Protection of Children from Sexual Offences (POCSO) Act and Rules, 2012**

**Learning Objectives:**

- To enhance the knowledge of the participants about Child Protection with special emphasis on the principles, approaches and components of Protection of Children Against Sexual Offence Act 2012.
- To enable participants to understand the different categories of the children covered under POCSO Act.
- To acquaint the participants with salient features of POCSO Act, 2012
- To enable participants to understand the different types of sexual offences and appropriate punishments for the same under the Act

**Methodology:**

- Presentation
- Lecture-cum-discussion

**Material Required:**

Projector, computer, presentation on 'Salient Features of Protection of Children from Sexual Offences (POCSO) Act and Rules, 2012', marker

**Duration:**

3 hour 15 minutes

**Outcomes:**

Participants will gain in-depth knowledge of POCSO Act.

**Contents:**

- Provisions & components of POCSO Act / Rules, 2012
- Procedure for:
  - ✓ reporting of cases
  - ✓ recording of statement of child
  - ✓ medical examination, etc.

**Tips for the Resource Person**

- This session is important to make the participants understand the origin and basics of POCSO and its components so that they easily relate themselves with the Act.
- Ask the participants about the term 'Child Protection'
- Ask the participants about Child Protection Mechanism in India
- Show slides on origin of POCSO, its objectives, guiding principles, approaches, target groups, programmes & activities along with service delivery structure
- Clarify the doubts of the participants as and when raised.
- Involve the participants to share their experiences to make the session participatory.
- Make sure that over emphasis should not be given to those issues which will be covered in other sessions.
- Keep a track of the time as many issues are covered in other sessions as well.
- Wind up by answering the questions, if any.

## **Reference Material for Technical Session II**

### **CONTENTS**

#### **Provisions and Components of POCSO Act/Rules**

##### **Procedure for:**

- ✓ **reporting of cases**
- ✓ **recording of statement of child**
- ✓ **medical examination, etc**

## **Provisions and Components of POCSO Act/Rules**

The Protection of Children from Sexual Offences (POCSO) Act 2012 is applicable to the whole of India. The POCSO Act, 2012 defines a child as any person below the age of 18 years and provides protection to all children under the age of 18 years from sexual abuse. It also intends to protect the child through all stages of judicial process and gives paramount importance to the principle of "best interest of the child".

Penetrative and aggravated penetrative sexual assault, sexual and aggravated sexual assault, sexual harassment, and using a child for pornographic purposes are the five offences against children that are covered by this Act. This Act envisages punishing even abetment or an attempt to commit the offences defined in the Act. It recognizes that the intent to commit an offence, even when unsuccessful needs to be penalized. The punishment for the attempt to commit is up to half the punishment prescribed for the commission of the offence.

This Act suggests that any person, who has an apprehension that an offence is likely to be committed or has knowledge that an offence has been committed, has a mandatory obligation to report the matter i.e. media personnel, staff of hotel/ lodges, hospitals, clubs, studios, or photographic facilities. Failure to report attracts punishment with imprisonment of up to six months or fine or both. It is now mandatory for police to register an FIR in all cases of child abuse. A child's statement can be recorded even at the child's residence or a place of his choice and should be preferably done by a female police officer not below the rank of sub-inspector.

As per this Act, the child's medical examination can be conducted even prior to registration of an FIR. This discretion is left up to the Investigation Officer (IO). The IO has to get the child medically examined in a government hospital or local hospital within 24 hours of receiving information about the offence. This is done with the consent of the child or parent or a competent person whom the child trusts and in presence of such a person.

Child Welfare Committees (CWC) play a vital role under the POCSO Act. The cases registered under this act need to be reported to the CWC within 24 hours of receiving the complaint. The CWC should take into account the opinion of the child to decide on the case within three days and conclude whether the child should remain in an institution or be with the family. The CWC should nominate with the consent of the child/ parent / guardian / other person whom the child trusts, a support person to assist the child during the investigation and trial of the case.

The State Commissions for Protection of Child Rights (SCPCRs) have been entrusted with the responsibility of monitoring the implementation of the provisions of the POCSO Act, 2012, to conduct inquiries and to report the activities undertaken under the POCSO Act, 2012, in their Annual Reports. These Commissions also have the authority to call for a report on any specific case of child sexual abuse falling within the jurisdiction of a CWC in their State. The Commissions may also recommend interim relief, or make recommendations to the state government to effectively redress the matter.

The rules laid down in this Act define the criteria for awarding the compensations by the Special Courts that include the following:

- type of abuse, gravity of the offence and the severity of the mental or physical harm or injury suffered by the child;
- the expenditure incurred or likely to be incurred on his medical treatment for physical and/or mental health;
- loss of educational opportunity as a consequence of the offence, including absence from school due to mental trauma, body injury, medical treatment, investigation and trial of the offence, or any other reason;
- loss of employment as a result of the offence, including absence from place of employment due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;
- the relationship of the child to the offender, if any;
- whether the abuse was a single isolated incidence or whether the abuse took place over a period of time;
- whether the child became pregnant as a result of the offence;
- whether the child contracted a sexually transmitted disease (STD) as a result of the offence;
- whether the child contracted human immunodeficiency virus (HIV) as a result of the offence;
- any disability suffered by the child as a result of the offence;
- financial condition of the child against whom the offence has been committed so as to determine his need for rehabilitation;
- any other factor that the Special Court may consider to be relevant.

Some of the child-friendly procedures which are envisaged under the POCSO Act are as follows:-

- Child to be interrogated once only and in a child-friendly environment.
- At night no child is to be detained in the police station.
- The statement of the child be recorded as spoken by the child.
- Frequent breaks for the child during trial.
- Child not to be called repeatedly to testify.

For offences under this Act the burden of proof is on the accused, keeping in view the vulnerability and innocence of children. To prevent misuse of the law, punishment has been provided for false complaints or false information with malicious intent.

The media has been barred from disclosing the identity of the child without the permission of the special court. The punishment for breaching this provision by media may be from six months to one year.

For speedy trial, the evidence of the child is to be recorded within a period of 30 days. Also, the Special Court is to complete the trial within one year.

The Act casts duty on state to spread awareness among general public, about the provisions of this Act through media, i.e., television, radio and print at regular intervals.

## **Procedure for reporting of cases, recording of statement of child, medical examination, etc**

### **Procedures under POCSO Act**

The Protection of Children from Sexual Offences Act, 2012 (POCSO Act) prescribes five sexual offences against children - penetrative sexual assault, aggravated penetrative sexual assault, sexual assault, aggravated sexual assault, sexual harassment, and using a child for pornographic purposes. Abetment of or an attempt to commit these offences is also punishable under the Act. These offences are gender neutral vis-à-vis the perpetrator as well as the victim. The Act requires the State Governments to designate the Sessions Court in each district as a Special Court to try offences under the Act. If, however, a Children's Court under the Commissions for Protection of Child Rights Act, 2005 or Special Court for a similar purpose has been notified in a district, then that court will try offences under this Act.

The process laid down under the Act and POCSO Rules, 2012 for recording of complaints and trial of sexual offences against children is explained below:

### **Reporting of Cases**

#### **Who can report?**

Any person (including the child) who has an apprehension that an offence under the POCSO Act is likely to be committed or has knowledge that an offence has been committed has a mandatory obligation to report the matter. An express obligation has also been vested upon media personnel, staffs of hotels, lodges, hospitals, clubs, studios, or photographic facilities, to report a case if they come across materials or objects that are sexually exploitative of children.

Failure to report is punishable with imprisonment of up to six months or fine or both. This penalty is, however, not applicable to a child.

#### **Whom should the case be reported do?**

A case must be reported to the Special Juvenile Police Unit (SJPU) or the local police. The police or the SJPU must then record the report in writing, ascribe an entry number, read the report over to the informant for verification, and enter it in a book. A FIR must be registered and its copy must be handed to the informant free of charge.

#### **Language of the report**

If a case is reported by a child, it must be recorded verbatim and in simple language so that the child understands what is being recorded. If it is being recorded in a language that the child does not understand, a qualified translator or interpreter must be provided to the child.

## **Recording of Statement of Child**

### **A. Recording of Statement of Child by the Police**

*Where the child's statement must be recorded?*

A child's statement must be recorded at his or her residence or a place where he or she usually resides or at a place of his or her choice. Under no circumstances can a child be detained in the police station in the night. The police officer must also try and ensure that the statement is recorded by audio-visual means. (or atleast by audio means).

*By whom should the statement be recorded?*

As far as practicable, the statement must be recorded by a woman police officer not below the rank of a Sub-inspector. She should not be in uniform when the statement is recorded. The assistance of a qualified translator or interpreter can be taken while recording the statement. The statement must be recorded in the presence of parents or any other person in whom the child trusts or has confidence.

*What steps must the police take to protect the child?*

While examining the child, the police officer investigating the case must ensure that the child does not come in contact with the accused at any point. The identity of the child must also be protected from the media unless the Special Court, in the interest of the child, directs otherwise.

*What measures must be taken to record the statement of a child with disabilities?*

The police officer must seek the assistance of a qualified special educator or a person familiar with the manner of communication of the child or an expert in that field, while recording the statement of a child with mental or physical disability.

### **B. Recording of Statement of Child by the Magistrate**

*How must the statement be recorded?*

A Magistrate recording the statement of a child under Section 164 of the Code of Criminal Procedure (Cr. PC) must record it verbatim (in the exact language spoken by the child). The statement must be recorded in the presence of parents or any other person in whom the child trusts or has confidence. The assistance of a qualified translator or interpreter can be taken while recording the statement. The Magistrate must also try and ensure that the statement is recorded by audio-visual (or audio) means. The Magistrate must also provide the child and his or her parents or representative, a copy of the police report in the matter.

*What measures must be taken to record the statement of a child with disabilities?*

The Magistrate must seek the assistance of a qualified special educator or a person familiar with the manner of communication of the child or an expert in that field, while recording the statement of a child with mental or physical disability.

## **Medical Examination of the Child**

### ***Take the child victim for medical examination immediately***

A medical examination of a child can be conducted even before a FIR is filed or a complaint is registered. It must be conducted by a registered medical practitioner in a government hospital or a hospital run by a local authority within 24 hours from the time of receiving information about the commission of offence. If such practitioner is not available, the examination can be conducted by any other registered medical practitioner with the consent of the child or a person competent to give consent on his or her behalf. If the victim is a girl child, the examination must be conducted by a woman doctor. The medical examination must be conducted in the presence of the parent or any other person in whom the child reposes trust or confidence. If a parent or such other person cannot be present, for any reason, the medical examination must be conducted in the presence of a woman nominated by the head of the medical institution.

"Forensic Medical Care for Victim of Sexual Assault – DHR Guidelines", brought out by the Department of Health Research (DHR), Family Welfare, Government of India in 2013 has suggested several guidelines aiming at forensic medical care for survivors of sexual assault. The guidelines suggest the following:

- Whenever cases of sexual assault comes on her own to the hospital or are brought by the police, it shall be registered as MLC (Medical Legal Care).
- The information obtained for medical examination is confidential and therefore, every effort must be made to protect the privacy and safety of the patient.
- The victim must be given appropriate treatment and counselling as per the need. Victim must not be refused treatment and/or examination for want of police papers.
- Exposure to sexual violence is associated with a range of health consequences for the victim. Comprehensive care must address the following issues: physical injuries; pregnancy; STIs, HIV and hepatitis B; counseling and social support, follow-up consultations and appropriate referral.
- The examination should be conducted in private but the patient should be allowed to choose to have a support person (e.g. family member or counselor) to be present. If the patient does not request the presence of a support person, the patient should be informed that she may have a female nurse or other suitable chairperson present during the examination.
- Each hospital can use already printed version of the Forensic Medical Form or can generate the same form through software. The form may include information such as name of the Department/Hospital/Unit including place where the examination was conducted; general information and consent; history/details of alleged sexual assault; medical, obstetrical and surgical history; general physical examination; injury examination: injuries on body (if any); local examination of genitals, anus and oral cavity; specific examinations (these examinations shall only be done whenever facilities exist and if indicated); sample collection for hospital/clinical laboratory; collection of forensic evidence/material/samples; and provisional opinion.
- In the past, survivor examination was only done after receiving police requisition. Now, the police requisition is not mandatory for a rape survivor to seek medical examination and care. The doctor should examine such cases if

the survivor reports to the hospital first without FIR. He should then inform the police accordingly.

As per the document "Guidelines & Protocol, Medical-legal Care for Survivors/Victims of Sexual Violence", Ministry of Health & Family Welfare, Government of India, 2014, the following guidelines have been suggested in order to forge an interface of health system with police:

- A standard operating procedure outlining the interface between the police and health systems is critical. Whenever a survivor reports to the police, the police must take her/ him to the nearest health facility for medical examination, treatment and care. Delays related to the medical examination and treatment can jeopardize the health of the survivor.
- Health professionals should also ask survivors whether they were examined elsewhere before reaching the current health set up and if survivors are carrying documentation of the same. If this is the case, health professionals must refrain from carrying out an examination just because the police have brought a requisition and also explain the same to them.
- The health sector has a therapeutic role and confidentiality of information and privacy in the entire course of examination and treatment must be ensured. The police should not be present while details of the incident of sexual violence, examination, evidence collection and treatment are being sought from the survivor.
- The police cannot interface with the duties of a health professional. They cannot take away the survivor immediately after evidence collection but must wait until treatment and care is provided.
- In the case of unaccompanied survivors brought by the police for sexual violence examination, police should not be asked to sign as witness in the medico legal form. In such situations, a senior medical officer or any health professional should sign as witness in the best interest of the survivor.
- Health professionals must not entertain questions from the police such as "whether rape occurred", "whether survivor is capable of sexual intercourse", "whether the person is capable of having sexual intercourse". They should explain the nature of medico legal evidence, its limitations as well as the role of examining doctors as expert witnesses.

## **Types of sexual offences covered under the Act and punishments thereof**

### ***List of sexual offences under the Act and the punishment for the offences:***

<b>S. No</b>	<b>Offence and Description</b>	<b>Punishment</b>
1	<b>Section 3</b> <b>Penetrative Sexual Assault</b> Inserting body part or object in a child, or making a child does this with another.	<b>Section 4</b> Not less than seven years of imprisonment which may extend to imprisonment for life, and fine
2	<b>Section 5</b> <b>Aggravated Penetrative Sexual Assault</b> Penetrative sexual assault by a police	<b>Section 6</b> Not less than ten years of imprisonment which may extend to

	<p>officer, member of armed forces, public servant, staff of remand home, jail, hospital or school. It includes penetrative sexual assault committed by any other person through gang penetrative assault, penetrative sexual assault using deadly weapons, fire, heated substance or corrosive substance, penetrative sexual assault which physically incapacitates the child or causes child to become mentally ill, causing grievous hurt or bodily harm and injury to the sexual organs of the child, making girl child pregnant, inflicting child with HIV or any other life threatening disease, penetrative sexual assault more than once, penetrative sexual assault on a child younger than 12 years, by a relative, owner / manager or staff of any institution providing services to the child, by a person in a position of trust or authority over the child, committing penetrative sexual assault knowing the child is pregnant, attempts to murder the child, by a person previously convicted for a sexual offence, penetrative sexual assault in the course of communal or sectarian violence, penetrative sexual assault and making the child strip or parade naked in public.</p>	<p>imprisonment for life, and fine</p>
3	<p><b>Section 7 Sexual Assault</b> With sexual intent touching the private parts of a child</p>	<p><b>Section 8</b> Not less than three years of imprisonment which may extend to five years, and fine</p>
4	<p><b>Section 9 Aggravated Sexual Assault</b> Sexual assault by a police officer, member of armed forces, public servant, staff of remand home/jail/hospital/school, etc, and other acts of sexual assault by any person as mentioned in the second part of section 5, except making a girl child pregnant.</p>	<p><b>Section 10</b> Not less than five years of imprisonment which may extend to seven years, and fine (Section 10)</p>
5	<p><b>Section 11</b> Sexual Harassment of the Child With sexual intent:</p> <ul style="list-style-type: none"> <li>• showing any object/body part, or</li> <li>• making any gesture aimed at a child</li> <li>• making a child exhibit her body</li> <li>• enticing or threatening to use a child for pornography</li> </ul>	<p><b>Section 12</b> Up to three years of imprisonment and fine</p>
6	<p><b>Section 13</b> Use of Child for Pornographic Purposes</p>	<p><b>Section 14 (1)</b> Imprisonment up to five years and fine and in the event of subsequent</p>

		conviction, up to seven years and fine
7	<b>Section 14 (2)</b> Penetrative sexual assault by directly participating in pornographic acts	<b>Section 14 (2)</b> Not less than ten years of imprisonment, which may extend to imprisonment for life, and fine
8	<b>Section 14 (3)</b> Aggravated penetrative sexual assault by directly participating in pornographic acts	<b>Section 14 (3)</b> Rigorous imprisonment for life and fine
9	<b>Section 14 (4)</b> Sexual assault by directly participating in pornographic acts	<b>Section 14 (4)</b> Not less than six years of imprisonment which may extend to eight years, and fine
10	<b>Section 14 (5)</b> Aggravated sexual assault by directly participating in pornographic acts	<b>Section 14 (5)</b> Not less than eight years of imprisonment which may extend to ten years, and fine
11	<b>Section 15</b> Storage of pornographic material involving a child for commercial purposes	<b>Section 15</b> Three years of imprisonment and / or fine
12	<b>Section 21</b> Punishment for failure to report or record a case by (i) Any person; (ii) Any person, being in charge of any company or an institution. (This offence does not apply to a child)	<b>Section 21</b> (i) Imprisonment of either description which may extend to six months or with fine or with both (ii) Any person, being in charge of any company or an institution (by whatever name called) who fails to report the commission of an offence under sub section (1) of section 19 in respect of a subordinate under his control shall be punished with imprisonment for a term which may extend to one year and with fine.
13	<b>Section 22</b> (1) Punishment for false complaint or false information in respect of an offence committed under sections 3, 5, 7 and section 9 solely with the intention to humiliate, extort or threaten or defame him. (2) False complaint or providing false information against a child knowing it to be false, thereby victimising such child in any of the offences under this Act. (This offence does not apply to a child)	<b>Section 22</b> (1) Imprisonment for a term which may extend to six months or with fine or with both. (3) Imprisonment which may extend to one year or with fine or with both.

**Note:** POCSO Act and Rules, 2012 are enclosed as annexure at the end of this manual.

### **Session III: Impact of Trauma and Abuse in Children**

#### **Learning Objectives:**

- To develop an insight into the situation of sexual abuse and trauma consequently faced by children
- To sensitize the participants about gravity of the issue

#### **Methodology:**

Presentation, lecture and discussion

#### **Material Required:**

Projector, computer, slides on 'Impact of Trauma and Abuse in Children', flip chart, marker

**Duration:** 1 hour 15 minutes

#### **Outcomes:**

Participants will develop sensitivity and an understanding of the impact of sexual abuse and the resultant trauma on the children

#### **Contents:**

- Trauma faced by children as a result of sexual abuse
- Effect of abuse and trauma among the victims
- Interventions required for bringing the victims back to normal life

#### **Tips for Facilitator:**

- This session is very important to make the participants understand the trauma and distress the child goes through after sexual abuse, helping them understand the impact of it.
- The facilitator must address the pressing issues/questions that comes up during the session
- Makes the session as interactive as possible by inviting the participants to share their own observations and experiences on child's abuse and trauma.
- As the session is largely theoretically based it is important to clarify concepts of development and tasks to be accomplished at each stage very clearly.

## **Reference Material for Technical Session III**

### **CONTENTS**

#### **Trauma faced by children as a result of sexual abuse**

Trauma responses in children – preschoolers, school age children and teenagers

#### **Effect of abuse and trauma among the victims**

- Can children recover from sexual abuse?
- Some more specific behaviours of children following sexual assault
- Effects of child abuse and neglect
- Effects of child sexual abuse
- Indicators and effects

#### **Interventions required for bringing the victims back to normal life**

- Interventions for child sexual abuse
- Preventing child sexual abuse

## **Trauma faced by children as a result of sexual abuse**

### **TRAUMA RESPONSES IN CHILDREN<sup>4</sup>**

It can often be very difficult to recognise whether or not a child is being abused, both for parents and for professionals. Children respond to sexual assault in many different ways according to their age, gender, personality and family circumstances. Their behaviour will always reflect how they feel as children tend to communicate through their behaviour. Children frequently find it extremely hard to talk about what is happening to them, especially when they've been told to keep it a secret or have been subjected to coercion, bribery or threats. Children very rarely lie about sexual abuse. They may underplay the effects of the abuse or change the identity of the perpetrator in an attempt to protect the family, but they have not been found to lie about the occurrence of the abuse itself.

#### **Signs of Trauma Responses In Preschoolers (ages 2- 5)**

- They may become anxious and clingy, not wanting to separate from their parents at day care.
- They may become aggressive in their play with other children, with their parents, or with their own toys.
- They may play the same game over and over, like piling blocks and knocking them down, dropping toys behind furniture and retrieving them, or crashing the same two cars over and over again.
- Though they say they are having fun in an activity, they may look sullen, angry, intense in a way that to an adult doesn't look like they are having fun.

#### **Signs of Trauma Responses In School Age Children**

- They may revert to developmentally earlier coping mechanisms, such as an ego-centred view (i.e. thinking that someone died because they had bad thoughts about the person).
- They may compensate for feeling helpless during the crisis of the abuse by blaming themselves for what happened. Thinking that they caused the event gives children a sense of power and control while helplessness painfully reminds them of being young and totally dependent.
- Their lack of control over the abuse may make them feel that their future is unsure, which can lead some children to act recklessly.
- They may experience a significant change in school performance. It's not uncommon for children to have great difficulty concentrating and performing in school following trauma. On the other hand, they may become intensely focused on schoolwork to the exclusion of other activities in an effort to cope.
- They may have interruptions in their friendships.
- They may experience sleep disturbances, nightmares and difficulty falling asleep.
- They may engage in reckless play. Where the preschool child will crash their truck a hundred times, the school age child might physically engage in dangerous games as a way of exhibiting a sense of control that was lost during the abuse.

#### **Signs of Trauma Responses In Teenagers (13 -18)**

- They often feel that no one can understand what they are going through and there is a marked shift in relationships with parents and peers.
- They develop a negative self image because they were not able to avoid or alter what happened to them.

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<sup>4</sup> Extracts from the south eastern centre against sexual assault

- They are likely to engage in revenge fantasizes against the person or people responsible for the abuse and then feel guilty about their vengeful feelings.
- They may experience a shift (either an intensification or withdrawal) in the normal developmental tasks of their age, such as dating, friendships, or sense of autonomy. They may isolate themselves, be depressed and at risk of suicide.

## **Some More Specific Behaviours of Children Following Sexual Assault**

### ***Nightmares***

All children have bad dreams from time to time but children who have experienced sexual assault often have nightmares every night sometimes more than once. They may have recurring dreams which are all the more frightening because they know what is coming. Nightmares can make children terrified of the dark and bed time leading to difficult behaviors. Their dreams are likely to reflect their fears and their sense of lack of control. Looking at the content of their dreams can help them to talk about what has happened.

### ***Persistent Pains***

Lots of children develop aches and pains that have no physical cause. These will often have a connection to an aspect of the assault. Sometimes if a child has experienced physical pain during the assaults their body can retain the memory of this pain, for example, having blinding headaches because he felt he could not get the offender out of his head. Children may also think that something is different inside of them. Repeated pain can also be a way for children to gain the extra love and attention they need at the time. Sometimes emotions manifest themselves physically for children because they do not have the ability to put it in to words.

### ***Clingyness***

A clingy child can test the patience of a saint! This behaviour which is so common after sexual assault is a communication of a real need to be reassured of being lovable and of being secure. Children are attempting to rebuild a sense of safety and trust through their relationships with close adults. They are trying to restore a sense of good touch by demanding affection and cuddles. In essence, they are trying to heal their wounds. Constant physical and verbal demands can be difficult for parents but can be modified by identifying what the child needs and putting limits on when and how they are met. Clinginess can also reflect fears which can be reduced by talking about them.

### ***Aggression***

Aggression in children after sexual assault tends to be related to fear and anger. It can be a direct communication that states "I am never going to be hurt again". Anger is a healthy response and a necessary part of the recovery process from any trauma. It needs to be expressed in a safe and constructive way with firm limits against hurting yourself or others. To do this, anger needs to be acknowledged and recognised by the child and the adult. A child needs opportunities to discharge their anger. If this, for whatever reason, does not happen then anger is likely to come out through aggression. This causes the child more problems as their aggression prevents other people seeing or understanding the child's needs.

Aggression also stems from fear and a need to protect themselves from further hurt. This can be evident in boys who may believe they were weak because they did not fight off the offender. Sometimes they can make themselves feel more powerful by hurting other children

or animals. Being aggressive can also cause a child to punish themselves and confirm their low self-esteem because they have no friends and are always in trouble.

### **Triggers & Recovery**

Everyone who has suffered a trauma will react when they are reminded of it. The things that remind us can be called 'triggers' and they cause similar feelings to those experienced during the trauma. Very often these 'triggers' are not known to the adult because they relate to an aspect of the assault the parent may not know about. Some examples include the smell of beer or smoke; the smell of engine oil for a girl assaulted by a mechanic; the feel of a beard; the color of a car; someone resembling the offender; a song or a game. Some are obvious, others are not. Often children can be triggered by unrelated things going wrong because that triggers their feelings of helplessness.

When children are triggered then their behavior tends to reflect the fact that they are experiencing similar feelings to the ones they felt during the assaults. Parents should be encouraged to discuss with the child what sort of things trigger them, so they are all aware of situations when it may occur.

The behaviors that children exhibit after sexual assault do tend to pass in time as children regain a sense of safety and self control. When the feelings that drive the behavior are explored, they become less powerful and the behavior becomes more manageable. Establishing a link between the feeling and the behavior is important as it gives you an understanding of what is happening.

Children can and do recover from sexual assault. The long term effects of sexual assault are often caused by secrecy, fear and denial of feelings. The more open and honest one can be about what happened the easier it is for children to be the same and the quicker the recovery.

### **EFFECT OF ABUSE AND TRAUMA AMONG THE VICTIMS**

*Can children recover from sexual abuse?*

In an attempt to better understand the ill effects of child abuse, psychologists and other researchers have studied what factors may lessen the impact of the abuse. Many factors seem to affect the amount of harm done to the victim include the age of the child; the duration, frequency, and intrusiveness of the abuse; the degree of force used; and the relationship of the abuser to the child.

Children's interpretation of the abuse, whether or not they disclose the experience, and how quickly they report it also affects the short- and long-term consequences. Children who are able to confide in a trusted adult and who are believed experience less trauma than children who do not disclose the abuse. Furthermore, children who disclose the abuse soon after its occurrence may be less traumatized than those children who live with the secret for years.

Children and adults who were sexually abused as children have indicated that family support, extra-familial support, high self-esteem, and spirituality were helpful in their recovery from the abuse. It is important for victims of abuse to relinquish any guilt they may feel about the abuse. Victims also report that attending workshops and conferences on child sexual abuse, reading about child sexual abuse, and undergoing psychotherapy have helped them feel better and return to a more normal life with passage of time.

Counselling and other support services are important for the caregivers of abused children. One of the strongest predictors of the child's recovery from the abuse experience is a high

level of maternal and family functioning. (Assuming the abuser is not a member of the immediate family or, if so, is not living within the family.)

### **Effects of Child Abuse and Neglect**

Child abuse and neglect often leaves lasting scars. While some of these scars might be physical, the emotional scarring has long lasting effects throughout life, damaging a child's sense of self, ability to have healthy relationships, and ability to function at home, at work and at school. These may include:

- *Lack of trust and relationship difficulties.* If you can't trust your parents, who can you, trust? Abuse by a primary caregiver damages the most fundamental relationship as a child—that you will safely, reliably get your physical and emotional needs met by the person who is responsible for your care. Without this base, it is very difficult to learn to trust people or know who is trustworthy. This can lead to difficulty maintaining relationships due to fear of being controlled or abused. It can also lead to unhealthy relationships because the adult doesn't know what a good relationship is.
- *Core feelings of being “worthless” or “damaged.”* If you've been told over and over again as a child that you are stupid or no good, it is very difficult to overcome these core feelings. You may experience them as reality. Adults may not strive for more education, or settle for a job that may not pay enough, because they don't believe they can do it or are worth more. Sexual abuse survivors, with the stigma and shame surrounding the abuse, often especially struggle with a feeling of being damaged.
- *Trouble regulating emotions.* Abused children cannot express emotions safely. As a result, the emotions get stuffed down, coming out in unexpected ways. Adult survivors of child abuse can struggle with unexplained anxiety, depression, or anger. They may turn to alcohol or drugs to numb out the painful feelings.

The effects of child sexual abuse vary from child to child with each child developing his/her own coping mechanism. The effects are dependent on a host of factors, the primary ones being age of the child, sex of the child, the relationship with the abusers, frequency of abuse and availability of support systems etc. But some of the more common effects of child sexual abuse recorded are:

- Distrust of others and themselves.
- Terror and anxiety
- Shame, guilt, and self-hatred
- Alienation from their bodies
- Isolation and withdrawal from people and activities
- Powerlessness, depression, and extreme passivity
- Anger
- Obsession with sex or complete aversion to it
- Questioning their sexuality and gender
- Drug and alcohol use, abuse and addiction
- Eating disorders
- Perfectionism and workaholicism
- Mental illness and suicide
- Sexual offending

### **INTERVENTIONS REQUIRED FOR BRINGING THE VICTIMS BACK TO NORMAL LIFE**

*What Can You Do?*

*Protect your children.* Teach your children what appropriate sexual behavior is and when to say “no” if someone tries to touch sexual parts of their bodies or touch them in any way that makes them feel uncomfortable. Also, observe your children when they interact with others to see if they are hesitant or particularly uncomfortable around certain adults. It is critical to provide adequate supervision for your children and only leave them in the care of individuals whom you deem safe.

*Support child abuse victims.* Children need to know that they can speak openly to a trusted adult and that they will be believed. Children who are victims of sexual abuse should always be reassured that they are not responsible for what has happened to them. Offer encouragement for victims by supporting organizations that help victims of incest or by simply reassuring victims of sexual abuse that they should not feel shame or guilt. It is important to understand that troubled families can be helped and that everyone can play a part in the process.

*Teach others about child abuse.* Help make others aware of sexual abuse by arranging for knowledgeable person’s to speak to various groups. Encourage the local school board to establish programs to educate both teachers and students about the problem.

*Report.* If you suspect sexual abuse and believe a child to be in imminent danger, report it to the child protection agencies such as CWC. Professionals such as counsellors, social workers and special educators who work with children are required by law to report reasonable suspicion of abuse or neglect. Furthermore, citizens who suspect abuse or neglect are required to report it. “Reasonable suspicion” based on objective evidence, which could be firsthand observation or statements made by a parent or child, is all that is needed to report. Remember that you may be the only person in a position to help a child who is being sexually abused.

## **Preventing Child Sexual Abuse**

An atmosphere of trust, confidentiality, and openness to discussing sexual issues all contribute to prevention of child sexual abuse. These social determinants also contribute to the healing and resilience of people who have experienced sexual abuse.

- School-based prevention programs that teach avoidance skills to youth show evidence that youth empowerment and safety can be increased, and also help reduce stigma and self-blame for sexually abused youth.
- Training of medical providers, school staff, clergy, child protection caseworkers, forensic interviewers, and law enforcement officials can increase the willingness of youth to disclose child sexual abuse as well as the willingness of adults to report suspected abuse.
- Training parents to refute common myths around "stranger danger" can help to increase their awareness of far more common (and preventable) sexual abuse risk factors in the household.
- Training parents to teach proper names for genitals and other reproductive organs to their youngest children can help to increase youths' empowerment to resist sexual abuse or disclose it to trusted adults. It can also reduce shame, stigma, and self-blame for youth who have experienced child sexual abuse.
- Evidence is lacking that laws and policies prevent child sexual abuse when they focus on monitoring and restricting known perpetrators. There is stronger evidence that sexual abuse is prevented — rather than simply avenged; through laws, policies, and fully-funded programs that focus on early identification of people at risk for committing child sexual abuse. Effective strategies help those at-risk of committing sexual abuse by confronting attitudes and behaviours that contribute to exploitation of children. Effective strategies also hold open the possibility for

offenders — especially juvenile offenders whose recidivism rates are low — to re-integrate into society and establish productive and trusting relationships with family and community members.

#### **Session IV: Understanding Counselling and its different Approaches Vis-à-vis Child victims of Sexual Abuse**

##### **Learning Objectives:**

- To make participants understand the significance of counselling as well as alternative and supportive approaches to counselling
- To make participants to develop effective communication skills in dealing with child sexual abuse survivors

##### **Methodology:**

- Presentation, Lecture and discussion

##### **Material Required:**

Projector, computer, presentation on 'Understanding Counselling and its different Approaches Vis-à-vis Child victims of Sexual Abuse', marker

**Duration:** 2 hour 30 mins.

##### **Contents:**

- Counselling as a technique to address the problems of victims
- Teaching participants about the use of supportive and alternative techniques of counselling
- Communicating with child victims of sexual abuse: Do's and Don'ts

##### **Tips for Facilitators:**

- Explain that it is very important to explore our own understanding of counselling – to ask the question 'what does it mean to us?' This is an important exercise as it not only helps break the ice on the subject but also allows the participants to reflect upon their own understanding of the concept.
- Ask the participants to share their experiences with counselling, having them share these experiences in a story form would be most appropriate. However, share the case study/press clipping with groups only if they do not have any story or case to discuss.
- Facilitate discussion in the group on the importance of counselling.

## **COUNSELLING AS A TECHNIQUE TO ADDRESS THE PROBLEMS OF VICTIMS**

### *Counselling – Concepts and Framework*

Counselling is:

- A psychological process that addresses child's thoughts, feelings and behavior in the context of her environment that includes her family, peers and the community.
- A planned intervention between the child and the caregiver/counsellor to assist the child to change, improve, and resolve behaviors that are difficult, distressing or maladaptive.
- A process of identifying the child's coping strategies and strengthening them further, as well as helping the child develop more effective coping methods.
- A collaborative effort between the child and the counsellor, keeping the child's interests and needs in mind.
- A process that takes place with full active participation of the child and involves a mutual responsibility between the child and the counsellor.
- Aimed at developing individual's unique self and potentials
- A form of education through communication and structuring
- Voluntary in nature, can't be forced on the children
- A process that involves a use of specific technologies based on certain theoretical constructs, which should be carried out by trained personnel in an appropriate place and time.

Counselling is not lecturing, advising, persuading, criticizing or solving the victims problem, it is not just a one-to-one interaction where counsellor is active and child is a passive receipt instead it is a skill-based approach to the survivors.

Survivors of abuse may pose many relational challenges to the counsellor. These clients are often mistrustful at the same time that they need a trustworthy relationship, and a "push-pull" dynamic may result. Counsellors may find themselves overly fascinated by and invested in a client's abuse history (sometimes to the exclusion of other life and therapy issues), or they may want to avoid discussion of the abuse for personal reasons. Counsellors must be mindful of these possible reactions and develop appropriate strategies to ensure effective care of the client. Because child abuse and neglect reflect the ultimate violation of trust, it is critical that counsellors maintain a professional relationship with appropriate boundaries and limitations in place. The counsellor must be trustworthy and provide a safe relational context that, in contrast to the client's past experience, presents a unique opportunity for healing.

### **TEACHING PARTICIPANTS ABOUT THE USE OF SUPPORTIVE AND ALTERNATIVE TECHNIQUES OF COUNSELLING**

There are benefits from working in a therapeutic relationship with a professional counsellor that cannot be replicated through self-help. It can be a relief to tell someone about difficulties you have struggled with on your own. You may have a longstanding concern, be encountering new difficulties, or simply have a sense that something isn't right.

### **INDIVIDUAL COUNSELLING<sup>5</sup>**

A professional can help to normalise your experience and place it in context, bring objectivity, critical distance, and experience of dealing with problems of all kinds. This often leads to seeing a problem in a new way, and feeling more able to get to grips with it.

The counselling process begins with a therapeutic consultation during which you and your counsellor can develop a clearer understanding of your problem and think together about

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<sup>5</sup> Referred from the University of Oxford website

how you might move forward. Sometimes this can be accomplished in a single session, but it may take two or three. This may be enough to enable you to use what you have learnt to get back on track or you may go on to further individual counselling, group counselling or issue-focused workshops.

If you go on to further individual counselling we will aim to keep this as brief and focused as possible. This is not a 'resource-led' policy but one that is founded on evidence that for a large number of people, particularly those in the student age-group, it is an effective way of working. It is most common to have counselling sessions in consecutive weeks. However, you may find that it is useful to space sessions more widely to enable you to test out new ways of thinking and doing things in between.

## **PLAY THERAPY**

Play forms a central aspect of child's life, that enables the child to explore both her outer world and inner experiences. Children use play as less stressful way of sharing their thoughts and emotions and to cope with the world. Observing and understanding child's play gives the counsellor plethora of information on her personality, interactions, behavior and level of social and cognitive development. The following are some of the advantages of play techniques in both assessment and therapy with children experiencing various kinds of psychological problems.

- Helps the counsellor form an alliance with the child that promotes trust and understanding and establishes a working relationship.
- It provides opportunity for the communication of thoughts and feelings of the child in a safe environment.
- It helps the child express many suppressed experiences of trauma by verbalization or acting out.
- Child can learn to deal with new information and put existing events in mental frameworks.
- It facilitates new learning and problem solving through imaginary situations.
- It creates better self-awareness.
- It allows the child to experiment with different roles and outcomes, without negative consequence.
- It leads to assimilation of difficult experiences.
- It enhances relationship skills.
- It allows play interests to be carried over into daily life.

### **Guidelines for using play as an intervention process**

- Select an appropriate setting for play. Provide for a variety of materials and toys.
- Encourage the child to make up an imaginary story and use the available toys to introduce it.
- Allow the child to express emotions and thoughts by verbalization in a spontaneous manner without interrupting or asking too many questions. The focus should remain on the play but you can make interpretations.
- Observe the occurrence of specific themes in the play and explore them through encouraging further play on those themes; especially if it appears to reflect your hypothesis.
- Attempt to 'direct' or influence the play, only if the child play is totally reluctant to the counselling process. You can 'indirectly' guide the child into areas or topics relevant to the current process.
- Be an observer – participant, joining in only if the child invites you to assume a role. Even then allow the child to be in command and take a passive role.
- Reflect gently any feelings expressed by the child in such a manner that she develops self-awareness and understanding.

- The counsellor facilitates the child's understanding of the traumatic experiences through verbalization of emotions offering empathy, respect and interest in her/him.
- Observe and verbalize all verbal and non-verbal behavior of the child.
- Give interpretations and link child's expression during imaginal play to real life factors to integrate the two, and help the child gain insight into her/his situation.
- Through play, the child can learn to cope with the trauma, learn to build trust in human relationships and improve her/his self-esteem and overcome feelings of shame, guilt etc.

### **Characteristic of the Playroom**

- Design, structure and furnishing depend on individual orientation of the therapist.
- Simple, few carefully selected toys.
- Wide variety of play things.
- Toys should be simple, durable, avoiding mechanical toys that break readily or are too complex.
- Toys and material should be familiar to the child's background
- Be within the range of child's cognitive and manipulative skills.
- Toys representing the child's family and physical environment (doll's house, doll's family, puppets, animals, cars, trees, costumes etc.).
- Art materials (paints, crayons, scissors etc.).
- Toys that can be manipulated ( feeding bottles, doctor sets, cooking sets etc.).
- Tools (rubber hammers, knives, guns etc.).

*Avoid complex mechanical toys, complex board games, model kits etc.*

### **FAMILY COUNSELLING**

Family counselling or therapy is a major form of psychosocial intervention that attempts to deal with the problems of the individual within the context of the family. In this approach, it is assumed that the child's problems do not occur in isolation, but in fact reflect a dysfunction in the family structure and functioning, which are observed through faulty interaction and communication patterns. The counselling thus involves all or some significant (e.g. mother, father) family members who are seen together in the counselling sessions along with the ' problem child', who is only manifesting a 'family pathology'.

#### **Basic Principles of Family Counselling**

- It is based on a collaborative approach and the need for mutual respect.
- Shows confidence in the ability of the family to resolve its conflicts and help the child.
- The family has to formulate its own treatment goals based on their perceptions and needs.
- The emphasis should be on strengthening the family's potentials and reinforce their problem solving abilities.
- The initial focus of intervention should be more on the present concerns and issues rather than past conflicts, which can be addressed later as the counselling progresses.
- The counsellor helps family learn new ways of interactions, more effective communication and improve their overall parenting skills to bring about a change in the child to adapt and cope better.
- Attempt is made towards better access to community integration to strengthen the family functions.

## **Family Assessment**

Every family has certain defining characteristics in terms of their functioning that will enable the counsellor to understand better whether the family is functioning cohesively as a unit or shows evidence of dysfunction. Some of these important aspects to be assessed are -

**Communication Patterns** – this shows the members share information with each other and how open the family is.

**Affective Responsiveness** – this refers to the general emotional tone of nurturance and support extended to the members. Children are most affected by this aspect of emotional support in their families – rather by the absence of it.

**Role Functioning** – every family has a set of defined roles and expectations that go with it for each member. The way each member is able to fulfill his or her role functions to mutual satisfaction and build family support is vital for family cohesion as well as personal development of its members.

**Problem Solving** – family function and cohesion is also gauged by the way the family resolves its problems.

**Involvement** – there is a need to assess the degree of involvement of the members in each other's life and activities.

**Behavior Control** – sometimes there may be certain dangerous patterns of interaction between themselves in the family as well as socially outside. These patterns could put the family's stability in danger. A functional, cohesive family promotes a congenial atmosphere that all members feel quite comfortable and secured in it.

## **GROUP COUNSELLING**

In this approach the counsellor places the person in a group context, usually consisting of persons with similar issues and concerns, to bring about changes in attitudes, behaviours and situations, for the individual and to the group as a whole.

Advantages of Group Counselling:-

- It provides an opportunity to understand that other people also have similar problems.
- It offers a caring and supporting environment to be open, honest, and frank in sharing.
- It gives opportunity to test ideas and solutions to problems, as a feedback evaluation from the group can be obtained.
- It provides opportunity for modeling and learning desirable behaviors from each other.
- Problem solving of common difficulties are more efficiently resolved in a group setting.
- Group members motivate each other for change.
- The counsellor with knowledge of group dynamics can easily facilitate change.
- Knowledge and learning in key life issues such as sex education, peer activities, substance use, career planning, health can all be ideally dealt with in group work.

## **Steps in Group Counselling**

**Step 1: Intake Phase** – the group should be composed of children who are carefully selected to make it homogenous – that is, the children are of similar age, and having similar kinds of problems or needs etc.

**Step 2: Formation Phase** – the group formally gets together and members introduce themselves to the group.

**Step 3: Group Cohesion Phase** – the group becomes organized and the counsellor initiates discussion about each member's goals and expectations from the group experiences. The group has to reach a consensus on the shared purpose and goals of the group as a whole. Basic rules, of conduct for the group is laid down, that includes respect for one another and mutual cooperation to ensure a smooth process.

**Step 4: Group Interaction and Working Phase** – the group now becomes more settled and begins to bond together. 'We' feeling becomes important. The group work is based on focused activities or discussions that are directed by goals or specific topics.

**Step 5: Group Performance and Maintenance Phase** – this is known as the 'maturation' phase as the group members participate fully and the group is performing with maximum efficiency towards problem solving.

**Step 6: Termination Phase** – evaluation of the progress made by each individual and the group as a whole is done by the counsellors from time to time, to determine if the group counselling has to continue and for how long. Each child's treatment goals can be reviewed.

## **COMMUNITY BASED COUNSELLING**

A logical extension of individual, group and family counselling approaches is the community based counselling, through which the child survivors of sexual abuse can achieve successful community integration. Here counselling is provided by sensitized and trained community members who are in a position to influence others in the community as well as the child and her family. Such people could be village panchayat leaders, teachers, social activists, lawyers, faith healers, religious headset. These people can be provided basic knowledge about the nature and ramification of sexual abuse in general and its impact on the child, family, and the entire community. Along with awareness building they can also be given minimal training in counselling skills, so that they become 'lay counsellors' and agents of change for the community they serve. It is an informal process.

### **Goals of Community Based Counselling**

**Enable Reintegration** – during the process of repatriation, there is often great reluctance on the part of the family to be able to accept the child back into their fold, as well as for the child to return to the family and community.

**Overcome Stigmatization** – community based counselling aims to raise awareness and allow the facilitation of better social connection within the community, so that the stigma of being a survivor is mitigated and the child is looked upon with empathetic understanding. It allows the child to be mainstreamed and paves the way for normalization of the child's life.

**Prevent Revictimization** - community based counselling empowers community members and peer leaders to avoid revictimization of the survivor. They provide emotional support when the child is faced with stress inducing situations and strengthen the child's and her family coping resources.

**Prevent Sexual Abuse** – Community based counselling, especially using peer counselling offers support networks that can be employed successfully to prevent sexual abuse. Through peer counselling, child learns to explore and establish ways of non-abusive and non-exploitative relationships with both family and with strangers. They also learn ideas about self through imitation, modeling and positive reinforcement in peer group counselling, especially building confidence and self-esteem. Community counsellors can play a vital role in strengthening societal structures like the panchayat, local youth clubs, ashrams, schools etc. by influencing their perceptions and supporting resistance effort.

**COMMUNICATING WITH CHILD VICTIMS OF SEXUAL ABUSE: DO'S AND DON'TS**

<u>DO's</u>	<u>DON'T's</u>
<ul style="list-style-type: none"> <li>• believe the child;</li> <li>• listen and show empathy;</li> <li>• acknowledge the child's statement;</li> <li>• speak to the child quietly and privately;</li> <li>• stay calm, reassuring and nonjudgmental;</li> <li>• give the child your full attention;</li> <li>• let the child talk to you in his or her own language;</li> <li>• write down the facts;</li> <li>• give direct answers to the child's questions;</li> <li>• answer the child's questions honestly;</li> <li>• discuss a course of action with the child – be realistic, but try not to frighten the child;</li> <li>• tell the child who else you will need to tell;</li> <li>• encourage the child to talk it out;</li> <li>• tell the child that he or she is not responsible for the abuse, no matter what the circumstances are;</li> <li>• help the child feel safe; and</li> <li>• know the laws around reporting procedures.</li> </ul>	<ul style="list-style-type: none"> <li>• overreact or look shocked;</li> <li>• let the child talk, but do not force it or</li> <li>• push for details;</li> <li>• put words in the child's mouth(suggest things he or she should say);</li> <li>• question why it took so long for the child to disclose the abuse;</li> <li>• make promises you cannot keep ("this can be our secret if you tell me"); and</li> <li>• ask "why" questions as they often sound like you are accusing the child of doing something wrong.</li> </ul>

## **Session V: Role of Counsellors, Social Workers and Special Educators in Implementation of POCSO Act and Rules, 2012**

### **Learning Objectives:**

- To develop an understanding of role of Counsellors, Social Workers and Special Educators in implementation of POCSO Act & Rules, 2012
- To sensitize the participants on the procedures laid down in the Act

### **Methodology:**

- Presentation, lecture and discussion

### **Material Required:**

Projector, computer, presentation on 'Role of Counsellors, Social Workers and Special Educators in Implementation of POCSO Act and Rules, 2012', marker

### **Duration:**

1 hour 15 minutes

### **Contents:**

#### Role of Counsellors in:

- understanding child's physical and emotional state
- resolving trauma and foster healing and growth
- empathetically listening to child's version of the circumstances leading to the concern
- responding appropriately to the child when in crisis
- providing counselling, support and group-based programmes to children referred to them
- improving and enhancing child's overall personal, social and mental development, health and well being
- facilitating reintegration of the child into his family/community
- limiting short-term and long-term effect of child sexual abuse
- speaking to the child in his own language by taking into account his/her age, maturity and emotional state
- explaining the purpose of counselling to the child
- talking to child's parents or guardian before talking about sexual issues with the child
- helping the child to understand that the abuse was not their fault by regaining self-confidence
- providing sex education
- encouraging appropriate social behaviour
- helping the child to identify people who can form a supportive social environment around him/her

#### Role of Social Workers in:

- assisting CWC in preparing a report after interviewing the child
- recommending CWC whether the child needs to be removed from the custody of his/her parents/ guardian and place in children's home or a shelter home

### Role of Special Educators in:

- assisting disabled child while giving evidence
- discharging duties in an unbiased and impartial manner so as to render a complete and accurate interpretation or translation of details/information given by the child without any additions or omissions, in accordance with section 282 of the Code of Criminal Procedure, 1973 – Rule 3(8).

### **Tips for Facilitators:**

- This session is important to make the participants clarify their roles as counsellors, social workers and special educators in the Protection of Children against Sexual Offences Act, 2012.
- Encourage the participants to share their experiences while dealing with child victims of sexual abuse.
- This session would be relying heavily on the knowledge of law and its principles, the resource person must be well -versed with POCSO Act.
- Keep a track of the time as it is a extensive session.

### **ROLE OF A COUNSELLOR<sup>6</sup>**

Sexually abused children are traumatised and vulnerable. They may show certain identifiable behavioural signs of abuse, but often, these are not immediately obvious and will reveal themselves only over a period of time. As a counsellor, one must be aware of the signs of sexual abuse. Children often find it very difficult to disclose sexual abuse.

### **Steps a counsellor can take to help a child disclose**

There are several steps a counsellor can take:

- Take time to get to know the child. Use games, activities or easy conversation to help the child relax.
- Ask if the child would like a family member or guardian to be there during the counselling.
- Check if the child is hungry or thirsty.
- After you have relaxed the child and provided information about what will happen, look carefully to see if he or she is still nervous or scared. If the child is showing a high level of anxiety, see if you can guess what questions he or she may have and try to answer them. You can also ask a family member for help.
- Your questions may bring up subjects that the child cannot easily talk about. Ask questions that are easier to respond to. Once conversation begins again, return to the more difficult questions.
- If the child is becoming too uncomfortable with the conversation, take a break.
- Be patient and provide the child with other means of expression, such as allowing him or her to write the answers, or draw what happened, or use play, etc.

### **The right messages to give to a child**

In general there are five important messages to be given to a child who has disclosed abuse:

1. I believe you. Thank you for telling me whatever has happened to you. I am going to try and help you.
2. I am glad you have told me.

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<sup>6</sup>Based on Model Guidelines under Section 39 of The Protection of Children from Sexual Offences Act, 2012 , MWCD

3. I am sorry this has happened to you.
4. This is not your fault. What this person did is very wrong.
5. I need to speak to other adults so that we can help you. We are going to try to make sure this does not happen to you anymore. So let me explain what will happen next.

### **Helping the sexually abused child**

Breaking the silence is a way to recover from the trauma of sexual abuse. The first step is to talk. However, sexually abused children will have further needs.

The counsellor can:

- help them to understand that the abuse is not their fault and they should not feel guilty;
- help them develop or regain their self-confidence;
- encourage them to feel good about themselves;
- provide sex education and guidance;
- show them kindness; and
- encourage appropriate social behaviour for their age.

The child also needs to develop a supportive social network from friends, teachers, family and the social worker, etc. The counsellor should help the child to identify people who are helpful and supportive.

### **The language of the child**

- i. The first step in counselling a sexually abused child is to establish a trusting relationship with the child, so that the child can communicate freely with the counsellor. Thus, the counsellor would need to speak to the child in its own language, taking into account his or her age, maturity and emotional state.
- ii. It is important to explain the purpose of counselling to the child and to explain that it will include discussion about the abuse suffered by the child. This will help the child to be prepared for the discussion, and prevent him or her from withdrawing when an uncomfortable topic comes up.
- iii. Allow for free flow of talk without too many intensive questions. Don't begin questioning the child immediately about his/her problem.
- iv. Try not to be intimidating authoritarian or too patronizing. Don't control the child's conversation – follow the child's lead.
- v. Children often lack the vocabulary to discuss sexual acts, and it is important for the counsellor to be aware of the child's sensitivities and difficulties before talking about sexual issues with him or her. To gain this insight, all relevant legal, medical and family history of the case should be collected from the Probation Officer or parents/guardian.
- vi. While the police or other investigative agency may have already obtained a disclosure from the child about the main incident of abuse, the child's sessions with the counsellor may reveal new incidents. It is thus advisable to get the counsellor involved as early as possible into the pre-trial process.

### **How to respond if the child discloses abuse**

- i. Believe him or her. The most important thing is to believe the child. Children rarely lie about abuse; what is more common is a child denying that abuse happened when it did. Tell the child you believe him/her.
- ii. Don't be emotionally overwhelmed and try to remain composed while talking to the child.

- iii. Do not interrogate the child. It can be traumatic for the child to repeat his/her story numerous times. Leave the questioning to the legal and police personnel.
- iv. Reassure the child that the abuse is not their fault. The child's greatest fear is that he or she is responsible for the abuse. Be sure to make it clear that what happened is not a result of anything he/she did or did not do. This is particularly important when the accused person is a member of the child's family, such as his or her father, and the child feels guilty at having put that person to trouble. Reassure them that prompt and adequate steps will be taken to stop the abuse.
- v. Do not make promises you can't keep. Do not make promises such as the child will never have to see the abuser again, that nothing will change, or other such promises.

Believing and supporting the child are two of the best actions to start the healing process. Appropriate and helpful responses to disclosures are as follows:

- a) "I am glad you told me, thank you for trusting me."
- b) "You are very brave and did the right thing."
- c) "It wasn't your fault."

The counsellor should be aware that the effects of child sexual abuse are long-term and can change the world view and the course of life of the child. The first step in the healing process is for the child to talk about the abuse, and it is the counsellor's duty to facilitate this; however, the process of recovery may be long and the child will have other needs that the counsellor can attend to. These include:

- i. Rapport Building,
- ii. Working on the feelings of the child,
- iii. Psychological Education on safe and unsafe touches, feelings, thoughts and behaviour,
- iv. safer coping techniques
- v. Helping the child to understand the abuse was not their fault;
- vi. Helping the child to develop or regain their self-confidence;
- vii. Provide sex education;
- viii. Encourage appropriate social behaviour;
- ix. Help the child to identify people who can form a supportive social environment around him or her.

The counselling is therefore a very important tool for the child in rebuilding his or her life after he has been sexually abused.

### **Counselling for Families**

Having to cope with the abuse of their own child may be the most difficult challenge of a parent's life. If the parent(s) can get counselling for themselves through this difficult period, it will also help the child with his/her counselling.

### **Experience of parents after a child sexual abuse disclosure**

When parents first find out about their children being sexually abused, they will experience a wide range of feelings. They may experience denial, anger, betrayal, confusion and disbelief. Parents often tend to blame themselves for not paying attention to their child's behaviours or complaints earlier on. They may feel that they have failed as parents and they didn't protect their children. For some parents they may wonder why their children didn't disclose to them directly but to others. Some parents also become angry at themselves or at their spouses for not supporting the family. In addition to a wide range of emotional experiences, parents may also experience insomnia, change of appetite or other physical complaints.

Some parents also feel conflicting emotions, especially if the accused perpetrator is someone they have trusted, a close friend or a family member. There may be feelings of loyalty and love towards the offending person as well as towards the victim. Family members may choose sides with someone believing it happened and others refusing to believe it happened. Parents may disagree about how to handle the situation.

If the offender is the spouse or partner of the parent, what the relationship is like can strongly influence the parent's actions once he/she learns of the abuse. If feelings toward the offending spouse/partner are positive or mixed, decisions about staying together, or to divorce or separate will be more difficult to sort through.

Parents may be faced with making decisions about whether to continue the relationship with the offender, how to deal with contact between the offender and the child, and re-establishing trust and communication in the family.

The feelings a parent has toward the offender may affect a parent's ability to believe in and support the child. When offenders deny or minimize the abuse or blame the child the situation gets very complicated. If a parent doesn't believe a child who has been abused and supports the offender, there can be severe damage to the child. The child will feel betrayed by the parent as well as the offender. What every child victim needs is to be believed and to know that he or she is not at fault. When the parent is able to support and stand up for the child, the child has an excellent chance of recovering from the effects of sexual abuse. It is very important to get help and support for their feelings because parents' reactions make a big difference in children's recovery. Families are children's most important resource for recovery.

#### **Coping after the child's sexual abuse disclosure:**

- i. The parents should be advised to try not to completely immerse themselves in supporting or worrying about their child. No matter how much they love and care about their family, they also need to consciously set aside time for their own needs.
- ii. As they are dealing with the police investigation, social workers' interview or other professionals regarding their child's sexual abuse disclosure, it is especially important for them to take care of themselves physically and emotionally.
- iii. Their child needs their care and their attention during this time of confusion and overwhelming circumstances. If they are experiencing insomnia or depression, they may need to talk to their doctor about treatment or seek professional counselling.
- iv. They should be advised to find diversions that will lighten their emotional load and recharge their ability to give support. If they have a spouse, partner or other children, they should spend time with them. They should demonstrate to their child that there is life beyond what has happened. This will also aid the child's recovery process and help the child go on with his or her own life.
- v. They may find that they feel over-protective towards their child and do not want to let them out of their sight. However, it is important not to restrict the child's play for their own peace of mind – the child will feel they are punishing him/her by not letting him/her play with friends. Playing is also a kind of therapy.
- vi. The parents should allow the child, as far as possible, to carry on with his/ her normal activities and encourage the child to participate in any activities available either at school or in the community. This will divert the child's attention and help him/ her to understand that things will eventually get better.
- vii. As they try to deal with the sexual abuse of their child, they may start to piece together many clues and indicators of the child abuse that went unnoticed earlier. This information will help them to understand what their child has gone through and the impact on him or her.
- viii. However, it may also increase their sense of guilt and they may blame themselves for not acting earlier. It is important for such a parent to be told that no parent/caregiver can be everywhere all the time. Instead of tormenting themselves,

- they should share with an understanding family member or friend about their feelings and emotions; this will help them to move on.
- ix. Where the abuser is not a parent, it is crucial for both parents to support each other during this critical and painful time. Blaming each other for not protecting their child will not help solve the problem. Open or secret blaming on one of the parents will further impact their child's sense of safety and sense of security. Their child has already been violated and has experienced lack of safety. Therefore, it is critical for both parents to focus on supporting the child as a team. A crisis like this may put a strain on their relationship, especially a relationship that has already been shaky or difficult.
  - x. They naturally want to comfort, heal and protect their child in the aftermath of a traumatic experience, but their own physical and emotional energy isn't limitless. If they try to give too much of themselves throughout the recovery process, they may find themselves resenting or withdrawing just when their child needs them most. No one person -- not even a parent -- can give a child all the support they need, so they should help their child to spend "quality time" with other people who care about them and can support in their recovery.
  - xi. Seeking professional counselling is important especially if their child's or their behavioural & emotional reactions do not subside. Seeking professional help earlier on can be very helpful. Talk to a counsellor or a therapist for a few sessions to debrief and process their emotions regarding the child's sexual abuse incident as well as their confusion. A trained professional will be able to facilitate a healing and closure for them. It is important for them to be able to find strengths to support and reassure their child after these traumatic experiences.

## **ROLE OF SPECIAL EDUCATORS**

Child development refers to the various stages of physical, social, and psychological growth that occur from birth through young adulthood. A child who has been the victim of a sexual offence is likely to have been severely traumatised, both mentally as well as physically. A child development expert is therefore a person who is trained to work with children with physical or mental disabilities, to evaluate such a child's mental and physical development in the context of that child's experience, and to accordingly facilitate communication with the child.

### **Legal Provisions**

As per the definitions in the rules framed under the POCSO Act, 2012, Rule 2(c) states:

"Expert" means a person trained in mental health, medicine, child development or other related discipline, who may be required to facilitate communication with a child whose ability to communicate has been affected by trauma, disability or any other vulnerability.

Section 26(3) states, "the Magistrate or the police officer, as the case may be, may, in the case of a child having a mental or physical disability, seek the assistance of a special educator or any person familiar with the manner of communication of the child or an expert in that field, having such qualifications, experience and on payment of such fees as may be prescribed, to record the statement of the child. Section 38(2) states, "if a child has a mental or physical disability, the Special Court may take the assistance of a special educator or any person familiar with the manner of communication of the child or an expert in that field, having such qualifications, experience and on payment of such fees as may be prescribed to record the evidence of the child".

Thus, the Act envisages a role for child development experts at the stage of taking evidence from the child and recording his/her statement for the purpose of investigation and trial under the Act. The role of this expert is to facilitate communication between the child and the authority concerned.

Rule 3 provides for the engagement of various experts, including child development experts, for the purposes of the Act. It specifies the qualifications and experience of the experts engaged for facilitating communication with the child, stating that such an expert shall be qualified in the relevant discipline from a recognized University or an institution recognized by the Rehabilitation Council of India.

The Rehabilitation Council of India runs programmes in various aspects of child development, including working with physically and mentally disabled children. It also recognises courses run by other universities in these disciplines.

Rule 3(6) provides that payment for the services of an expert shall be made by the State Government from the Fund maintained under section 61 of the Juvenile Justice Act, 2000, or from other funds placed at the disposal of the DCPU, at the rates determined by them. It is thus for each DCPU to fix the rates payable to experts in various disciplines. However, it is suggested that these rates be fixed at the level of the State to provide for administrative consistency.

The following is also to be kept in mind while engaging the services of an expert:

- i. Any preference expressed by the child as to the gender of the expert, may be taken into consideration, and where necessary, more than one such person may be engaged in order to facilitate communication with the child – Rule 3(7).
- ii. The interpreter, translator, Special educator, expert, or person familiar with the manner of communication of the child engaged to provide services for the purposes of the Act shall be unbiased and impartial and shall disclose any real or perceived conflict of interest. He shall render a complete and accurate interpretation or translation without any additions or omissions, in accordance with section 282 of the Code of Criminal Procedure, 1973 - Rule 3(8).
- iii. In proceedings under section 38, it is for the Special Court to ensure that there is no conflict of interest in engaging a particular expert to provide services under the Act – Rule 3(9).
- iv. Any expert appointed under the provisions of the Act or its rules shall be bound by the rules of confidentiality, as described under section 127 read with section 126 of the Indian Evidence Act, 1872 – Rule 3(10).

### **Assisting the Child**

The dynamics of child sexual abuse are such that often, children rarely disclose sexual abuse immediately after the event. Moreover, disclosure tends to be a process rather than a single episode and is often initiated following a physical complaint or a change in behaviour.

In such a situation, when the child finally discloses abuse, and a report is filed under the POCSO Act, 2012 more information will have to be gathered so that the child's statement may be recorded.

Information so obtained will become part of the evidence. However, given the experience that the child has gone through, he is likely to be mentally traumatised and possibly physically affected by the abuse. Very often, law enforcement officers interview children with adult interrogation techniques and without an understanding of child language or child development. This compromises the quality of evidence gathered from the child, and consequently, the quality of the investigation and trial that are based on this evidence.

The interviewing of such a child to gather evidence thus demands an understanding of a range of topics, such as the process of disclosure and child-centred developmentally sensitive interviewing methods, including language and concept formation. A child development expert may therefore have to be involved in the management of this process.

The need for a professional with specialized training is identified because interviewing young children in the scope of an investigation is a skill that requires knowledge of child development, an understanding of the psychological impact sexual abuse has on children, and an understanding of police investigative procedures.

Such a person must have knowledge of the dynamics and the consequences of child sexual abuse, an ability to establish rapport with children and adolescents, and a capacity to maintain objectivity in the assessment process. In the case of a child who was disabled/physically handicapped prior to the abuse, the expert would also need to have specialised knowledge of working with children with that particular type of disability, e.g. visual impairment, etc.

## **ROLE OF SOCIAL WORKER**

Civil society organisations and independent experts have a positive role to play in the effective implementation of the POCSO Act, 2012 not only in raising public awareness on children's rights and in disseminating a new culture of child-adult relationships, but also in preventing and responding to violence against children by providing active support to reported cases through individual and group counselling and services for rehabilitation of abused children.

It has been noted that victims of child sex abuse, and often their families, prefer to approach and seek advice from a social worker even before they report the matter to the police. Thus, in such situations, the social worker becomes a first point of contact for the child, providing counselling, legal advice and assistance to report the matter.

As a social worker one can play a vital role in identifying child sexual abuse concerns. A number of NGOs work with children closely, and are aware of the particular problems and behaviour of each child. A social worker is in a position to keep a watch on these children, and to look out for children who are at risk of sexual abuse as well as for signs of sexual abuse even before the child himself may disclose it. In this manner, a social worker can contribute to the detection of sexual abuse and to the initiation of remedial measures, including judicial processes, in respect of the sexual abuse.

Social workers and NGOs are the primary channel for awareness-generation and proactive monitoring of government policies and action. They can contribute to the objectives of the POCSO Act, 2012 by providing technical support to children's institutions in developing Child Protection Policies addressing issues of recruitment, monitoring, complaints mechanism, disciplinary proceedings, and police reporting within their own organisational or institutional setting, and training their staff in this regard. They can also train CWC, lawyers, doctors and other professionals who come in contact with children about the POCSO Act, 2012 and in communicating with children. In addition to this, they can set up education and training programmes for children and youth. They can hold consultations with children and youth to understand their views and perspectives on the issue of child sexual abuse and provide them with opportunities and ways to put recommendations forward as well as opportunities to get involved in implementation.

NGOs maintaining regular contact with the SJPU and local police stations in their areas of operation would facilitate speedy action and reduction of secondary trauma. Where an NGO is approached by a child and/or his/her parents or guardian or other person in whom the child has trust and confidence before the latter approaches the police, the NGO can arrange contact with the police. On the other hand, where the child and/or his/her parents or guardian or other person in whom the child has trust and confidence approach the police on their own, the police can inform and refer them to NGOs that offer support and guidance. This course of action has been recommended for the police in many districts.

As a social worker, one should even monitor media coverage and ensure sensitive handling of the issue. They can also develop and disseminate position papers and other academic and awareness materials. They can create alliances with other NGOs, business groups, private organisations and the local, national and regional media networks, share best practices, submit articles, involve the press in relevant events and lobby with the media to raise awareness with the general public.

Thus, a social worker can play a vital role in the implementation of the provisions of the POCSO Act, 2012 and in general in combating the problem of child sexual abuse.

### **Social Worker: Inquiry**

As per Section 19(6) of the POCSO Act, 2012 where an F.I.R. has been registered before the Special Juvenile Police Unit (SJPU) or local police station in respect of any offence committed against a child under the said Act, the case should be reported by the SJPU or the local police to the Child Welfare Committee (CWC) within 24 hours.

Additionally, as per Rule 4(3), a child is to be produced before the CWC in the following three situations:

- i. There is a reasonable apprehension that the offence has been committed or attempted or is likely to be committed by a person living in the same or shared household with the child, or
- ii. The child is living in a child care institution and is without parental support, or
- iii. The child is found to be without any home and parental support.

Where a child is produced before the CWC in the three situations described above, the relevant CWC must proceed, in accordance with its powers under sub-section (1) of section 31 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (JJ Act), to make a determination within three days, either on its own or with the assistance of a Social Worker /Probation Officer/Non-Governmental Organization (NGO)/any other person found fit by the CWC, as to whether the child needs to be taken out of the physical custody of his/her family or shared household and placed in a Children's Home or a Shelter Home.

As per Rule 4(5) of the POCSO Rules, 2012, the CWC should take into account any preference or opinion expressed by the child on the matter together with best interest of the child. Also, prior to making such determination, an inquiry should be conducted in such a way that the child is not unnecessarily exposed to injury or inconvenience.

This inquiry may therefore be conducted either by the CWC itself or with the assistance of a Social Worker/Probation Officer/Non-Governmental Organization (NGO)/any other person found fit by the CWC to be appointed for this purpose. Where a support person has been appointed for the child, the same person may be engaged to conduct the inquiry under Rule 4(5) to assist the CWC in its inquiry.

The Social Worker/Probation Officer/Non-Governmental Organization (NGO)/any other person found fit by the CWC may prepare his/her report after interviewing the child and other affected persons to determine the following:

- i. the child's physical and emotional state;
- ii. whether the child needs any urgent care such as medical/mental health intervention, shelter, etc.;
- iii. to hear the child's version of the circumstances leading to the concern;
- iv. to get an insight into the child's relationship with his/her parents or guardian or other person in whom the child has trust and confidence;
- v. to support the child to participate in decisions affecting him according to his/her age and level of maturity;

## **Session VI: Pre-counselling Assessment and Impact Reduction: Role of Counsellors and Social Workers**

### **Learning Objectives:**

- To assess the level and impact of trauma (Impact Assessment) on the child victims of sexual abuse
- To address immediate needs of children, identify supportive services and tasks that will help in reducing the impact of the traumatic experience on children and will facilitate the process of counselling.

### **Methodology:**

Presentation, lecture and discussion

**Material Required:** Projector, computer, presentation on 'Pre-counselling assessment and impact reduction', marker

**Duration:** 1 hour 15 minutes

### **Contents:**

- Explaining the process of impact assessment and how to carry with it
- Supportive exercises to be adopted to provide relief to the child before formal counselling is initiated
- Skills required to help a child victim who is in crisis due to a horrified event which may result in a temporary disturbance of the child's equilibrium leading to an immobilization of the child's coping abilities and acute physical/emotional distress.

### **Tips for the Facilitators:**

- It is important for participant to realize that it is not possible to get into the "counselling mode" as soon as the child survives sexual abuse. Some other supportive exercises need to be adopted before formal counselling can begin. Some of these tasks will help in establishing a level of comfort, which may help the child in opening up and healing.
- These are not one-off processes, and should be followed, not only by the counsellor, but also by other around within and outside counselling situations, so as to reinforce a similar message to the child.
- Inform the participants that this is an important process which will guide them in following a counselling process for each child based on specific impacts on the various areas assessed.

## PRE- COUNSELLING ASSESSMENT

Working with cases involving child sexual abuse is demanding. Often, the temptation is to respond to children only with compassion. However, to address a problem as complex as sexual abuse, one must care deeply.

### Assessing Trauma

Trauma assessment is the process used to understand the impact of sexual abuse on a child and the extent of the damage. It helps you gauge the child's perceptions of the damage from the past and current impact of the abuse, and anticipates future impact (Osmond, et al.). It is not therapy, however. Trauma assessment does not attempt to "solve" problems, but rather to recognize the impact of abuse, understand the damage, and contemplate the treatment work needed (Osmond, et al.). Assessment is your "road map" for treatment (Osmond, et al.).

Your assessment must consist of age-appropriate, established questions. Assessment is not a checklist or a survey, rather, it is a guide to elicit the impact of the abuse on the child--from the child's perspective as well as your own. Because of its informal format, it will help you build rapport with the child as you gather crucial information (Osmond, et al.). It is important to keep in mind the following issues while performing the assessment, as they will influence your treatment decisions:

- What is the relationship of the child to the abuser?
- How stable is the family?
- Are alternative support systems available?
- What are the risk factors?
- Should the child remain with the family?
- Do the courts have a role in the case?
- Is there a question of visitation?

Finally, to formulate a relevant treatment plan, the assessment must evaluate all developmental issues, appraise social areas (e.g., self-understanding, self-esteem, perceptions of the family), and assess behavior according to what is developmentally "normal" (Carnes, et al., 1998). Treatment based on this assessment will address the child's needs one at a time (Osmond, et al.).

### Talking about the abuse

The counsellor must give the child an opportunity to discuss his or her experience of the **sexual abuse** and feelings about the event. He or she should follow the child's lead, but may at times need to sensitively introduce the topic of the sexual abuse. For example, after hearing about the child's interests, the counsellor could introduce talking about the abuse with a phrase such as:

*"I'm really glad to hear about how much you enjoy your sport at school. I am thinking that maybe we could now talk about what happened with you and (the name of the offender) or about how you are feeling in general."*

When working with children, you are working with their heads, hearts and imagination. When you enter the child's world, it is important to follow his or her lead. This allows the child to lead you where you need to go. In daily life it is the adult who leads. But in counselling, it is important that the counsellor follows the child's lead.

## Questioning

The counsellor should keep questions open-ended and not ask leading questions. For example:

- “*What happened after that?*” is an open-ended question.
- “*Did you then go home?*” is a leading question.

When working with sexually abused children it is important to avoid the following:

- Stereotyped or accusatory comments, such as “*Tell me about the bad man*”.
- Intimidating and coercive comments, such as “*You can go after you have answered one more question*”.
- Influencing comments, such as “*Your parents believe something happened and so do I*” (when the child has denied this) or “*Think very hard about what might have happened*”.
- Motivating instruction, such as “*I want you to try very hard to answer all of my questions*”.
- Rephrasing the child’s answer and adding new, possibly inaccurate information.

Remember not to command, direct, threaten, preach, lecture, ridicule, interrogate, blame or shame

## What is psychosocial?

- ‘*Psycho*’ refers to the psyche or the ‘soul’ of a person. It pertains to the inner world – with feelings, thoughts, desires, beliefs and values and how we perceive ourselves and others. ‘*Social*’ refers to the relationships and environment of an individual.
- It includes not only the material world but also the social and cultural context in which people live, ranging from the intricate network of their relationships to manifold cultural expressions to the community and the state.
- The inner world (psycho) and the outer world (social) influence each other. In short, ‘psychosocial’ deals with the well-being of individuals in relation to their environment.

**Resilience** means the ability to recover from (or to resist being affected by) a shock or disturbance. In psychology, resilience is a term used to describe the capacity of people to cope with stress and catastrophe.

- To be resilient, a person needs to draw upon all of the resources at his or her disposal, both psychological and environmental.
- Resilience is built through the existence and strengthening of protective factors which are around us in our environment and relationships – family and societal as well as our inner resources and strengths.
- The concept of resilience is based on recognizing the importance of the relationships which exist between a person and his or her community and the positioning of a person in society.

## How is it useful?

- The concept of resiliency is essentially recognition of the fact that children and adults already have at their disposal the tools to cope with difficulties.
- One of the aims of a psychosocial programme for children who have gone through a difficult event is to **reinforce** and **re-build** the **coping mechanisms** which were interrupted by the event concerned.

## How to use it?

One can support children immediately after a traumatic event by creating a secure base for them through the following:

- **Time.** Spend more time with children and allow them to cling more to adults during the months following the event.
- **Affection.** Physical affection is important to children following a trauma (from parents and family members or other trusted adults).
- **Play.** One of the first elements of a child's life to be interrupted after a difficult event is the emotional and physical space to play. It is important to provide structured, safe places for children to play as soon as possible. Play also helps children to make sense of what they may have witnessed.
- **Talk.** Encourage children to talk to you and each other about what they have experienced. This helps them to confirm what they think may have happened, and lessens their anxiety.
- **Reassurance.** Reassure children that you care about them, and also that they are experiencing normal emotional responses.
- **Routine.** Keep regular routines, as much as possible. This helps children to feel safe and secure – to know that there is someone constantly in their lives. When everything has been turned upside-down, this is very reassuring.

## Need of Psychosocial Intervention

- Experiencing difficult or traumatic events can significantly impact the social and emotional well-being of a person.
- Exposure to violence or disaster, loss of, or separation from family members and friends, deterioration in living conditions, inability to provide for one's self and family, and lack of access to services can all have immediate, as well as long-term, consequences for individuals, families and communities' balance and fulfillment.
- One of the most distressing elements for communities can be the loss of structures of support which can make it difficult to rebuild civil society and create a platform for development.

## Some essential points to remember when planning a psychosocial intervention

- Psychosocial support is a **transversal** approach – it cuts across many levels of intervention. For example, the ways in which water and sanitation support, shelter and food are provided affects psychosocial well-being and mental health.
- Communities need to be involved as much as possible in the relief effort. This assists with coping and re-establishing resilience, as well as developing community support mechanisms.
- Communities have their own support networks already: often it is just a case of discovering what they are and supporting and strengthening them. Many of the supports needed for psychosocial well-being come from inside the community, and need not be provided by outsiders. For example, youth groups, community and women's groups can play a significant role in providing support for community members.
- Do not provide "fragmented" supports to one section of the community only. For example, do not work with children without working with parents and families.
- Not everyone who is affected by a traumatic situation is suffering from severe trauma, or in danger of developing PTSD (Post Traumatic Stress Disorder). Many of

the immediate reactions after a traumatic event will decrease over time and not cause long lasting mental health problems. Psychosocial interventions should focus on strengthening existing resilience mechanisms rather than adopting a pathological or diagnostic approach. Remember: a traumatic reaction is a **normal** reaction to an **abnormal** event.

- Look at ways of providing support to staff working on Psychosocial programmes, especially if they are from the local community. The IASC Guidelines also clarify that mental health and psychosocial support requires various levels of interventions, ranging from broad programmes on basic services and security issues, to community and family support interventions and increasingly focused and specialised mental health services. It is therefore necessary to distinguish between interventions that benefit the population at large (non specialised services) from those interventions requiring a more specialised expertise: all humanitarian actors are expected to contribute to non-specialised responses and to ensure that coordinated referral and response mechanisms are put in place when a more specialised intervention is required (please refer to the below pyramid). **Coordination** among actors is therefore crucial to ensure broad and effective prevention and response mechanisms.

The State carries primary responsibility to provide for the psychosocial well-being of the population on its territory and to ensure adequate specialised services through mental health structures. However, in times of conflict or major displacement due to generalized violence or natural disaster, it may not have the capacity to respond to the scale of additional needs and may require temporary assistance from the international community. Training and capacity building are important ways to support communities and to ensure that interventions are sustainable. Strategies to protect and promote psychosocial well-being should strive to promote the re-establishment of stable family and community life and a sense of normality, protect from further harm and mobilize existing care systems within the community.

## **REDUCE IMPACT: IMPACT REDUCTION SKILLS**

These are skills required to help a child in '*crisis*' due to a threatening life event. This could result in a temporary disturbance of the child's equilibrium leading to a immobilization of the child's coping abilities and acute physical/emotional/spiritual distress.

- **Immediate Needs:**
  - Attend are the child's immediate needs for good food, medical care and attention, restful, sleep and a secure place that gives a feeling of belongingness.
- **Ventilation:**
  - Allow the child to ventilate freely all pent up emotions and feelings. Talking about the events helps the child and cope with it.
- **Recount trauma:**
  - Allow the child to recount or reconstruct trauma experiences if he/she wants to, without probing too much or going into the details of the experiences. Convince the child that it is normal to think about the trauma experiences.
- **Support:**
  - Convey support by warm cordial gestures, show understanding of her/his feelings and predicament, creates a secure environment. Once the child feels safe and secure in the environment he/she will be able to share thoughts and feelings.

- **Negative Emotions:**
  - Understand and be prepared to face many negative emotions from the child – fear, guilt, anger, betrayal, distrust, helplessness, shock, suspicion or confusion.
  - Don't react emotionally yourself to the child's emotional outbursts.
- **Reassurance:**
  - Give reassurance wherever possible that tends to restore the child's sense of well-being, confidence, trust, or worthiness in herself. (For example: observation of child's intelligence, skills, coping). Assure the child of confidentiality.
- **Optimism:**
  - Express genuine optimism about child's problems and concerns being resolved and that he/she get back to normal life.
- **Suggestions:**
  - Give suggestions appropriate to the situation. This will help the child move out of confusion and have clarity of what is happening and the way forward.
  - Suggestions are direct action plans that the child can decide or feel free to act on, choose between alternative proposals, one that is more desirable.
  - Suggestions are not dictums. The child can accept or reject them.
  - Avoid flooding the child with advice.
- **Clarification:**
  - Clarification of their negative feelings and emotions like rage, anger, resentment, feelings of ambivalence towards the counsellor or the staff, family members reduces their acute distress.
  - Clarification of needs and expectations from the counselling are also handled.
  - Interpretation of experiences/ formulation of current issues that he/she are readily accepted as non-threatening can be made to facilitate the clarification process.
  - Take the pressure off to make an immediate response.
- **Cognitive Restoration:**
  - After the child has thoroughly ventilated feelings, gained knowledge and understanding of his/her current crises situation reduce emotional overloading by helping the child find causes and explanations for the crises and its consequences and thus regain cognitive control.
- **Environment Changes:**
  - Make small environment changes like care of hygiene, safety, personal space and privacy, use of personal belongings, opportunities for play, relaxation and a structured schedule.

## **Session –VII: A Workshop on Practicing Essential Steps in Counselling Child Victims of Sexual Abuse**

### **Learning Objectives:**

To develop practical understanding among participants regarding the use of specific techniques and approaches in counselling child victims of sexual abuse

### **Methodology:**

- Presentation and Lecture cum Discussion

### **Material Required:**

Workshop cum Activity mode

### **Duration:**

4 hours

### **Contents:**

Teaching about and making the participants practice the basic counselling skills in dealing with child sexual abuse survivors like

- qualities of a good counsellor
- counselling process
- basic counselling skills use of creative modalities in counselling, etc.

### **Tips for the Resource Persons:**

- Discuss with the participants what they think are the important qualities a counsellor should have.
- Divide them into groups and assign them different case studies on child sexual abuse. Ask them to formulate suitable suggestions and guidelines on how to assess that particular case.
- Encourage participants to share their experiences and understand the importance of working in team.
- Appreciate and acknowledge the participants' knowledge.

## **QUALITIES OF A GOOD COUNSELLOR**

### **Patience**

As a counsellor you need to have patience with your clients as they process the discussion. It may take them time to accept certain things and to move towards positive changes. Some people need to discuss something many times before they are prepared to make a move in any particular direction. Also, you are not likely to see large changes in an individual client; therefore, you must be okay with incremental progress in their lives and rejoice over small victories.

## **Good Listener**

Counsellors spend a significant amount of time listening to their clients. You will do more listening than talking. You must be content to give the client time to express their story and their feelings. You will need to be intuitive in discerning what the client is really saying and “read between the lines”.

## **Observant**

You need to be very observant and able to interpret non-verbal communication e.g. if the patient/client looks angry, find out the cause of his/her anger first.

## **Compassionate**

It is very important that your clients feel your compassion for their problems and that they sense you truly care about them. You may not be able to relate to every issue that is shared with you, but you need to be able to have compassion for how it feels to be in their shoes. Genuine concern yields positive results.

## **Nonjudgmental**

Counsellors hear all kinds of private information and encounter all types of people. You may hear dark secrets from someone’s past involving such things as sexual or criminal behavior. You must do your best to refrain from judgment and instead communicate positive regard. There are times when it may be necessary to judge a particular behavior, but the client must not feel that you are judging them. Likewise, you may encounter clients of different races and/or cultures. You must not push your cultural or religious views upon them. Multicultural competency is a necessary skill. The counselling environment needs to be a safe place for a client to share their most intimate concerns.

## **Empathetic**

Empathy is the ability to understand and share the feelings of others. You need to be able to put yourself in the shoes of your client and understand the situation from their point of view. Even if you don’t agree with their perspective, you still need the ability to understand how it feels to them in order to address their issue effectively. However, it’s important that you are not too empathetic. Some people struggle as counsellors because they are unable to maintain objectivity and therefore carry home the emotional stress of the job. The level of empathy is a fine line between helpful to client and harmful to counsellor.

## **Discrete**

Confidentiality is of utmost importance when you are a counsellor. You must be able to maintain confidentiality so the client can trust you with their most intimate concerns.

## **Encouraging**

The ability to encourage is important for a counsellor. Many clients are struggling to find hope in their situation. One of the primary jobs of a counsellor often involves instilling hope in a hopeless individual.

## **Self-Aware**

A counsellor who is aware of their own fears, insecurities, and weaknesses will be effective in the therapeutic relationship. It is important that you do not react defensively to what a client shares. You must be able to keep your own feelings out of the session. You will be better able to do this if you are self-aware. In addition, self-aware individuals are more intuitive with regards to solving their own problems and can use that knowledge to help clients through similar situations.

## **Authenticity**

Authenticity is vital when working with clients. Clients will know if you are being fake or not showing genuine concern. They will not open up to you or trust your advice unless they feel you are genuine. This is even more critically important when working with teens.

## **Personal integrity**

Maintain a high degree of personal integrity, credibility and mutual trust as a counsellor.

## **Confidentiality**

Although confidentiality is important in health matters it does not apply very much to all situations e.g. most people will openly say what they feel/ the problem they are having. However, ensure that you maintain confidentiality on what the patient/client tells you. The patient/client would feel greatly offended if you disclose any information about him or her to other people. This means that counselling must be done individually and privately.

## **Things for the counsellor's Note**

- The counsellor should note that the absence of physical indicators does not mean that the child was not sexually abused.
- Regardless of the number of indicators of sexual abuse, it is important to fully investigate the situation and be prepared to have the suspicion of sexual abuse either confirmed or rejected. This is done by involving the relevant professionals who may gather further information, i.e. the police, doctors, psychologists or social workers.
- It is important for the counsellor to note that these signs are only a guide.
- You cannot assume that one or more of these types of behaviour always means that a child is being or has been sexually abused.
- As counsellors one need to look carefully at one's own feelings and experiences and how they influence their behaviour. Understanding one's own motives for working with sexually abused children is an important part of knowing ourselves. This makes it easier to be honest and straight forward with children.
- In addition, the counsellor should realise that some types of sexual behaviour are normal for children at certain ages. For example:
  - toddlers and pre-schoolers often explore their own bodies or touch their own genitals to soothe themselves; and
  - they are also curious about other people's bodies, and may show their genitals to them.
- However, if children of this age show more extreme behaviour, the counsellor should suspect sexual abuse. For example:

- continuously self-sexual stimulating with their clothes off; or
  - they seem to know too much about sexuality for their age and stage of development.
- In dealing with child sexual abuse, one needs to:
    - be there for the child;
    - have a controlled emotional involvement with the child;
    - control our responses of shock, horror, anger, etc.
    - separate our feelings from those of the child;
    - be aware of our responses to the stories that they tell us;
    - watch our body language as we hear these stories; and
    - resolve our feelings about what we hear.

It is helpful to talk about child sexual abuse with other counsellors to create a network of support. If counsellors do not have anyone to talk to, they can begin to feel overburdened by how awful it is. They are unable to listen to more details from children who experience the sexual abuse.

## **BASIC COUNSELLING SKILLS**

Counselling can be difficult for children because of the nature of being a child and the difficulty in relating to an adult, especially an adult that they don't know. Counselling for abused children requires that the counsellor understands how children communicate. Some of the important skill that a counsellor would require, to communicate with sexually abused children are enlisted below;

- Have good interpersonal skills – ability to work harmoniously with people.
- Active listening.
- Acceptance of others, Non-judgemental.
- Wide range of interests and knowledge.
- Positive outlook, ability to inspire confidence.
- Sense of humour.
- Be creative in approach
- Interested in constant self-growth.
- Good communication skills – ability to impart ideas.
- Ability to manage own stresses.
- Adequate knowledge about trafficking and child abuse issues.
- Ability to network with other stakeholders.
- Flexibility, open to change.
- Professional attitude.
- Genuinity – Honesty and sincerity to help
- Encourage autonomy and independence.
- Respect for the child, and her/his problems.
- Feel comfortable talking about sexuality and trauma experience
- Is an active, collaborative participant in the process.
- Provides opportunity for communications of problems.
- Facilitates emotional expressions of distress, catharsis ventilation.

- Creates a safe environment to increase feelings of security, trust.
- Provides accurate information whenever needed.
- Helps goal setting – formulate realistic, achievable goals.
- Helps in the development of skills for coping, survival, mastery.
- Is supportive of the child at all times.
- Preserves confidentiality about sensitive issues and disclosures.
- Adopt methods according to individual needs of the child.
- Be aware of one's limitations in training and skills.
- Knows when to refer.

How do children communicate?

The first thing in counselling children is building trust. Trust is made by building a relationship so that the child can express what is on his or her mind or heart. Trust-building is the foundation for counselling. It is important in the beginning, but is always something the counsellor can go back to during the course of the session.

This means that the counsellor needs to learn to speak the language of the child.

- Children speak through actions (play and body language and spoken language).
- It is necessary to integrate these “languages” into your communication with children.
- Children often tell their story through their play, their behaviour and their body language.

Through observing the different “languages” of children and how children express their meaning, the counsellor can learn about what has happened to the child.

When counselling children, the counsellor must also take into account their age, their maturity and their emotional state.

### Safety and comfort

It is important that the counsellor helps to make the child feel safe and comfortable. The following are some steps that may help a child feel at ease:

- Make sure the child is in an appropriate and comfortable setting – children may feel scared by unfamiliar or threatening environments. Counsellors may decorate their surroundings with bright child friendly pictures and have simple play materials to help the child relax.
- Get to know the child, not just his or her problem. Counsellors should ask children about their daily activities and interests (school, social life, family activities). Counsellors need to use different approaches to encourage communication with children, for example, drawing, play, storytelling, drama, etc.
- You cannot protect the rights and safety of the child while keeping abuse secret. Tell the child this. At the same time protect the child's privacy and confidentiality by only informing those who need to know.
- Create an atmosphere of safety and trust for the child. Accept that it may have taken the child time to be able to talk to you and that they may choose to tell some things and not to tell other things.

## THE COUNSELLING PROCESS

*The Counselling Process (Nelson- Jones, 1994)*

- D – Develop a relationship with the child
- A – Assess the problem
- S – State working goals and plan intervention
- I – Intervene, to develop problem solving skills and coping strategies
- E – End the Counselling process

**Develop a relationship with the child:** Maintaining a therapeutic relationship with the child and establish the right atmosphere. The right atmosphere promotes two-way communication between the counsellor and the child. Effective counselling occurs only when there is a mutual understanding between the health worker and the patient/client which is brought about by information sharing and exchange of ideas. Give the child the opportunity to make his/her own decision from your message.

- **Create a safe, positive, and open communication patterns**, especially around sexuality and development. Your children will have lots of questions about their bodies, other people's bodies, and life in general. Answer their questions with age-appropriate and candid responses. This will build confidence and trust with your child. Teach them that there are no secrets in the family and that they can always ask you anything and tell you everything. Explain the difference between a secret and a surprise.

**Assess the Problem:** The purpose of counselling is to help develop the survivors to achieve better individual and personal goals. During the assessment, review the plan of action to determine if the desired results were achieved. The assessment of the plan of action provides useful information for future follow-up counselling sessions.

- **Initiate conversations** with child about relationships and their body. "When I was a little girl I had a lot of questions about my body parts and other people's body parts. Do you have any questions you want to talk about?" Or "I know you like to play dress up at school or your friend's house, but it's not okay to take off your clothes to put on a costume unless you are at your house with mom or dad home. Do you understand why I say that?"

Let the child know that they can tell you if anyone touches them in the private areas or in any way that makes them feel uncomfortable—no matter who the person is, or what the person says to them.

**State working goals and plan intervention:** Preparing a plan of action identifies a method for achieving a desired result. It specifies what the child must do to reach the goals set during the counselling session. The plan of action must be specific: it should show the subordinate how to modify or maintain his behavior. A specific and achievable plan of action sets the stage for successful development.

- **Teach and use correct names of body parts**, such as penis, vagina, breasts, bottom. You can begin this from infancy. It might be uncomfortable at first, but use the proper names of body parts. Children need to know the proper names for their genitals. This knowledge gives children correct language for understanding their bodies, for asking

questions that need to be asked, and for telling about any behavior that could lead to sexual abuse.

**Intervene, to develop problem solving skills and coping strategies:** Model respectful boundaries with children by teaching them that they are in control of their bodies and have a responsibility to respect the boundaries of others. “Most of the time you like to be hugged, snuggled, tickled, and kissed, but sometimes you don’t and that’s okay. You have a right to personal space, privacy, and boundaries. That they should let you know if — family member, friend, or anyone else touches any part of their body or talks to them in a way that makes them feel uncomfortable.”

- **Promote healthy behaviors** by praising your children when their behaviors model healthy friendships and respect for personal boundaries. “Mayank, that was great when you listened when Neha said she wanted you to stop hugging her. That was a good way to respect your friend’s boundaries and stop when she asked you to.” Modeling respectful behaviors and boundaries and sharing age-appropriate information can counter unhealthy social norms around sexuality and relationships.

**Termination of Counselling:** The entire counselling process, can either take place in just one session, or may go up to several sessions which may last for months. Whatever the case, it has to come to a logical and mutually satisfying end.

**Counselling should end when –**

- Counselling goals specified are achieved
- The desired change in child’s behavior is maintained and generalized for a sufficient period.
- The child drops out of counselling prematurely in which case, the counsellor should explore the reasons for doing so.
- Counselling is not possible due to repatriation of the child, back to her family in a different town.
- Counselling has not helped in bringing about the desired changes in the child even after sustained efforts.

## **CASE STUDIES**

### **Case Example 1**

**Child A** - AGE 14 | Paravoor, Kerala

**Occurred** 2010 | **Convicted** in 2012

The nightmare began in 2010, when her father filmed this 14-year-old having a bath, and then raped her. After that, he pimped her out to customers across Kerala, before finally selling her. In the span of two years, she was raped by 148 people, of whom 102 were finally arrested and 19 given life sentences.

### **Case Example 2**

**Child B** - AGE 13 | Delhi

**Occurred** 2012 | Accused out on bail

This thirteen-year-old came home from school with vaginal bleeding and vomit soaked clothes. Her principal's husband had been raping her, and had threatened to hang her from the fan if she told anyone. The medical examiner ruled out rape and registered a vague report, and only when local NGOs and political parties got involved did the case come to court.

### **Case Example 3**

**Child C** - AGE 3 | Bhopal, Madhya Pradesh

**Occurred** 2012 | **Convicted** in 2013

He would rape his three-year-old daughter when his wife went to drop their five-year-old son to school. A compounder by profession, he knew how to rape his daughter in a manner that would cause minimal visible damage. The abuse only came to light when he was caught in the act. He was sentenced to 20 years in prison in January.

### **Case Example 4**

**Child D** - AGE 7 | Mumbai, Maharashtra

**Occurred** 1988-99 | **Case never filed**

He was raped regularly between the age of 7 and 18 by his uncle. His uncle became more sadistic as time went by, opening him up with tongs (*chimata*) when he was not receptive, poking him with needles, inserting foreign objects into his anus. When he told his mother that he was bleeding, she dismissed it, saying he had been eating too many mangoes.

### **Case Example 5**

**Child E** - AGE 8 | Bhopal, Madhya Pradesh

**Occurred** 2010 | **Convicted** in 2010

The eight-year-old was raped so brutally by her maternal uncle's 15-year-old son over three months that she had to be hospitalised with severe vaginal bleeding. Her younger sister was also raped. The girls told their mother about the abuse, but she tried to hush it up. They finally complained to their father, who lodged a police complaint. After an inquiry, the rapist was sent to a juvenile home.

### **Case Example 6**

**Child F** – AGE 14 | Maliwada, Maharashtra

**Occurred** 2006 | **Convicted** in 2010

An auto rickshaw driver approached Child Line when his 14-year-old daughter went missing. It took three years to rescue the girl, during which she had been sold into prostitution and taken to various places in the state and Goa. After a four-year battle, 20 high-profile individuals, including politicians and traders, were sentenced to two life-terms each.



## **E. ANNEXURE**



# THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

## INTRODUCTION

Sexual Offences against children are not adequately addressed by the existing laws. A large number of such offences are neither specifically provided for nor are they adequately penalized. Such offences against children need to be defined explicitly and countered through adequate penalties as an effective deterrence. This Act provides for protection of children from offences of sexual assault, sexual harassment and pornography with due regard for safeguarding the interest and well being of children.

## STATEMENT OF OBJECTS AND REASONS

Article 15 of the Constitution, *inter alia*, confers upon the State powers to make special provision for children. Further, article 39, *inter alia*, provides that the State shall in particular direct its policy towards securing that the tender age of children are not abused and their childhood and youth are protected against exploitation and they are given facilities to develop in a healthy manner and in conditions of freedom and dignity.

2. The United Nations Convention on the Rights of Children, ratified by India on 11th December, 1992, requires the State Parties to undertake all appropriate national, bilateral and multilateral measures to prevent (a) the inducement or coercion of a child to engage in any unlawful sexual activity; (b) the exploitative use of children in prostitution or other unlawful sexual practices; and (c) the exploitative use of children in pornographic performances and materials.

3. The data collected by the National Crime Records Bureau shows that there has been increase in cases of sexual offences against children. This is corroborated by the 'Study on Child Abuse; India 2007' conducted by the Ministry of Women and Child Development. Moreover, sexual offences against children are not adequately addressed by the existing laws. A large number of such offences are neither specifically provided for nor are they adequately penalized. The interests of the child, both as a victim as well as a witness, need to be protected. It is felt that offences against children need to be defined explicitly and countered through commensurate penalties as an effective deterrence.

4. It is, therefore, proposed to enact a self contained comprehensive legislation *inter alia* to provide for protection of children from the offense of sexual assault, sexual harassment and pornography with due regard for safeguarding the interest and well being of the child at every stage of the judicial process, incorporating child-friendly procedures for reporting, recording of evidence, investigation and trials of offense and provision for establishment of Special Court for speedy trial of such offences.

5. The Bill would contribute to enforcement of the right of all children to safety, security and protection from sexual abuse and exploitation.

6. The notes on clauses explain in details the various provisions contained in the Bill.

7. The Bill seeks to achieve the above objectives.

**ACT 32 OF 2012**

The Protection of Children from Sexual Offences Bill having been passed by both the Houses of Parliament received the assent of the President on 19th June, 2012, It came on the Statute Book as THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012 (32 OF 2012).

**AMENDING ACT**

The Criminal Law (Amendment) Act, 2013 (13 of 2013) (w.r.e.f. 3-2-2013).

**AMENDMENT TO THE PROTECTION OF  
CHILDREN FROM SEXUAL OFFENCES  
ACT, 2012 (32 OF 2012)**

**BY**

**THE CRIMINAL LAW (AMENDMENT)  
ACT, 2013 (13 OF 2013)**

*An Act further to amend the Indian Penal Code, the Code of Criminal Procedure, 1973, the Indian Evidence Act, 1872 and the Protection of Children from Sexual Offences Act, 2012.*

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:-

**CHAPTER I  
PRELIMINARY**

1. Short title and commencement.- (1) This Act may be called the Criminal Law (Amendment) Act, 2013  
(2) It shall be deemed to have come into force on the 3rd day of February, 2013.

**CHAPTER V  
AMENDMENT TO THE PROTECTION OF CHILDREN  
FROM SEXUAL OFFENCES ACT, 2012**

29. Substitution of new sections for section 42.—For section 42 of the Protection of Children from Sexual Offences Act, 2012 (32 of 2012), the following sections shall be substituted, namely:-

*"42. Alternate punishment.—Where an act or omission constitutes and offence punishable under this Act and also under section 166A, 354A, 354B, 354C, 354D, 370, 370A, 376, 376A, 376C, 376D, 376E or section 509 of the Indian Penal Code, then, notwithstanding anything contained in any law for the time being in force, this offender found guilty of such offence shall be liable to punishment under this Act or under the Indian Penal Code as provides for punishment which is greater in degree.*

*42A. Act not in derogation of any other law.—The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and , in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency."*

**THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES  
ACT, 2012  
[No. 32 OF 2012]**

**[19th June, 2012]**

*An Act to protect children from offences of sexual assault, sexual harassment and pornography and provide for establishment of Special Courts for trial of such offences and for matters connected there with or incidental thereto.*

WHEREAS clause (3) of article 15 of the Constitution, *inter alia*, empowers the State to make special provisions for children;

AND WHEREAS, the Government of India has acceded on the 11th December, 1992 to the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations, which has prescribed a set of standards to be followed by all State parties in securing the best interests of the child;

AND WHEREAS it is necessary for the proper development of the child that his or her right to privacy and confidentiality be protected and respected by every person by all means and through all stages of a judicial process involving the child;

AND WHEREAS it is imperative that the law operates in a manner that the best interest and well being of the child are regarded as being of paramount importance at every stage, to ensure the healthy physical, emotional, intellectual and social development of the child;

AND WHEREAS the State parties to the Convention on the Rights of the Child are required to undertake all appropriate national, bilateral and multilateral measures to prevent-

- (a) the inducement or coercion of a child to engage in any unlawful sexual activity
- (b) the exploitative use of children in prostitution or other unlawful sexual practices;
- (c) the exploitative use of children in pornographic performances and materials;

AND WHEREAS sexual exploitation and sexual abuse of children are heinous crimes and need to be effectively addressed.

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:-

**CHAPTER 1  
PRELIMINARY**

1. Short title, extent and commencement. - (1) This Act may be called the Protection of Children from Sexual Offences Act, 2012.

(2) It extends to the whole of India, except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions. – (1) In this Act, unless the context otherwise requires, -

(a) "aggravated penetrative sexual assault" has the same meaning as assigned to it in section 5;

(b) "aggravated sexual assault" has the same meaning as assigned to it in section 9;

(c) "armed forces or security forces" means armed forces of the Union or security forces or police forces, as specified in the Schedule;

(d) "child" means any person below the age of eighteen years;

(e) "domestic relationship" shall have the same meaning as assigned to it in clause V) of section 2 of the Protection of Women from Domestic Violence Act, 2005;

(f) "penetrative sexual assault" has the same meaning as assigned to it in section 3;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "religious institution" shall have the same meaning as assigned to it in the Religious Institutions (Prevention of Misuse) Act, 1988;

(i) "sexual assault" has the same meaning as assigned to it in section 7;

(j) "sexual harassment" has the same meaning as assigned to it in section 11;

(k) "shared household" means a household where the person charged with the offence lives or has lived at any time in a domestic relationship with the child;

(l) "Special Court" means a court designated as such under section 28;

(m) "Special Public Prosecutor" means a Public Prosecutor appointed under section 32.

(2) The words and expressions used herein and not defined but defined in the Indian Penal Code, the Code of Criminal Procedure, 1973, the Juvenile Justice (Care and Protection of Children) Act, 2000 and the Information Technology Act, 2000 shall have the meanings respectively assigned to them in the said Codes or the Acts.

## **CHAPTER II**

### **SEXUAL OFFENCES AGAINST CHILDREN**

#### **A.- PENETRATIVE SEXUAL ASSAULT AND PUNISHMENT THEREFOR**

3. Penetration sexual assault.—A person is said to commit "penetrative sexual assault" if-

- (a) he penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a child or makes the child to do so with him or any other person; or
- (b) he inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of the child or makes the child to do so with him or any other person; or
- (c) he manipulates any part of the body of the child so as to cause penetration into the vagina, urethra, anus or any part of body of the child or makes the child to do so with him or any other person; or
- (d) he applies his mouth to the penis, vagina, anus, urethra of the child or makes the child to do so to such person or any other person.

4. Punishment for penetrative sexual assault.—Whoever commits penetrative sexual assault shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may extend to imprisonment for life, and shall also be liable to fine.

**B. – Aggravated Penetrative Sexual Assault And Punishment Therefore**

5. Aggravated penetrative sexual assault.-(a) Whoever, being a police officer, commits penetrative sexual assault on a child—
- (i) within the limits of the police station or premises at which he is appointed; or
  - (ii) in the premises of any station house, whether or not situated in the police station, to which he is appointed; or
  - (iii) in the course of his duties or otherwise; or
  - (iv) where he is known as, or identified as, a police officer; or
- (b) whoever being a member of the armed forces or security forces commits penetrative sexual assault on a child-
- (i) within the limits of the area to which the person is deployed; or
  - (ii) in any areas under the command of the forces or armed forces; or
  - (iii) in the course of his duties or otherwise; or
  - (iv) where the said person is known or identified as a member of the security or armed forces; or
- (c) whoever being a public servant commits penetrative sexual assault on a child; or
- (d) whoever being on the management or on the staff of a jail, remand home, protection home, observation home, or other place of custody or care and protection established by or under any law for the time being in force, commits penetrative sexual assault on a child, being inmate of such jail, remand home, protection home, observation home, or other place of custody or care and protection; or
- (e) whoever being on the management or staff of a hospital, whether Government or private, commits penetrative sexual assault on a child in that hospital; or

(f) whoever being on the management or staff of an educational institution or religious institution, commits penetrative sexual assault on a child in that institution; or

(g) whoever commits gang penetrative sexual assault on a child.

Explanation.-When a child is subjected to sexual assault by one or more persons of a group in furtherance of their common intention, each of such persons shall be deemed to have committed gang penetrative sexual assault within the meaning of this clause and each of such person shall be liable for that act in the same manner as if it were done by him alone; or

(h) whoever commits penetrative sexual assault on a child using deadly weapons, fire, heated substance or corrosive substance; or

(i) whoever commits penetrative sexual assault causing grievous hurt or causing bodily harm and injury or injury to the sexual organs of the child; or

(j) whoever commits penetrative sexual assault on a child, which-

(i) physically incapacitates the child or causes the child to become mentally ill as defined under clause (b) of section 2 of the Mental Health Act, 1987 or causes impairment of any kind so as to render the child unable to perform regular tasks, temporarily or permanently; or

(ii) in the case of female child, makes the child pregnant as a consequence of sexual assault;

(iii) inflicts the child with Human Immunodeficiency Virus or any other life threatening disease or infection which may either temporarily or permanently impair the child by rendering him physically incapacitated, or mentally ill to perform regular tasks; or

(k) whoever, taking advantage of a child's mental or physical disability, commits penetrative sexual assault on the child; or

(l) whoever commits penetrative sexual assault on the child more than once or repeatedly; or

(m) whoever commits penetrative sexual assault on a child below twelve years; or

(n) whoever being a relative of the child through blood or adoption or marriage or guardianship or in foster care or having a domestic relationship with a parent of the child or who is living in the same or shared household with the child, commits penetrative sexual assault on such child; or

(o) whoever being, in the ownership, or management, or staff, of any institution providing services to the child, commits penetrative sexual assault on the child; or

(p) whoever being in a position of trust or authority of a child commits penetrative sexual assault on the child in an institution or home of the child or anywhere else; or

(q) whoever commits penetrative sexual assault on a child knowing the child is pregnant; or

(r) whoever commits penetrative sexual assault on a child and attempts to murder the child; or

(s) whoever commits penetrative sexual assault on a child in the course of communal or sectarian violence; or

- (t) whoever commits penetrative sexual assault on a child and who has been previously convicted of having committed any offence under this Act or any sexual offence punishable under any other law for the time being in force; or
- (u) whoever commits penetrative sexual assault on a child and makes the child to strip or parade naked in public,

is said to commit aggravated penetrative sexual assault.

6. Punishment for aggravated penetrative sexual assault.—Whoever, commits aggravated penetrative sexual assault, shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to fine.

***C.-Sexual Assault And Punishment Therefore***

7. Sexual Assault.—Whoever, with sexual intent touches the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of such person or any other person, or does any other act with sexual intent which involves physical contact without penetration is said to commit sexual assault.

8. Punishment for sexual assault.—Whoever, commits sexual assault, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to five years, and shall also be liable to fine.

***D.—Aggravated Sexual Assault And Punishment Therefore***

9. Aggravated Sexual Assault.—(a) Whoever, being a police officer, commits sexual assault on a child--

- (i) within the limits of the police station or premises where he is appointed; or
- (ii) in the premises of any station house whether or not situated in the police station to which he is appointed; or
- (iii) in the course of his duties or otherwise; or
- (iv) where he is known as, or identified as a police officer; or

(b) whoever, being a member of the armed forces or security forces, commits sexual assault on a child--

- (i) within the limits of the area to which the person is deployed; or
- (ii) in any areas under the command of the security or armed forces; or
- (iii) in the course of his duties or otherwise; or
- (iv) where he is known or identified as a member of the security or armed forces; or

(c) whoever being a public servant commits sexual assault on a child; or

(d) whoever being on the management or on the staff of a jail, or remand home or protection home or observation home, or other place of custody or care and protection established by or under any law for the time being in force commits sexual assault on a

child being inmate of such jail or remand home or protection home or observation home or other place of custody or care and protection; or

(e) whoever being on the management or staff of a hospital, whether Government or private, commits sexual assault on a child & that hospital; or

(f) whoever being on the management or staff of an educational institution or religious institution, commits sexual assault on a child in that institution; or

(g) whoever commits gang sexual assault on a child.

*Explanation.*—When a child is subjected to sexual assault by one or more persons of a group in furtherance of their common intention, each of such persons shall be deemed to have committed gang sexual assault within the meaning of this clause and each of such person shall be liable for that act in the same manner as if it were done by him alone; or

(h) whoever commits sexual assault on a child using deadly weapons, fire, heated substance or corrosive substance; or

(i) whoever commits sexual assault causing grievous hurt or causing bodily harm and injury or injury to the sexual organs of the child; or

(j) whoever commits sexual assault on a child, which-

(i) physically incapacitates the child or causes the child to become mentally ill as defined under clause(l) of section 2 of the Mental Health Act, 1987 or causes impairment of any kind so as to render the child unable to perform regular tasks, temporarily or permanently; or

(ii) inflicts the child with Human Immunodeficiency Virus or any other life threatening disease or infection which may either temporarily or permanently impair the child by rendering him physically incapacitated, or mentally ill to perform regular tasks; or

(k) whoever, taking advantage of a child's mental or physical disability, commits sexual assault on the child; or

(l) whoever commits sexual assault on the child more than once or repeatedly; or

(m) whoever commits sexual assault on a child below twelve years; or

(n) whoever, being a relative of the child through blood or adoption or marriage or guardianship or in foster care, or having domestic relationship with a parent of the child, or who is living in the same or household with the child, commits sexual assault on such child; or

(o) whoever, being in the ownership or management or staff, of any institution providing services to the child, commits sexual assault on the child in such institution; or

(p) whoever, being in a position of trust or authority of a child, commits sexual assault on the child in an institution or home of the child or anywhere else; or

(q) whoever commits sexual assault on a child knowing the child is pregnant; or

(r) whoever commits sexual assault on a child and attempts to murder the child; or

(s) whoever commits sexual assault on a child in the course of communal or sectarian violence; or

(t) whoever commits sexual assault on a child and who has been previously convicted of having committed any offence under this Act or any sexual offence punishable under any other law for the time being in force; or

(u) whoever commits sexual assault on a child and makes the child to strip or parade naked in public,  
is said to commit aggravated sexual assault.

10. Punishment for aggravated sexual assault.—Whoever, commits aggravated sexual assault shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.

### ***E.-Sexual Harassment And Punishment Therefor***

11. Sexual harassment.—A person is said to commit sexual harassment upon a child when such person with sexual intent,-

(i) utters any word or makes any sound, or makes any gesture or exhibits any object or part of body with the intention that such word or sound shall be heard, or such gesture or object or part of body shall be seen by the child; or

(ii) makes a child exhibit his body or any part of his body so as it is seen by such person or any other person; or

(iii) shows any object to a child in any form or media for pornographic purposes;  
or

(iv) repeatedly or constantly follows or watches or contacts a child either directly or through electronic, digital or any other means; or

(v) threatens to use, in any form of media, a real or fabricated depiction through electronic, film or digital or any other mode, of any part of the body of the child or the involvement of the child in a sexual act; or

(vi) entices a child for pornographic purposes or gives gratification therefor.

*Explanation.*—Any question which involves "sexual intent "shall be a question of fact.

12. Punishment for sexual harassment.—Whoever, commits sexual harassment upon a child shall be punished with imprisonment of either description for a term which may extend to three years and shall be liable to fine.

## **CHAPTER III**

### **USING CHILD FOR PORNOGRAPHIC PURPOSES AND PUNISHMENT THEREFOR**

13. Use of child for pornographic purpose.—Whoever, uses a child in any form of media (including programme or advertisement telecast by television channels or internet or any other electronic form or printed form, whether or not such programme or advertisement is intended for personal use or for distribution), for the purposes of sexual gratification, which includes--

- (a) representation of the sexual organs of a child;
  - (b) usage of a child engaged in real or simulated sexual acts (with or without penetration);
  - (c) the indecent or obscene representation of a child,
- shall be guilty of the offence of using a child for pornographic purposes.

*Explanation.*—For the purposes of this section, the expression "use a child" shall include involving a child through any medium like print, electronic, computer or any other technology for preparation, production, offering, transmitting, publishing, facilitation and distribution of the pornographic material.

14. Punishment for using child for pornographic purposes.—(1) Whoever, uses a child or children for pornographic purposes shall be punished with imprisonment of either description which may extend to five years and shall also be liable to fine and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to seven years and also be liable to fine .

(2) If the person using the child for pornographic purposes commits an offence referred to in section 3, by directly participating in pornographic acts, he shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine.

(3) If the person using the child for pornographic purposes commits an offence referred to in section 5, by directly participating in pornographic acts, he shall be punished with rigorous imprisonment for life and shall also be liable to fine.

(4) If the person using the child for pornographic purposes commits an offence referred to in section 7, by directly participating in pornographic acts, he shall be punished with imprisonment of either description for a term which shall not be less than six years but which may extend to eight years, and shall also be liable to fine.

(5) If the person using the child for pornographic purposes commits an offence referred to in section 9, by directly participating in pornographic acts, he shall be punished with imprisonment of either description for a term which shall not be less than eight years but which may extend to ten years, and shall also be liable to fine.

15. Punishment for storage of pornographic material involving child.—Any person, who stores, for commercial purposes any pornographic material in any form involving a child shall be punished with imprisonment of either description which may extend to three years or with fine or with both.

#### **CHAPTER IV**

#### **ABETMENT OF AND ATTEMPT TO COMMIT AN OFFENCE**

16. Abetment of an offence. – A person abets an offence, who—  
*First.*—Instigates any person to do that offence; or  
*Secondly.*—Engages with one or more other person or persons in any conspiracy for the doing of that offence, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that offence; or

*Thirdly.*—Intentionally aids, by any act or illegal omission, the doing of that offence.

*Explanation I.*—A person who, by willful misrepresentation, or by willful concealment of a material fact, which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure a thing to be done, is said to instigate the doing of that offence.

*Explanation II.*—Whoever, either prior to or at the time of commission of an act, does any thing in order to facilitate the commission of that act, and there by facilitates the commission thereof, is said to aid the doing of that act.

*Explanation III.*—Whoever employ, harbours, receives or transports a child, by means of threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or of a position, vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of any offence under this Act, is said to aid the doing of that act.

17. Punishment for abetment.—Whoever abets any offence under this Act, if the act abetted is committed in consequence of the abetment, shall be punished with punishment provided for that offence.

*Explanation II.*—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy or with the aid, which constitutes the abetment.

18. Punishment for attempt to commit an offence.—Whoever attempts to commit any offence punishable under this Act or to cause such an offence to be committed, and in such attempt, does any act towards the commission of the offence, shall be punished with imprisonment of any description provided for the offence, for: a term which may extend to one-half of the imprisonment for life or, as the case may be, one-half of the longest terms imprisonment provided for that offence or with time or with both.

## **CHAPTER V PROCEDURE FOR REPORTING OF CASES**

19. Reporting of offences.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any person (including the child), who has apprehension that an offence under this Act is likely to be committed or has knowledge that such an offence has been committed, he shall provide such information to,—

- (a) the Special Juvenile Police Unit, or
- (b) the local police.

(2) Every report given under sub-section (1) shall be—

- (a) ascribed an entry number and recorded in writing;
- (b) be read over to the informant;
- (c) shall be entered in a book to be kept by the Police Unit.

(3) Where the report under sub-section (1) is given by a child, the same shall be recorded under sub-section (2) in a simple language so that the child understands contents being recorded.

(4) In case contents are being recorded in the language not understood by the child or wherever it is deemed necessary, a translator or an interpreter, having such

qualifications, experience and on payment of such fees as may be prescribed, shall be provided to the child if he fails to understand the same.

(5) Where the Special Juvenile Police Unit or local police is satisfied that the child against whom an offence has been committed is in need of care and protection, then, it shall, after recording the reasons in writing, make immediate arrangement to give him such care and protection (including admitting the child into shelter home or to the nearest hospital) within twenty-four hours of the report, as may be prescribed.

(6) The Special Juvenile Police Unit or local police shall, without unnecessary delay but within a period of twenty-four hours, report the matter to the Child Welfare Committee and the Special Court or where no Special Court has been designated, to the Court of Session, including need of the child for care and protection and steps taken in this regard.

(7) No person shall incur any liability, whether civil or criminal, for giving the information in good faith for the purpose of sub-section (1).

20. Obligation of media, studio and photographic facilities to report cases.—Any personnel of the media or hotel or lodge or hospital or club or studio or photographic facilities, by whatever name called, irrespective of the number of persons employed therein, shall, on coming across any material or object which is sexually exploitative of the child (including pornographic, sexually-related or making obscene representation of a child or children) through the use of any medium, shall provide such information to the Special Juvenile Police Unit, or to the local police, as the case may be.

21. Punishment for failure to report or record a case.—(1) Any person, who fails to report the commission of an offence under sub-section (1) of section 19 or section 20 or who fails to record such offence under sub-section (2) of section 19 shall be punished with imprisonment of either description which may extend to six months or with fine or with both.

(2) Any person, being in-charge of any company or an institution (by whatever name called) who fails to report the commission of an offence under sub-section (1) of section 19 in respect of a subordinate under his control, shall be punished with imprisonment for a term which may extend to one year and with fine.

(3) The provisions of sub-section (1) shall not apply to a child under this Act.

22. Punishment for false complaint or false information.—(1) Any person, who makes false complaint or provides false information against any person, in respect of an offence committed under sections 3,5,7 and section 9, solely with the intention to humiliate, extort or threaten or defame him, shall be punished with imprisonment for a term which may extend to six months or with fine or with both.

(2) Where a false complaint has been made or false information has been provided by a child, no punishment shall be imposed on such child.

(3) Whoever, not being a child, makes a false complaint or provides false information against a child, knowing it to be false, thereby victimizing such child in any of the offences under this Act, shall be punished with imprisonment which may extend to one year or with fine or with both.

23. Procedure for media.—(1) No person shall make any report or present comments on any child form of media or studio or photographic facilities without having complete and authentic information, which may have the effect of lowering his reputation or infringing upon his privacy.

(2) No reports in any media shall disclose, the identity of a child including his name, address, photograph, family details, school, neighbourhood or any other particulars which may lead to disclosure of identity of the child:

Provided that for reasons to be recorded in writing, the Special Court, competent to try the case under the Act, may permit such disclosure, if in its opinion such disclosure is in the interest of the child.

(3) The publisher or owner of the media or studio or photographic facilities shall be jointly and severally liable for the acts and omissions of his employee.

(4) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be liable to be punished with imprisonment of either description for a period which shall not be less than six months but which may extend to one year or with fine or with both.

## **CHAPTER VI**

### **PROCEDURES FOR RECORDING STATEMENT OF THE CHILD**

24. Recording of statement of a child.—(1) The statement of the child shall be recorded at the residence of the child or at a place where he usually resides or at the place of his choice and as far as practicable by a woman police officer not below the rank of sub-inspector.

(2) The police officer while recording the statement of the child shall not be in uniform.

(3) The police officer making the investigation, shall while examining the child, ensure that at no point of time the child come in the contact in any way with the accused.

(4) No child shall be detained in the police station in the night for any reason.

(5) The police officer shall ensure that the identity of the child is protected from the public media, unless otherwise directed by the Special Court in the interest of the child.

25. Recording of statement of a child by Magistrate.—(1) If the statement of the child is being recorded under section 164 of the Code of Criminal Procedure, 1973 (2 of 1974) (herein referred to as the Code), the Magistrate recording such statements shall, notwithstanding anything contained therein, record the statement as spoken by the child:

Provided that the provisions contained in the first proviso to sub-section (1) of section 164 of the Code shall, so far it permits the presence of the advocate of the accused shall not apply in this case.

(2) The Magistrates shall provide to the child and his parents or his representative, a copy of the document specified under section 207 of the Code, upon the final report being filed by the police under section 173 of that Code.

26. Additional provisions regarding statement to be recorded.—(1) The Magistrate or the police officer, as the case may be, shall record the statement as spoken by the child in the presence of the parents of the child or any other person in whom the child has trust or confidence.

(2) Wherever necessary, the Magistrate or the police officer, as the case may be, may take the assistance of a translator or an interpreter, having such qualifications, experience and on payment of such fees as may be prescribed, while recording the statement of the child.

(3) The Magistrate or the police officer, as the case may be, may, in the case of a child having a mental or physical disability, seek the assistance of a special educator or any person familiar with the manner of communication of the child or an expert in that field, having such qualifications, experience and on payment of such fees as may be prescribed, to record the statement of the child.

(4) Wherever possible, the Magistrate or the police officer, as the case may be, shall ensure that the statement of the child is also recorded by audio-video electronic means.

27. Medical examination of a child.—(1)The medical examination of a child in respect of whom any offence has been committed under this Act, shall, notwithstanding that a First information Report or complaint has not been registered for the offences under this Act, be conducted in accordance with section 164A of the Code of Criminal Procedure, 1973

(2) In case the victim is a girl child, the medical examination shall be conducted by a woman doctor.

(3) The medical examination shall be conducted in the presence of the parent of the child or any other person in whom the child reposes trust or confidence.

(4) Where, in case the parent of the child or other person referred to in sub-section (3) cannot be present, for any reason, during the medical examination of the child, the medical examination shall be conducted in the presence of a woman nominated by the head of the medical institution.

## **CHAPTER VII SPECIAL COURTS**

28. Designation of Special Courts.—(1) For the purposes of providing a speedy trial, the State Government shall in Consultation with the Chief Justice of the High Court, by notification in the Official Gazette, Designate for each district, a Court of Session to be a Special Court to try the offence under the Act:

Provided that if a Court of Session is notified as a children's court under the Commissions for Protection of Child Rights Act, 2005 or a Special Court designated for similar purposes under any other law for the time being in force, then, such court shall be deemed to be a Special Court under this section.

(2) While trying an offence under this Act, a Special Court shall also try an offence [other than the offence referred to in sub-section (1)] ,with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial.

(3) The Special Court constituted under this Act, notwithstanding anything in the Information Technology Act, 2000, shall have jurisdiction to try offences under section 67B of that Act in so far as it relates to publication or transmission of sexually explicit

material depicting children in any act, or conductor manner or facilitates abuse of children online.

29. Presumption as to certain offences. —Where a person is prosecuted for committing or abetting or attempting to commit any offence under section 3,5,7 and section 9 of this Act, the Special Court shall presume, that such person has committed or abetted or attempted to commit the offence, as the case may be ,unless the contrary is proved.

30. Presumption of culpable mental state.—(1) In any prosecution for any offence under this Act which requires a culpable mental state on the part of the accused, the Special Court shall presume the existence of such mental state but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

(2) For the purposes of this section, a fact is said to be proved only when the Special Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

*Explanation.*—In this section, "culpable mental state" includes intention, motive, knowledge of a fact and the belief in, or reason to believe, a fact.

31. Application of Code of Criminal Procedure, 1973 to proceedings before a Special Court.—Save as otherwise provided in this Act, the provisions of the Code of Criminal Procedure, 1973 (including the provisions as to bail and bonds) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Sessions and the person conducting a prosecution before a Special Court, shall be deemed to be a Public Prosecutor.

32. Special Public Prosecutors.—(1) The State Government shall, by notification in the Official Gazette, appoint a Special Public Prosecutor for every Special Court for conducting cases only under the provisions of this Act.

(2) A person shall be eligible to be appointed as a Special Public Prosecutor under sub- section (1) only if he had been in practice for not less than seven years as an advocate.

(3) Every person appointed as a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code of Criminal Procedure, 1973 (2 of 1974) and provision of that Code shall have effect accordingly.

## **CHAPTER VIII**

### **PROCEDURE AND POWERS OF SPECIAL COURTS AND RECORDING OF EVIDENCE**

33. Procedure and powers of Special Court.—(1) A Special Court may take cognizance of any offence, without the accused being committed to it for trial, upon receiving a complaint of facts which constitute such offence, or upon a police report of such facts.

(2) The Special Public Prosecutor, or as the case may be, the counsel appearing for the accused shall, while recording the examination-in-chief, cross-examination or re-

examination of the child, communicate the questions to be put to the child to the Special Court which shall in turn put those questions to the child.

(3) The Special Court may, if it considers necessary, permit frequent breaks for the child during the trial.

(4) The Special Court shall create a child-friendly atmosphere by allowing a family member, a guardian, a friend or a relative, in whom the child has trust or confidence, to be present in the court.

(5) The Special Court shall ensure that the child is not called repeatedly to testify in the court.

(6) The Special Court shall not permit aggressive questioning or character assassination of the child and ensure that dignity of the child is maintained at all times during the trial.

(7) The Special Court shall ensure that the identity of the child is not disclosed at any time during the course of investigation or trial:

Provided that for reasons to be recorded in writing, the Special Court may permit such disclosure, if in its opinion such disclosure is in the interest of the child.

*Explanation.*—For the purposes of this sub-section, the identity of the child shall include the identity of the child's family, school, relatives, neighbourhood or any other information by which the identity of the child may be revealed.

(8) In appropriate cases, the Special Court may, in addition to the punishment, direct payment of such compensation as may be prescribed to the child for any physical or mental trauma caused to him or for immediate rehabilitation of such child.

(9) Subject to the provisions of this Act, a Special Court shall, for the purpose of the trial of any offence under this Act, have all the powers of a Court of Session and shall try such offence as if it were a Court of Session, and as far as may be, in accordance with the procedure specified in the Code of Criminal Procedure, 1973 (2 of 1974) for trial before a Court of Session.

34. Procedure in case of commission of offence by child and determination of age by Special Court.—(1) Where any offence under this Act is committed by a child, such child shall be dealt with under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000).

(2) If any question arises in any proceeding before the Special Court whether a person is a child or not, such question shall be determined by the Special Court after satisfying itself about the age of such person and it shall record in writing its reasons for such determination.

(3) No order made by the Special Court shall be deemed to be invalid merely by any subsequent proof that the age of a person as determined by it under sub-section(2) was not the correct age of that person.

35. Period for recording of evidence of child and disposal of case.—(1) The evidence of the child shall be recorded within a period of thirty days of the Special Court taking cognizance of the offence and reasons for delay, if any, shall be recorded by the Special Court.

(2) The Special Court shall complete the trial, as far as possible, within a period of one year from the date of taking cognizance of the offence.

36. Child not to see accused at the time of testifying.—(1) The Special Court shall ensure that the child is not exposed in any way to the accused at the time of recording of the evidence, while at the same time ensuring that the accused is in a position to hear the statement of the child and communicate with his advocate.

(2) For the purposes of sub-section (1), the Special Court may record the statement of a child through video conferencing or by utilizing single visibility mirrors or curtains or any other device.

37. Trials to be conducted in camera.—The Special Court shall try cases in *camera* and in the presence of the parents of the child or any other person in whom the child has trust or confidence:

Provided that where the Special Court is of the opinion that the child needs to be examined at a place other than the court, it shall proceed to issue a commission in accordance with the provisions of section 284 of the Code of Criminal Procedure, 1973 (2 of 1974).

38. Assistance of an interpreter or expert while recording evidence of child.—(1) Wherever necessary, the Court may take the assistance of a translator or interpreter having such qualifications, experience and on payment of such fees as may be prescribed, while recording the evidence of the child.

(2) If a child has a mental or physical disability, the Special Court may take the assistance of a special educator or any person familiar with the manner of communication of the child or an expert in that field, having such qualifications, experience and on payment of such fees as may be prescribed to record the evidence of the child.

## **CHAPTER IX MISCELLANEOUS**

39. Guidelines for child to take assistance of experts, etc.—Subject to such rules as may be made in this behalf, the State Government shall prepare guidelines for use of non-governmental organisation, professionals and experts or persons having knowledge of psychology, social work, physical health, mental health and child development to be associated with the pre-trial and trial stage to assist the child.

40. Right of child to take assistance of legal practitioner.—Subject to the provision to section 301 of the Code of Criminal Procedure, 1973 (2 of 1974) the family or the guardian of the child shall be entitled to the assistance of a legal counsel of their choice for any offence under this Act:

Provided that if the family or the guardian of the child are unable to afford a legal counsel, the Legal Services Authority shall provide a lawyer to them.

41. Provisions of sections 3 to 13 not to apply in certain cases.—The provisions of sections 3 to 13 (both inclusive) shall not apply in case of medical examination or medical treatment of a child when such medical examination or medical treatment is undertaken with the consent of his parents or guardian.

<sup>1</sup>[42. Alternate punishment.—Where an act or omission constitute an offence punishable under this Act and also under sections 166A, 354A, 354B, 354C, 354D, 370, 370A, 375, 376, 376A, 376C, 376D, 376E or section 509 of the Indian Penal Code (45 of 1860), then notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment only under such law or this Act as provides for punishment which is greater in degree].

<sup>2</sup>[42A. Act not in derogation of any other law. —The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.]

43. Public awareness about Act.—(1) The Central Government and every State Government, shall take all measures to ensure that--

- (a) the provisions of this Act are given wide publicity through media including the television, radio and the print media at regular intervals to make the general public, children as well as their parents and guardians aware of the provisions of this Act;
- (b) the officers of the Central Government and the State Governments and other concerned persons (including the police officers) are imparted periodic training on the matters relating to the implementation of the provisions of the Act

44. Monitoring of implementation of Act.—(1) The National Commission for Protection of Child Rights constituted under section 3, or as the case may be, the State Commission for Protection of Child Rights constituted under section 17, of the Commissions for Protection of Child Rights Act, 2005 (4 of 2006) ,shall, in addition to the functions assigned to them under that Act, also monitor the implementation of the provisions of this Act in such manner as may be prescribed.

(2) The National Commission or, as the case may be, the State Commission, referred to in sub-section (1) shall, while inquiring into any matter relating to any offence under this Act, have the same powers as are vested in it under the Commissions for Protection of Child Rights Act, 2005 (4 of 2006).

(3) The National Commission or, as the case may be, the State Commission, referred to in sub-section (1), shall, also include, its activities under this section, in the annual report referred to in section 16 of the Commissions for Protection of Child Rights Act, 2005.

45. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

- (a) the qualifications and experience of, and the fees payable to, a translator or an interpreter, a special educator or any person familiar with the manner of communication of the children an expert in that field, under sub-section(4) of section 19; sub-sections (2) and(3) of section 26 and section 38;
- (b) care and protection and emergency medical treatment of the child under sub-section (5) of section 19;
- (c) the payment of compensation under sub-section (8) of section 33;
- (d) the manner of periodic monitoring of the provisions of the Act under sub-section (I) of section 44.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

46. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removal of the difficulty:

Provided that no order shall be made under this section after the expiry of the period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

## **THE SCHEDULE**

**[See section 2(c)]**

### **ARMED FORCES AND SECURITY FORCES CONSTITUTED UNDER**

- (a) The Air Force Act, 1950(45 of 1950);
- (b) The Army Act, 1950 (46 of 1950);
- (c) The Assam Rifles Act, 2006(47 of 2006);
- (d) The Bombay Home Guard Act, 1947(3 of 1947);
- (e) The Border Security Force Act, 1968(47 of 1968);
- (f) The Central Industrial Security Force Act, 1968(50 of 1968);
- (g) The Central Reserve Police Force Act, 1949 (66 of 1949);
- (h) The Coast Guard Act, 1978(30 of 1978);
- (i) The Delhi Special Police Establishment Act, 1946(25 of 1946);
- (j) The Indo-Tibetan Border Police Force Act, 1992 (35 of 1992);
- (k) The Navy Act, 1957(62 of 1957);
- (l) The National Investigation Agency Act, 2008(34 of 2008);
- (m) The National Security Guard Act, 1986 (47 of 1986);
- (n) The Railway Protection Force Act, 1957 (23 of 1957);
- (o) The Sashastra Seema Bal Act, 2007(53 of 2007);
- (p) The Special Protection Group Act, 1988 (34 of 1988);
- (q) The Territorial Army Act, 1948(56 of 1948);
- (r) The State police forces (including armed constabulary) constituted under the State laws to aid the civil powers of the State and empowered to employ force during internal disturbances or otherwise including armed forces as defined in clause (a) of section 2 of the Armed Forces (Special Powers) Act, 1958(28 of 1958).

**Y K. BHASIN,**  
**Secretary to the Govt. of India.**

## **THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES RULES, 2012<sup>1</sup>**

In exercise of the powers conferred by sub-section (1), read with clauses (a) to (d) of sub-section (2), of section 45 of the Protection of Children from Sexual Offences Act, 2012 (32 of 2012), the Central Government hereby makes the following rules, namely –

1. Short title and commencement – (1) These rules may be called the Protection of Children from Sexual Offences Rules, 2012.

(2) These rules shall come into force on the date of their publication in the Official Gazette.

2. Definitions – (1) In these rules, unless the context otherwise requires, -

- (a) “Act” means the Protection of Children from Sexual Offences Act, 2012 (32 of 2012);
- (b) “District Child Protection Unit” (DCPU) means the District Child Protection Unit established by the State Government under section 62A of the Juvenile Justice (Care and Protection of Children) Amendment Act, 2006;
- (c) “Expert” means a person trained in mental health, medicine, child development or other related discipline, who may be required to facilitate communication with a child whose ability to communicate has been affected by trauma, disability or any other vulnerability;
- (d) “Special educator” means a person trained in communication with children with special needs in a way that addresses the child’s individual differences and needs, which include challenges with learning and communication, emotional and behavioural disorders, physical disabilities, and developmental disorders;
- (e) “Person familiar with the manner of communication of the child” means a parent or family member of a child or a member of his shared household or any person in whom the child reposes trust and confidence, who is familiar with that child’s unique manner of communication, and whose presence may be required for or be conducive to more effective communication with the child;
- (f) “Support person” means a person assigned by a Child Welfare Committee, in accordance with sub-rule (8) of rule 4, to render assistance to the child through the process of investigation and trial, or any other person assisting the child in the pre-trial or trial process in respect of an offence under the Act;

(2) Words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them under the Act.

3. Interpreters, translators and Special educators – (1) In each district, the DCPU shall maintain a register with names, addresses and other contact details of interpreters, translators and special educators for the purposes of the Act, and this register shall be

made available to the Special Juvenile Police Unit (hereafter referred to as "SJPU"), local police, magistrate or Special Court, as and when required.

(2) The qualifications and experience of the interpreters, translators, Special educators, and experts, engaged for the purposes of sub-section (4) of section 19, sub-sections (3) and (4) of section 26 and section 38 of the Act, shall be as indicated in these rules.

(3) Where an interpreter, translator, or Special educator is engaged, otherwise than from the list maintained by the DCPU under sub-rule (1), the requirements prescribed under sub-rules (4) and (5) of this rule may be relaxed on evidence of relevant experience or formal education or training or demonstrated proof of fluency in the relevant languages by the interpreter, translator, or special educator, subject to the satisfaction of the DCPU, Special Court or other authority concerned.

(4) Interpreters and translators engaged under sub-rule (1) should have functional familiarity with language spoken by the child as well as the official language of the state, either by virtue of such language being his mother tongue or medium of instruction at school at least up to primary school level, or by the interpreter or translator having acquired knowledge of such language through his vocation, profession, or residence in the area where that language is spoken.

(5) Sign language interpreters, Special educators and experts entered in the register under sub-rule (1) should have relevant qualifications in sign language or special education, or in the case of an expert, in the relevant discipline, from a recognized University or an institution recognized by the Rehabilitation Council of India.

(6) Payment for the services of an interpreter, translator, Special educator or expert whose name is enrolled in the register maintained under sub-rule (1) or otherwise, shall be made by the State Government from the Fund maintained under section 61 of the Juvenile Justice Act, 2000, or from other funds placed at the disposal of the DCPU, at the rates determined by them, and on receipt of the requisition in such format as the State Government may prescribe in this behalf.

(7) Any preference expressed by the child at any stage after information is received under sub-section (1) of section 19 of the Act, as to the gender of the interpreter, translator, Special educator, or expert, may be taken into consideration, and where necessary, more than one such person may be engaged in order to facilitate communication with the child.

(8) The interpreter, translator, Special educator, expert, or person familiar with the manner of communication of the child engaged to provide services for the purposes of the Act shall be unbiased and impartial and shall disclose any real or perceived conflict of interest. He shall render a complete and accurate interpretation or translation without any additions or omissions, in accordance with section 282 of the Code of Criminal Procedure, 1973.

(9) In proceedings under section 38, the Special Court shall ascertain whether the child speaks the language of the court adequately, and that the engagement of any interpreter, translator, Special educator, expert or other person familiar with the manner of communication of the child, who has been engaged to facilitate communication with the child, does not involve any conflict of interest.

(10) Any interpreter, translator, Special educator or expert appointed under the provisions of the Act or its rules shall be bound by the rules of confidentiality, as described under section 127 read with section 126 of the Indian Evidence Act, 1872.

4. Care and Protection – (1) Where an SJPU or the local police receives any information under sub-section (1) of section 19 of the Act from any person including the child, the SJPU or local police receiving report of such information shall forthwith disclose to the person making the report, the following details:-

- (i) his name and designation;
- (ii) the address and telephone number;
- (iii) the name, designation and contact details of the officer who supervises the officer receiving the information.

(2) Where an SJPU or the local police, as the case may be, receives information in accordance with the provisions contained under sub-section (1) of section 19 of the Act in respect of an offence that has been committed or attempted or is likely to be committed, the authority concerned shall, where applicable, -

- (a) proceed to record and register a First Information Report as per the provisions of section 154 of the Code of Criminal Procedure, 1973, and furnish a copy thereof free of cost to the person making such report, as per sub-section (2) of section 154 of the Code;
- (b) where the child needs emergency medical care as described under sub-section (5) of section 19 of the Act or under these rules, arrange for the child to access such care, in accordance with rule 5;
- (c) take the child to the hospital for the medical examination in accordance with section 27 of the Act;
- (d) ensure that the samples collected for the purposes of the forensic tests are sent to the forensic laboratory at the earliest;
- (e) inform the child and his parent or guardian or other person in whom the child has trust and confidence of the availability of support services including counselling, and assist them in contacting the persons who are responsible for providing these services and relief;
- (f) inform the child and his parent or guardian or other person in whom the child has trust and confidence as to the right of the child to legal advice and counsel and the right to be represented by a lawyer, in accordance with section 40 of the Act.

(3) Where the SJPU or the local police receives information under sub-section (1) of section 19 of the Act, and has a reasonable apprehension that the offence has been committed or attempted or is likely to be committed by a person living in the same or shared household with the child, or the child is living in a child care institution and is without parental support, or the child is found to be without any home and parental support, the concerned SJPU, or the local police shall produce the child before the concerned Child Welfare Committee (hereafter referred to as "CWC") within 24 hours of receipt of such report, together with reasons in writing as to whether the child is in need of care and protection under sub-section (5) of section 19 of the Act, and with a request for a detailed assessment by the CWC.

(4) Upon receipt of a report under sub-rule (3), the concerned CWC must proceed, in accordance with its powers under sub-section (1) of section 31 of the Juvenile Justice Act, 2000, to make a determination within three days, either on its own or with the assistance of a social worker, as to whether the child needs to be taken out of the custody of his family or shared household and placed in a children's home or a shelter home.

(5) In making determination under sub-rule (4), the CWC shall take into account any preference or opinion expressed by the child on the matter, together with the best interests of the child, having regard to the following considerations:

- (i) the capacity of the parents, or of either parent, or of any other person in whom the child has trust and confidence, to provide for the immediate care and protection needs of the child, including medical needs and counselling;
- (ii) the need for the child to remain in the care of his parent, family and extended family and to maintain a connection with them;
- (iii) the child's age and level of maturity, gender, and social and economic background
- (iv) disability of the child , if any;
- (v) any chronic illness from which a child may suffer;
- (vi) any history of family violence involving the child or a family member of the child; and,
- (vii) any other relevant factors that may have a bearing on the best interests of the child:

Provided that prior to making such determination, an inquiry shall be conducted in such a way that the child is not unnecessarily exposed to injury or inconvenience.

(6) The child and his parent or guardian or any other person in whom the child has trust and confidence and with whom the child has been living, who is affected by such determination, shall be informed that such determination is being considered.

(7) The CWC, on receiving a report under sub-section (6) of section 19 of the Act or on the basis of its assessment under sub-rule (5), and with the consent of the child and his parent or guardian or other person in whom the child has trust and confidence, may provide a support person to render assistance to the child through the process of investigation and trial. Such support person may be a person or organisation working in the field of child rights or child protection, or an official of a children's home or shelter home having custody of the child, or a person employed by the DCPU:

Provided that nothing in these rules shall prevent the child and his parents or guardian or other person in whom the child has trust and confidence from seeking the assistance of any person or organisation for proceedings under the Act.

(8) The support person shall at all times maintain the confidentiality of all information pertaining to the child to which he has access. He shall keep the child and his parent or guardian or other person in whom the child has trust and confidence, informed as to the proceedings of the case, including available assistance, judicial

procedures, and potential outcomes. He shall also inform the child of the role he may play in the judicial process and ensure that any concerns that the child may have, regarding his safety in relation to the accused and the manner in which he would like to provide his testimony, are conveyed to the relevant authorities.

(9) Where a support person has been provided to the child, the SJPU or the local police shall, within 24 hours of making such assignment, inform the Special Court in writing.

(10) The services of the support person may be terminated by the CWC upon request by the child and his parent or guardian or person in whom the child has trust and confidence, and the child requesting the termination shall not be required to assign any reason for such request. The Special Court shall be given in writing such information.

(11) It shall be the responsibility of the SJPU, or the local police to keep the child and his parent or guardian or other person in whom the child has trust and confidence, and where a support person has been assigned, such person, informed about the developments, including the arrest of the accused, applications filed and other court proceedings.

(12) The information to be provided by the SJPU, local police, or support person, to the child and his parents or guardian or other person in whom the child has trust and confidence, includes but is not limited to the following:-

- (i) the availability of public and private emergency and crisis services;
- (ii) the procedural steps involved in a criminal prosecution;
- (iii) the availability of victims' compensation benefits;
- (iv) the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation;
- (v) the arrest of a suspected offender;
- (vi) the filing of charges against a suspected offender;
- (vii) the schedule of court proceedings that the child is either required to attend or is entitled to attend;
- (viii) the bail, release or detention status of an offender or suspected offender;
- (ix) the rendering of a verdict after trial; and
- (x) the sentence imposed on an offender.

5. Emergency medical care – (1) Where an officer of the SJPU, or the local police receives information under section 19 of the Act that an offence under the Act has been committed, and is satisfied that the child against whom an offence has been committed is in need of urgent medical care and protection, he shall, as soon as possible, but not later than 24 hours of receiving such information, arrange to take such child to the nearest hospital or medical care facility centre for emergency medical care:

Provided that where an offence has been committed under sections 3, 5, 7 or 9 of the Act, the victim shall be referred to emergency medical care.

(2) Emergency medical care shall be rendered in such a manner as to protect the privacy of the child, and in the presence of the parent or guardian or any other person in whom the child has trust and confidence.

(3) No medical practitioner, hospital or other medical facility centre rendering emergency medical care to a child shall demand any legal or magisterial requisition or other documentation as a pre-requisite to rendering such care.

(4) The registered medical practitioner rendering emergency medical care shall attend to the needs of the child, including –

- (i) treatment for cuts, bruises, and other injuries including genital injuries, if any;
- (ii) treatment for exposure to sexually transmitted diseases (STDs) including prophylaxis for identified STDs;
- (iii) treatment for exposure to Human Immunodeficiency Virus (HIV), including prophylaxis for HIV after necessary consultation with infectious disease experts;
- (iv) possible pregnancy and emergency contraceptives should be discussed with the pubertal child and her parent or any other person in whom the child has trust and confidence; and,
- (v) wherever necessary, a referral or consultation for mental or psychological health or other counselling should be made.

(5) Any forensic evidence collected in the course of rendering emergency medical care must be collected in accordance with section 27 of the Act.

6. Monitoring of implementation of the Act – (1) The National Commission for the Protection of Child Rights (hereafter referred to as “NCPCR”) or the State Commission for the Protection of Child Rights (hereafter referred to as “SCPCR”), as the case may be, shall in addition to the functions assigned to them under the Commissions for Protection of Child Rights Act, 2005, perform the following functions for implementation of the provisions of the Act:-

- (a) to monitor the designation of Special Courts by State Governments;
  - (b) to monitor the appointment of Public Prosecutors by State Governments;
  - (c) to monitor the formulation of the guidelines described in section 39 of the Act by the State Governments, for the use of non-governmental organisations, professionals and experts or persons having knowledge of psychology, social work, physical health, mental health and child development to be associated with the pre-trial and trial stage to assist the child, and to monitor the application of these guidelines;
  - (d) to monitor the designing and implementation of modules for training police personnel and other concerned persons, including officers of the Central and State Governments, for the effective discharge of their functions under the Act;
  - (e) to monitor and support the Central Government and State Governments for the dissemination of information relating to the provisions of the Act through media including the television, radio and print media at regular intervals, so as to make the general public, children as well as their parents and guardians aware of the provisions of the Act.
- (2) The NCPCR or the SCPCR, as the case may be, may call for a report on any specific case of child sexual abuse falling within the jurisdiction of a CWC.

- (3) The NCPCR or the SCPCR, as the case may be, may collect information and data on its own or from the relevant agencies regarding reported cases of sexual abuse and their disposal under the processes established under the Act, including information on the following:-
- (i) number and details of offences reported under the Act;
  - (ii) whether the procedures prescribed under the Act and rules were followed, including those regarding timeframes;
  - (iii) details of arrangements for care and protection of victims of offences under this Act, including arrangements for emergency medical care and medical examination; and,
  - (iv) details regarding assessment of the need for care and protection of a child by the concerned CWC in any specific case.
- (4) The NCPCR or the SCPCR, as the case may be, may use the information so collected to assess the implementation of the provisions of the Act. The report on monitoring of the Act shall be included in a separate chapter in the Annual Report of the NCPCR or the SCPCR.

7. Compensation - (1) The Special Court may, in appropriate cases, on its own or on an application filed by or on behalf of the child, pass an order for interim compensation to meet the immediate needs of the child for relief or rehabilitation at any stage after registration of the First Information Report. Such interim compensation paid to the child shall be adjusted against the final compensation, if any.

(2) The Special Court may, on its own or on an application filed by or on behalf of the victim, recommend the award of compensation where the accused is convicted, or where the case ends in acquittal or discharge, or the accused is not traced or identified, and in the opinion of the Special Court the child has suffered loss or injury as a result of that offence.

(3) Where the Special Court, under sub-section (8) of section 33 of the Act read with sub-sections (2) and (3) of section 357A of the Code of Criminal Procedure, makes a direction for the award of compensation to the victim, it shall take into account all relevant factors relating to the loss or injury caused to the victim, including the following:-

- (i) type of abuse, gravity of the offence and the severity of the mental or physical harm or injury suffered by the child;
- (ii) the expenditure incurred or likely to be incurred on his medical treatment for physical and/or mental health;
- (iii) loss of educational opportunity as a consequence of the offence, including absence from school due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;
- (iv) loss of employment as a result of the offence, including absence from place of employment due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;
- (v) the relationship of the child to the offender, if any;
- (vi) whether the abuse was a single isolated incidence or whether the abuse took place over a period of time;
- (vii) whether the child became pregnant as a result of the offence;

- (viii) whether the child contracted a sexually transmitted disease (STD) as a result of the offence;
- (ix) whether the child contracted human immunodeficiency virus (HIV) as a result of the offence;
- (x) any disability suffered by the child as a result of the offence;
- (xi) financial condition of the child against whom the offence has been committed so as to determine his need for rehabilitation;
- (xii) any other factor that the Special Court may consider to be relevant.

(4) The compensation awarded by the Special Court is to be paid by the State Government from the Victims Compensation Fund or other scheme or fund established by it for the purposes of compensating and rehabilitating victims under section 357A of the Code of Criminal Procedure or any other laws for the time being in force, or, where such fund or scheme does not exist, by the State Government.

(5) The State Government shall pay the compensation ordered by the Special Court within 30 days of receipt of such order.

(6) Nothing in these rules shall prevent a child or his parent or guardian or any other person in whom the child has trust and confidence from submitting an application for seeking relief under any other rules or scheme of the Central Government or State Government.

**A SONG FOR A CHILD**

**There are some people**

**Who'll say**

**Don't cry, cause**

**That was yesterday**

**There are others**

**Who'll question if it's true**

**But, don't worry darling**

**I believe in you**

**I know how the anger**

**Devours every part**

**Of your soul, your spirit**

**Your mind, your very heart**

**I know how you live with the abuse**

**Every single day**

**I know how hard it is**

**To just push the pain away**

**I feel it when you scream**

**Though you sit and stare**

**I feel the walls push me away**

**Though you long for me to be there**

**I don't know what to do**

**What could I ever say**

**To erase the years gone by**

**And make it go away**

**Please darling**

**Before you turn to stone**

**Always, always remember, You are not alone**

**Cherry Kingsley**