

**Training Manual on Protection of Children from Sexual Offences
(POCSO) Act & Rules, 2012 for Faculty of Educational Institutions**



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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

Sl No.	Sessions	Explanation
1.	AIDS	Acquired Immuno Deficiency Syndrome
2.	CCIs	Child Care Institutions
3.	CEDAW	The Convention on the Elimination of all forms of Discrimination Against Women
4.	CPCR	Commission for Protection of Child Rights
5.	Cr. PC	Criminal Procedure Code
6.	CRIN	Child Rights Information Network
7.	CWC	Child Welfare Committee
8.	DCPU	District Child Protection Unit
9.	DHR	Department of Health Research
10.	FIR	First Information Report
11.	HIV	Human Immunodeficiency Virus
12.	ICDS	Integrated Child Development Services Scheme
13.	ICPS	Integrated Child Protection Scheme
14.	ILO	International Labour Organisation
15.	IO	Investigation Officer
16.	IPC	Indian Penal Code
17.	JJ Act	Juvenile Justice (Care and Protection of Children) Act
18.	MLC	Medical Legal Care
19.	NCPCR	National Commission for Protection of Child Rights
20.	NFHS	National Family Health Survey
21.	NGO	Non Government Organisation
22.	OP3CRC	Third Optional Protocol to the Convention on the Rights of the Child on a communications procedure
23.	OPs	Optional Protocols
24.	POCSO	Protection of Children from Sexual Offences Act
25.	PTSD	Post Traumatic Stress Disorder
26.	SCPCR	State Commission for Protection of Child Rights
27.	SJPU	Special Juvenile Police Unit
28.	UNCRC	United Nations Convention on the Rights of the Child
29.	UNICEF	United Nations International Children's Emergency Fund

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 reformatory 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, reprehensible 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 14th 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 Educational Institutions.

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 Child Rights: An Overview; Salient Features of POCSO Act and Rules, 2012; Communicating to Children about Sexuality; Role of Faculty of Educational Institutions in Implementation of POCSO Act and Rules, 2012 and Developing a Strong System of Initiating Action against Abusers in case of Abuse and Monitoring Preventive Measures in Educational Institutions.

Participants

About 25-30 officials representing faculty of educational institutions 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 faculty of educational institutions. It describes the issues to be covered during the training programme delineating the inter-linkages of various stakeholders.

The two-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, policy and programmes, roles and responsibilities of the educational institutions 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 1	
Time	Topic
9:30 a.m. – 10.00 a.m.	Session I – Registration
10.00 a.m. – 10.45 a.m.	Session II – Introductory/Inaugural Session
10.45 a.m. – 11.00 a.m.	Tea Break
11.00 a.m. – 11.45 a.m.	Session III – Rapport Building/Ice Breaking/Pre-Training Assessment
11.45 a.m. – 1.15 p.m.	Technical Session I – Child Rights: An Overview
1.15 p.m. – 2.15 p.m.	Lunch Break
2.15 p.m. – 3.30 p.m.	Technical Session II – Salient Features of Protection of Children from Sexual Offences (POCSO) Act and Rules, 2012
3.30 p.m. – 3.45 p.m.	Tea Break
3.45 p.m. – 5.00 p.m.	Technical Session II – Continued
Day 2	
Time	Topic
9:00 a.m. – 9.15 a.m.	Recap of the Previous Day
9.15 a.m. – 11.00 a.m.	Technical Session III – Communicating to Children about Sexuality
11.00 a.m. – 11.15 a.m.	Tea Break
11.15 a.m. – 1.15 p.m.	Technical Session IV – Role of Faculty of Educational Institutions in Implementation of POCSO Act and Rules, 2012
1.15 p.m. – 2.15 p.m.	Lunch Break
2.15 p.m. – 3.30 p.m.	Technical Session V – Developing a Strong System of Initiating Action against Abusers in case of Abuse and Monitoring Preventive Measures in Educational Institutions.
3.30 p.m. – 3.45 p.m.	Tea Break
3.45 p.m. – 4.45 p.m.	Technical Session VI – Open House Discussion
4.45 p.m. – 5.00 p.m.	Post-Training Assessment
5.00 p.m. – 5.30 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 Faculty of Educational Institutions who are one of 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 Faculty of Educational Institutions 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**
- **Training Innovations (Methods and Techniques)**
- **Training Games/Energizers**
- **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

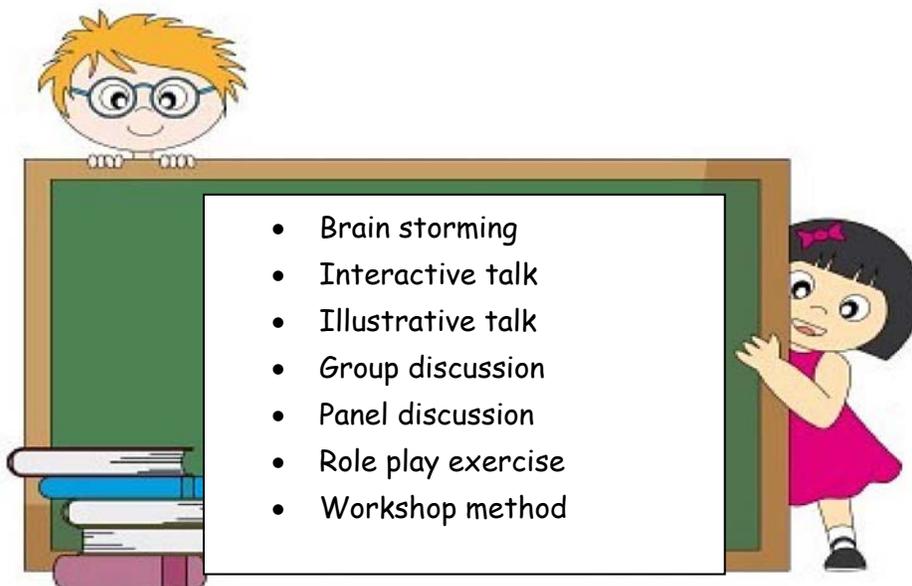
At the beginning of the training ask the participants to help you lay out the ground rules which are generally formed to guide the trainees on certain behavioural pattern so that they treat others equally, support each other, communicate, participate, cooperate and coordinate joint activities. When the 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)

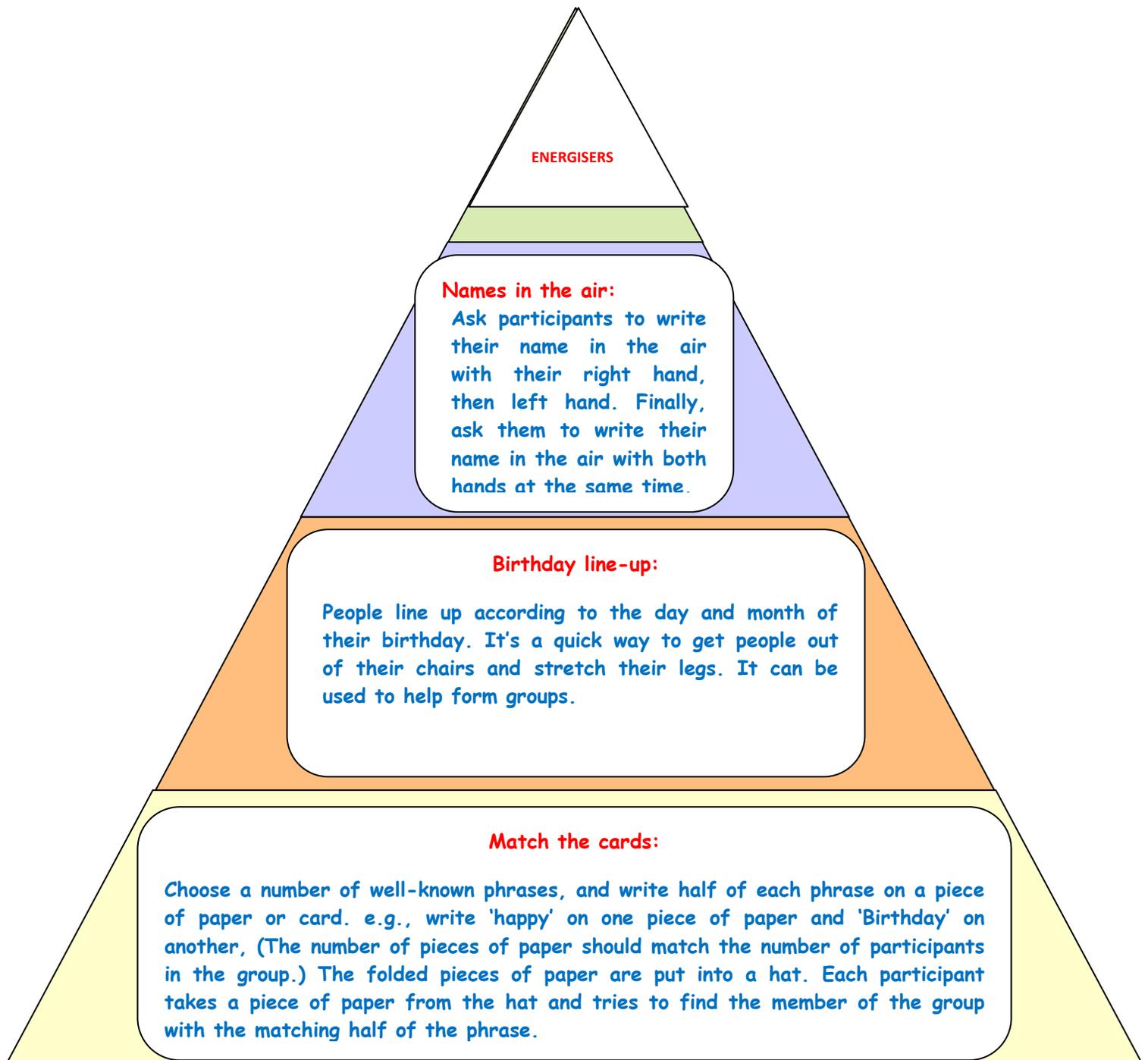


Training Glossary

Brain Storming	<ul style="list-style-type: none"> • This method is generally made as a first step to generate initial interest and essential involvement of the trainees in the training activity. • For this, the trainer asks the trainees to think of any ideas without evaluation or judgments. • The quantity, not the quality, is what matters. Ideas can be discussed later for practical consideration. • Sometimes ‘unwanted’ or seemingly ridiculous ideas lead to a more practical idea, which would otherwise not have been considered.
Interactive Talk	<ul style="list-style-type: none"> • This method is marked by encouraging the trainees to be quite active and analytical in their learning approach. • They are also motivated to be inquisitive and anxious to know new things by asking questions and exploring alternatives.
Illustrative Talk	<ul style="list-style-type: none"> • This is a lecture method supplemented by the use of proper illustration using training materials, including audio-visual aids. • Presentation of success stories and case studies is also one of the essential elements of this method.
Group Discussion	<ul style="list-style-type: none"> • Use of this method is based on the principle of the trainer taking on the role of a group promoter. • 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.
Panel Discussion	<ul style="list-style-type: none"> • The use of this method is marked by greater involvement of trainees in promoting participatory learning. • 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.
Role Exercise Play	<ul style="list-style-type: none"> • 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. • 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.
Workshop Method	<ul style="list-style-type: none"> • 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. • In the workshop method the trainees are arranged into a number of groups, keeping in view their interests and areas of learning. • 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. • Each group is assigned a theme of discussion relating to the topic being covered during the training session.

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

Rapport Building/Ice Breaking

Pre-Training Assessment

Reference Material

Registration
Introductory/Inaugural Session
Pre-Training Assessment
Rapport Building/Ice Breaking

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 form to the participants.
- Instruct them to fill the form in 10 minutes.
- Collect the filled in form for analysis.

Rapport Building and Setting up of Ground Rules

Activity-I Who am I?

- Ask each participant to write his/her name on masking tape and stick it on his or her shirt or dress.
- Tell them to stand in a circle, with everyone wearing their nametag.
- Give them 2 minutes to look around the circle and try to get everyone's name.
- Then tell them to cover their name and ask for a volunteer to try and name everyone in the circle.
- Give three or four volunteers the chance to do this.

Activity-II What do I feel?

- Participants sit in a circle; each one of them takes turns acting out certain emotions.
- Others try to guess out what emotion is being acted, the one who guesses right acts out the next emotion.

Setting Ground Rules

What are Ground Rules?

- Ground rules are the minimum necessary conditions for smooth sailing of a training programme and these rules are set through consensus before the technical sessions actually begin. The ground rules must be clear, consistent, agreed-to, and followed.
- Ground rules are formed to bring home a normative behavioral pattern of the trainees to define as to how individual participants should treat and support each other, communicate, participate, cooperate, and coordinate joint activities.
- Where articulated ground rules are missing, natural behavior patterns often emerge spontaneously.
- A team should create and adopt written ground rules before the technical sessions start.

Why are ground rules important?

- Ground rules are essential in order to evolve a consistent acceptable behavioral pattern that applies to each and every participant.
- This helps maintain a positive learning environment throughout the training programme.
- It also helps trainees feel comfortable, safe and supported and encourages positive communication within the group.
- They further facilitate the participants to relate to each other in a positive way and to respect the ability and potential of fellow trainees.

- When broken, ground rules provide the facilitator/resource person, and others in the group, implied consent to intervene.

How to establish ground rules?

- It's important to spend necessary time to come to consensus (an essential precondition) on the specific rules for an ongoing group.
- Each trainee should be encouraged to give his/her suggestions, so as to what all should comprise the ground rules.
- Let the trainees come up with their own protocol/set of rules at the start of the training session. Do not dictate the rules to them. This process will help the participants to have a clear understanding of acceptable behaviour.
- The facilitator/resource person must engage all the trainees in the establishment of ground rules to build up required trust and confidence in them. If trainees have difficulty in developing these rules, the facilitator/resource person may like to guide the process of rule setting with some suggestions as given below:
 - Session will start promptly on time as scheduled. All trainees are expected to be on time. If, for extenuating circumstances, a trainee is late, he/she must catch up on his/her own
 - Switch off mobile phones – this could be addressed by asking, “Does anyone need to keep mobile on for family or 'on-call' reasons? OK, then could you put your mobile on silent mode please?” and “when you get a call, take the call after going out of the room”.
 - Never refer to someone by name when giving an example.
 - Do not interrupt while someone is talking.
 - Listen to different ideas without put-downs.
 - Everyone has the right to speak and therefore everyone must respect each other's right to participate and share thoughts.
 - Each person is responsible for his or her own behaviour.
 - Respect other's cultural and religious traditions, beliefs, values and languages.
 - Respect other people's contributions.
 - Only have one conversation at a time in the class.

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.	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"/>
2.	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"/>
3.	Match the punishments and fine for various offences in the POCSO Act 2012? Answer: Offence 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 and (Section 11) f) Using Child for Pornographic Purposes (Section 13)	Punishment there for 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)
4.	Where will the cases of the POCSO Act 2012 are tried?	a) Special Courts <input type="checkbox"/> b) High Courts <input type="checkbox"/> c) District Courts <input type="checkbox"/>
5.	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	

	<p>doctor.</p> <p>9. No frequent breaks for the child during trial</p> <p>10. Child to be called repeatedly to testify</p> <p>11. No aggressive questioning or character assassination of the child</p> <p>12. In-camera trial of cases</p>	
6.	Where the cases under this Act reported?	<p>a) Special Juvenile Police Unit (SJPU) <input type="checkbox"/></p> <p>b) Local Police <input type="checkbox"/></p> <p>c) Both <input type="checkbox"/></p>
7.	What is the role of the SJPU or local police in the POCSO Act 2012?	<p>a) Relief and rehabilitation of the child <input type="checkbox"/></p> <p>b) Care and protection such as admitting the child into shelter home or to the nearest hospital <input type="checkbox"/></p> <p>c) Report to the CWC within 24 hours of recording of complaint for long term rehabilitation <input type="checkbox"/></p> <p>d) All <input type="checkbox"/></p>
8.	Who will monitor the implementation of the Act?	<p>a) NCPCR & SCPCR <input type="checkbox"/></p> <p>b) NCW & SCW <input type="checkbox"/></p>
9.	Which one of the following is the first legally binding international instrument to incorporate full range of human rights?	<p>(a) UNCRC <input type="checkbox"/></p> <p>(b) UNFPA <input type="checkbox"/></p> <p>(c) UNICEF <input type="checkbox"/></p> <p>(d) None of these <input type="checkbox"/></p>
10.	Expand CPR.	
11.	The GOI adopted National Policy for children, 1974 which was amended again in -----	<p>(a) 2001 <input type="checkbox"/></p> <p>(b) 2005 <input type="checkbox"/></p> <p>(c) 2013 <input type="checkbox"/></p> <p>(d) 2014 <input type="checkbox"/></p>
12.	When did the GOI ratified the Convention on the Rights of the Child?	<p>(a) 5 April, 2001 <input type="checkbox"/></p> <p>(b) 12 Novemeber, 1992 <input type="checkbox"/></p> <p>(c) 8 December, 1978 <input type="checkbox"/></p> <p>(d) None <input type="checkbox"/></p>
13.	Which Ministry has the nodal responsibility of coordinating the implementation of the Convention?	<p>(a) Ministy of Human Resource Development <input type="checkbox"/></p> <p>(b) Ministy of Social Justice & Empowerment <input type="checkbox"/></p> <p>(c) Ministy of Environment & Forests <input type="checkbox"/></p> <p>(d) Ministy of Women & Child Development <input type="checkbox"/></p>
14.	Article that prohibits employment of children in factories	<p>(a) Article 39 <input type="checkbox"/></p> <p>(b) Article 45 <input type="checkbox"/></p> <p>(c) Article 24 <input type="checkbox"/></p>
15.	Hague Convention deals with	<p>(a) Foster Care <input type="checkbox"/></p> <p>(b) Inter-Country Adoption <input type="checkbox"/></p> <p>(c) Sponsorship <input type="checkbox"/></p>
16.	Expand CEDAW	
17.	Child Sex Ratio according to Census 2011.	<p>(a) 914:1000 <input type="checkbox"/></p> <p>(b) 904:1000 <input type="checkbox"/></p> <p>(c) 940:1000 <input type="checkbox"/></p>
18.	One of the biggest problems	<p>(a) Early Motherhood <input type="checkbox"/></p>

	associated with Child Marriages is:	(b) Higher incidences of death <input type="checkbox"/> (c) Birth of Low Birth Weight (LBW) babies <input type="checkbox"/> (d) All of the above <input type="checkbox"/>
19.	Act related to education in India	(a) RTI <input type="checkbox"/> (b) RTE <input type="checkbox"/>
20.	Statutory body to protect, promote and defend child rights in the country is (Under CPC Act, 2005).	(a) SCW <input type="checkbox"/> (b) SCPCR <input type="checkbox"/> (c) NCW <input type="checkbox"/> (d) NCPCR <input type="checkbox"/>
21.	Both girls and boys are Vulnerable to Child Sexual Abuse	(a) Yes <input type="checkbox"/> (b) No <input type="checkbox"/>
22.	Which one of the following is a myth about child abuse & neglect?	(a) Child abuse doesn't happen in good families <input type="checkbox"/> (b) Most child abusers are strangers <input type="checkbox"/> (c) Abused children always grow up to be abusers <input type="checkbox"/> (d) All of the above <input type="checkbox"/>
23.	Physically abused children may have problems with	(a) academic achievement and developing friendships and relationships <input type="checkbox"/> (b) depression, anxiety and low self-esteem <input type="checkbox"/> (c) both (a) & (b) <input type="checkbox"/> (d) None <input type="checkbox"/>
24.	The _____ is a very important tool for the child in rebuilding his or her life after he/she is sexually abused.	(a) Counsellor <input type="checkbox"/> (b) Society <input type="checkbox"/> (c) All of the above <input type="checkbox"/>
25.	Sexual assault of a child by the management or staff of an educational institution is said to have committed aggravated sexual assault.	(a) Yes <input type="checkbox"/> (b) No <input type="checkbox"/>
26.	Do you think that the institutional-based child sexual abuse preventive programmes are necessary/important?	(a) Yes <input type="checkbox"/> (b) No <input type="checkbox"/> (c) Don't know <input type="checkbox"/>

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

Key:

- 1) (a)
- 2) Any person below the age of 18 years
- 3) a-vi, b-v, c-iv, d-iii, e-ii, f-i
- 4) (a)
- 5) Correct-1, 4, 5, 6, 8, 11, 12
Wrong-2, 3, 7, 9, 10
- 6) (c)
- 7) (d)
- 8) (a)
- 9) (a)
- 10) Commissions for Protection of Child Rights
- 11) (c)
- 12) (b)
- 13) (d)
- 14) (c)
- 15) (b)
- 16) The Convention on the Elimination of all forms of Discrimination against Women.
- 17) (a)
- 18) (d)
- 19) (b)
- 20) (d)
- 21) (a)
- 22) (d)
- 23) (c)
- 24) (a)
- 25) (a)
- 26) Answer is up to participant

Minimum Score: 0
Maximum Score: 26

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	0-5
Poor	6-10
Good	11-15
Very Good	16-20
Excellent	21-26

D. Technical Sessions

Technical Session I: Child Rights: An Overview

Learning Objectives:

- To orient participants about UNCRC and other international instruments.
- To enable them to understand and contextualize UNCRC to the rights of children.

Methodology:

Presentation, lecture and discussion

Material Required:

Projector, computer, soft copy/hard copy of the concerned presentation, flip chart and marker.

Duration: 1 hour 15 minutes

Instructions:

- Ask the participants what they understand by the terms like 'rights' and 'conventions', difference between 'rights' and 'needs', etc.
- Explain the participants about the evolution of various conventions on child rights.
- Show and explain the slides on the session "Child Rights: An Overview". Include slides on reporting mechanism on UNCRC.
- Ask the participants to share the situation of children in their area/region/state.
- Also ask the participants to share their views on 'rights based approach to child protection system'.
- Explain the concept, components and guiding principles of rights based approach system with the help of slides.
- Discuss the terms 'monitoring' and 'evaluation'.
- Select the relevant response of the participants and explain the concept of 'rights based monitoring and evaluation'.
- Quickly write the responses of the participants on flip chart/white board.
- Quickly analyze the responses and presentation with discussion.
- Keep track of time and wind up the session.

Tips for the Facilitators/Resource Persons:

- This session is meant to make the participants understand and contextualize UNCRC and other international instruments on child rights and protection.
- As this is theoretical session try to seek as much participation as possible
- Link the participants view points with the available literature
- Read/Review the slides carefully before conducting the session.
- Have updated data and knowledge on the topic.
- Keep track of the time as it is an extensive session with limited time.

Reference Material for Technical Session I

CONTENTS

Concept of child rights

- Children's Rights
- Justifications
- Historical Definition of Children's Rights
- Types of child Rights
- Difference between Children's Rights and Youth Rights
- Parental Rights
- Movement
- Opposition
- International Law
- Convention on the Rights of the Child
- Vienna Declaration and Programme of Action
- Picture in India
- The History of Child Rights in India
- Indian Constitution Provisions
- Cases

Articles of UNCRC and other international instruments concerning child rights

- What is Convention?
- Understanding Wants, Needs and Rights
- Evolution of Children's Rights and UNCRC
- Articles of UNCRC
- UNCRC and Optional Protocols
- UNCRPD
- Beijing Rules
- Riyadh Guidelines
- Hague Convention, CEDAW, ILO Convention, etc

Relevance of UNCRC to rights of children

Rights-based approach in working with children

- Components, issues, guiding principles of right based child protection system
- Children's role in building rights based child protection system, rights-based monitoring and evaluation and
- Reporting mechanism on UNCRC

Concept of child rights

Children's Rights

Children's rights are the [human rights](#) of [children](#) with particular attention to the rights of special protection and care afforded to minors, including their right to association with both [parents](#), [human identity](#) as well as the basic needs for food, universal state-paid education, health care and criminal laws appropriate for the age and development of the child, equal protection of the child's [civil rights](#) and freedom from [discrimination](#) on the basis of the child's race, gender, sexual orientation, gender identity, national origin, [religion](#), [disability](#), [colour](#), [ethnicity](#), or other characteristics. Interpretations of children's rights range from allowing children the capacity for autonomous action to the enforcement of children being physically, mentally and emotionally free from [abuse](#), though what constitutes "abuse" is a matter of debate. Other definitions include the rights to care and nurturing.

"A child is any human being below the age of eighteen years, unless under the law applicable to the child, [majority](#) is attained earlier." According to [Cornell University](#), a child is a person, not a *sub person*. The term "child" often, but does not necessarily, mean minor, but can include adult children as well as adult nondependent children. There are no definitions of other terms used to describe young people such as "[adolescents](#)", "teenagers," or "[youth](#)" in [international law](#), but the children's rights movement is considered distinct from the youth movement.

The field of children's rights spans the fields of [law](#), [politics](#), [religion](#), and [morality](#).

Justifications

As [minors](#) by law children do not have autonomy or the right to make decisions on their own for themselves in any known jurisdiction of the world. Instead their adult caregivers, including [parents](#), [social workers](#), [teachers](#), [youth workers](#), and others, are vested with that authority, depending on the circumstances. Some believe that this state of affairs gives children insufficient control over their own lives and causes them to be vulnerable.

Structures such as government policy have been held by some commentators to mask the ways adults abuse and exploit children, resulting in child [poverty](#), lack of educational opportunities, and child labour. On this view, children are to be regarded as a [minority group](#) towards whom society needs to reconsider the way it behaves.

Researchers have identified children as needing to be recognized as [participants in society](#) whose rights and responsibilities need to be recognized at [all ages](#).

Historical Definitions of Children's Rights

Consensus on defining children's rights has become clearer in the last fifty years. A 1973 publication by Hillary Clinton (then an attorney) stated that children's rights were a

"slogan in need of a definition". According to some researchers, the notion of children's rights is still not well defined, with at least one proposing that there is no singularly accepted definition or theory of the rights held by children.

Children's rights law is defined as the point where the law intersects with a child's life. That includes juvenile delinquency, due process for children involved in the criminal justice system, appropriate representation and effective rehabilitative services; care and protection for children in state care; ensuring education for all children regardless of their race, gender, sexual orientation, gender identity, national origin, religion, disability, colour, ethnicity, or other characteristics, and health care and advocacy.

Types of Child Rights

Children's rights are broadly categorised into four: right to survival, right to protection, right to development and right to participation. Children's rights are also defined in numerous ways, including a wide spectrum of civil, cultural, economic, social and political rights. Rights tend to be of two general types: those advocating for children as autonomous persons under the law and those placing a claim on society for protection from harms perpetrated on children because of their dependency. These have been labelled as the **right of empowerment** and as the **right to protection**. Children's rights can also be classified into three categories as given below:

- **Provision:** Children have the right to an adequate standard of living, health care, education and services, and to play and recreation. These include balanced diet, a warm bed to sleep in and access to schooling.
- **Protection:** Children have the right to protection from abuse, neglect, exploitation and discrimination. This includes the right to safe places for children to play; constructive child rearing behavior, and acknowledgment of the evolving capacities of children.
- **Participation:** Children have the right to participate in communities and have programs and services for themselves. This includes children's involvement in libraries and community programmes, youth voice activities, and involving children as decision-makers.

In a similar fashion, the Child Rights Information Network, or CRIN for short, categorizes rights into two groups:

- **Economic, social and cultural rights**, related to the conditions necessary to meet basic human needs such as food, shelter, education, health care, and gainful employment. Included are rights to education, adequate housing, food, water, the highest attainable standard of health, the right to work and rights at work, as well as the cultural rights of minorities and indigenous people.
- **Environmental, cultural and developmental rights**, which are sometimes called "third generation rights," and including the right to live in safe and healthy environments and that groups of people have the right to cultural, political, and economic development.

Amnesty International openly advocates four particular children's rights, including the end to juvenile incarceration without parole, an end to the recruitment of military use of children, ending the death penalty for people under 21, and raising awareness of human rights in the classroom. Human Rights Watch, an international advocacy organization, includes child labour, juvenile justice, orphans and abandoned children, refugees, street children and corporal punishment.

Scholarly study generally focuses children's rights by identifying individual rights. The following rights "allow children to grow up healthy and free":

- Freedom of speech
- Freedom of thought
- Freedom from fear
- Freedom of choice and the right to make decisions
- Ownership over one's body

Other issues affecting children's rights include the military use of children, sale of children, child prostitution and child pornography.

Difference between children's rights and youth rights

"In the majority of jurisdictions, for instance, children are not allowed to vote, to marry, to buy alcohol, to have sex, or to engage in paid employment." Within the [youth rights movement](#), it is believed that the key difference between *children's* rights and *youth* rights is that children's rights supporters generally advocate the establishment and enforcement of protection for children and youths, while youth rights (a far smaller movement) generally advocates the expansion of freedom for children and/or youths and of rights such as [suffrage](#).

Parental rights

[Parents](#) affect the lives of children in a unique way, and as such their role in children's rights has to be distinguished in a particular way. Particular issues in the child-parent relationship include [child neglect](#), [child abuse](#), [freedom of choice](#), [corporal punishment](#) and [child custody](#). There have been theories which provide parents with rights-based practices that resolve the tension between "common sense parenting" and children's rights. The issue is particularly relevant in legal proceedings that affect the potential [emancipation of minors](#), and in cases where children sue their parents.

A child's right to a relationship with both their parents is increasingly recognized as an important factor for determining the [best interests of the child](#) in [divorce](#) and [child custody](#) proceedings. Some governments have enacted laws creating a [rebuttable presumption](#) that [shared parenting](#) is in the interests of children.

Movement

The 1796 publication of [Thomas Spencer's *Rights of Infants*](#) is among the earliest English-language assertions of the rights of children. Throughout the 20th century children's rights activists organized for homeless children's rights and [public education](#). The 1927 publication of [The Child's Right to Respect](#) by [Janusz Korczak](#) strengthened the literature surrounding the field, and today dozens of international organizations are working around the world to promote children's rights.

Opposition

The opposition to children's rights far outdates any current trend in society, with recorded statements against the rights of children dating to the 13th century and earlier. Opponents to children's rights believe that young people need to be [protected](#) from the [adult centric](#) world, including the decisions and responsibilities of that world. In adult dominated societies childhood is idealized as a time of innocence, a time free of responsibility and conflict, and a time dominated by play. The majority of opposition stems from concerns related to [national sovereignty](#), [states' rights](#) and the parent-child relationship. Financial constraints and the "undercurrent of traditional values in opposition to children's rights" are cited, as well.

International Law

The [Universal Declaration of Human Rights, 1948](#) is seen as a basis for all international legal standards for children's rights today. There are several conventions and laws that address children's rights around the world. A number of current and historical documents affect those rights, including the 1923 [Declaration of the Rights of the Child](#), drafted by [Eglantyne Jebb](#) and her sister [Dorothy Buxton](#) in London, England in 1919, endorsed by the [League of Nations](#) and adopted by the [United Nations](#) in 1946. It later served as the basis for the [Convention on the Rights of the Child](#).

Convention on the Rights of the Child

The [United Nations'](#) 1989 [Convention on the Rights of the Child](#), or CRC, is the first legally binding international instrument to incorporate the full range of human rights—civil, cultural, economic, political and social rights. Its implementation is monitored by the [Committee on the Rights of the Child](#). National Governments that ratify it commit themselves to protecting and ensuring children's rights, and agree to hold themselves accountable for this commitment before the international community. The CRC is the most widely ratified human rights treaty with 190 ratifications. Somalia and the USA are the only two countries which have not ratified the CRC. The CRC is based on four core principles, namely the principle of non discrimination, the best interests of the child, the right to life, survival and development, and considering the views of the child in decisions which affect them (according to their age and maturity). The CRC, along with international criminal accountability mechanisms such as the [International Criminal Court](#), the [Yugoslavia](#) and [Rwanda Tribunals](#), and the [Special Court for Sierra Leone](#), is said to have significantly increased the profile of children's rights worldwide.

Vienna Declaration and Programme of Action

[Vienna Declaration and Programme of Action](#), 1993 urges at Section II para 47, all nations to undertake measures to the maximum extent of their available resources, with the support of international cooperation, to achieve the goals in the World Summit Plan of Action and calls on States to integrate the Convention on the Rights of the Child into their national action plans. By means of these national action plans and through international efforts, particular priority should be placed on reducing infant and maternal mortality rates, reducing malnutrition and illiteracy rates and providing access to safe drinking water and basic education. Whenever so called for, national plans of action should be devised to combat devastating emergencies resulting from disasters and [armed conflicts](#) and the equally grave problem of children in extreme poverty. Further para 48 urges all states, with the support of international cooperation, to address the acute problem of children under especially difficult circumstances. Exploitation and abuse of children should be actively combated, including by addressing their root causes. Effective measures are required against female [infanticide](#), harmful [child labour](#), [sale of children](#) and organs, [child prostitution](#), [child pornography](#), as well as other forms of sexual abuse. This gave an influence to adoptions of [Optional Protocol on the Involvement of Children in Armed Conflict](#) and [Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography](#).

Scenario in India

In India, children's vulnerabilities and exposure to violations of their protection rights remain wide spread and multiple in nature. The manifestations of these violations are various, ranging from child labour, child trafficking, to commercial sexual exploitation and many other forms of violence and abuse. Although poverty is often cited as the cause underlying child labour, other factors such as discrimination, social exclusion, as well as the lack of quality education or existing parents' attitudes and perceptions about child labour and the role and value of education need also to be considered. In states like Bihar, Mizoram, Rajasthan and Uttar Pradesh, 60 per cent or more girls dropped out before completing their five years primary education.

Trafficking of children also continues to be a serious problem in India. The nature and scope of trafficking range from industrial and domestic labour, to forced early marriages and commercial sexual exploitation. Existing studies show that over 40 per cent of women sex workers enter into prostitution before the age of 18 years. Moreover, for children who have been trafficked and rescued, opportunities for rehabilitation remains scarce and reintegration process arduous.

While systematic data and information on child protection issues are still not always available, evidence suggests that children in need of special protection belong to communities suffering disadvantage and social exclusion such as scheduled castes and tribes, and the poor. The lack of available services, as well as the gaps persisting in law enforcement and in rehabilitation schemes also constitute a major cause of concern.

The History of Child Rights in India

The Indian Constitution has a framework within which ample provisions exist for the protection, development and welfare of children. There are a wide range of laws that guarantee children their rights and entitlements as provided in the Constitution and in the UN Convention. It was during the 50s decade that the UN Declaration of the Rights of the Child was adopted by the UN General Assembly. This Declaration was accepted by the Government of India. As part of the various Five Year Plans, numerous programmes have been launched by the Government aimed at providing services to children in the areas of health, nutrition and education.

In 1974, the Government of India adopted a National Policy for Children, declaring the nation's children as 'supremely important assets'. This policy lays down recommendations for a comprehensive health programme, supplementary nutrition for mothers and children, nutrition education for mothers, free and compulsory education for all children up to the age of 14, non-formal preschool education, promotion of physical education and recreational activities, special consideration for the children of weaker sections of the population like the scheduled castes and the schedule tribes, prevention of exploitation of children and special facilities for children with handicaps. The policy provided for a National Children's Board to act as a forum to plan, review and coordinate the various services directed toward children. The Board was first set up in 1974. This policy has been revised in 2013.

The National Policy for Children, 2013

Recognises that:

- a child is any person below the age of eighteen years
- childhood is an integral part of life with a value of its own
- children are not a homogenous group and their different needs need different responses, especially the multi-dimensional vulnerabilities experienced by children in different circumstances
- a long term, sustainable, multi-sectoral, integrated and inclusive approach is necessary for the overall and harmonious development and protection of children

Reaffirms that:

- every child is unique and a supremely important national asset
- special measures and affirmative action are required to diminish or eliminate conditions that cause discrimination
- all children have the right to grow in a family environment, in an atmosphere of happiness, love and understanding
- families are to be supported by a strong social safety net in caring for and nurturing their children

The Department of Women and Child Development was set up in the Ministry of Human Resource Development in 1985. This department besides ICDS, implements several

other programmes, undertakes advocacy and inter-sectoral monitoring catering to the needs of women and children. In pursuance of this, the Department formulated a National Plan of Action for Children in 1992.

The Government of India ratified the Convention on the Rights of the Child on 12 November 1992. By ratifying the Convention on the Rights of the Child, the Government is obligated "to review National and State legislation and bring it in line with provisions of the Convention". The Convention revalidates the rights guaranteed to children by the Constitution of India, and is, therefore, a powerful weapon to combat forces that deny these rights.

The Ministry of Women and Child Development has the nodal responsibility of coordinating the implementation of the Convention. Since subjects covered under the Articles of the Convention fall within the purview of various departments/ ministries of the Government, the Inter-Ministerial Committee set up in the Ministry with representatives from the concerned sections monitor the implementation of the Convention.

At the provincial level

The State Governments have to assimilate - in letter and spirit - the articles of the Convention on the Rights of the Child into their State Plans of Action for Children. A number of schemes for the welfare and development of children have been strengthened and refined with a view to ensuring children their economic, political and social rights. The Convention has been translated into most of the regional languages for dissemination to the masses.

Networking with experts and NGOs

The mobilisation and greater involvement of NGOs in programmes for the development of children and women has increased the potential to accelerate the development process in achieving the national goals for children, as outlined in the National Plan of Action. Accordingly, their involvement in dissemination of information of children's rights as well as in preparation of the Country Report was considered vital by the Government.

Indian Constitutional provisions:

Article 15 Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

1. The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them
2. No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to
 - a) access to shops, public restaurants, hotels and palaces of public entertainment; or

- b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public
3. Nothing in this article shall prevent the State from making any special provision for women and children
4. Nothing in this article shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

Article 21 Protection of life and personal liberty

No person shall be deprived of his life or personal liberty except according to procedure established by law.

Article 23 Prohibition of traffic in human beings and forced labour

1. Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.
2. Nothing in this article shall prevent the State from imposing compulsory service for public purpose, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

Article 24 Prohibition of employment of children in factories, etc.

No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Article 39 Certain principles of policy to be followed by the State

The State shall, in particular, direct its policy towards securing

- (a) that the citizen, men and women equally, have the right to an adequate means of livelihood
- (b) that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good
- (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment
- (d) that there is equal pay for equal work for both men and women
- (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength
- (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Article 45 **Provision for free and compulsory education for children**

The State shall endeavor to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

Introduction (from Bills of Right Comparative Law Materials):

The rights of children are protected by the fundamental rights and freedoms and also have been covered under the Directive Principles of State Policy. Important among these are Article 24 (Right against exploitation) provides that no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any hazardous employment; Article 39 (f) states that the State shall, in particular, direct its policies towards securing that children are given opportunities and facilitates to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment and under Article. 45, the State must endeavour to provide, within the period of 10 years from the commencement of the constitution, free and compulsory education for all the children until they complete the age of 14 years.

Cases:

1. **Joseph Valamangalam, Rev. Fr v. State of Kerala: [AIR 1958 Ker. 290]** Article 45 was held to be not justifiable, being only directive in nature. The Article does not confer legally enforceable right upon primary schools to receive grants-in-aid from the government.

2. **Peoples Union for Democratic Rights v. Union of India: [(1982) 3 SCC 235; AIR 1982 SC 1473]** Also known as the Asiad Workers case. The Supreme Court held that though the Employment of Children Act, 1938 did not include the construction work on projects because the construction industry was not a process specified in the Schedule to the Act, yet, such construction was a hazardous occupation and under Article 24 children under 14 could not be employed in a hazardous occupation. The right of a child against exploitation under Article 24 was enforceable even in the absence of implementing legislation, and in a public interest proceeding.

3. **Lakshmi Kant Pandey v. Union of India: [(1984) 2 SCC 244; AIR 1984 SC 469]** This is an extremely important case relating to the adoption of Indian children by persons inside and outside India. In the absence of legislation, the Supreme Court framed elaborate guidelines in the matter. There was no law to regulate inter-country adoptions and such lack of legal regulation could cause incalculable harm to Indian children. Considering the possibility of child trade for prostitution as well as slave labor, legal regulation of such adoptions was essential. Therefore, Justice Bhagwati created a scheme for regulating both inter-country and intra-country adoptions. The Supreme Court held that any adoption, in violation of or non-compliance with, may lead adoption to be declared invalid and expose person concerned with to strict action including

prosecution. For years, social activists have used these directions to protect children and promote desirable adoptions. The Government of India framed a national policy in this regard. Also Indian Council for Social Welfare v. State of A.P. [(1999) 6 SCC 365]

4. M.C.Mehta v. State of T.N.: [(1991) 1 SCC 283] The Supreme Court directed that children should not be employed in hazardous jobs in factories for manufacture of match boxes and fireworks, and positive steps should be taken for the welfare of such children as well as for improving the quality of their life.

5. M.C.Mehta v. State of T.N.: [(1996) 6 SCC 756; AIR 1997 SC 699] The Supreme Court directed that the employers of children below 14 years must comply with the provisions of the Child Labour (Prohibition and Regulation) Act providing for compensation, employment of their parents / guardians and their education. Also Bhandhua Mukti Morcha v. Union of India [(1997) 10 SCC 549; AIR 1997 SC 2218]

6. Gaurav Jain v Union of India: [(1997) 8 SCC 114; AIR 1997 SC 3021] The Supreme Court held that the children of the prostitutes have the right to equality of opportunity, dignity, care, protection and rehabilitation so as to be part of the mainstream of social life without any pre-stigma attached on them. The Court directed for the constitution of a committee to formulate a scheme for the rehabilitation of such children and child prostitutes and for its implementation and submission of periodical report of its Registry.

7. Sakshi v Union of India: [(1999) 8 SCC 591] In this Public Interest Litigation matter, the Supreme Court of India asked the Law Commission to consider certain important issues regarding sexual abuse of children submitted by the petitioner and the feasibility of amendment to 375 and 376 IPC.

Articles of UNCRC and other international instruments concerning child rights

What is Convention?

Convention may refer to

(1) Treaty, an agreement in International Law.

Whether Children need Rights?

YES, Children do need RIGHTS because:

- They are also human beings and their rights are Human Rights
- They are more vulnerable than adults to the conditions in which they live.
- In many societies, view persist that children are their parent's property, or are adults in the making, or are not yet ready to contribute to society.
- They are vulnerable to exploitation and abuse
- They are unheard many a times

Understanding Wants, Needs and Rights

- A need is something that is basic to being alive, for example, water, food, shelter, work, money.
- A want is something that you desire to have but don't have e.g. radio, TV, fancy clothes, cell phone etc.
- Wants and needs vary from person to person, but rights are common to all.
- All persons have rights irrespective of their age, caste, sex etc.
- Every child has rights. No matter which region/state they are from, which community or religion they belong to, how old they are, irrespective of their sex – all have same rights.
- All wants are not needs.
- Things that are WANTS but not NEED are called desirable but not necessary for survival (e.g. toys, games etc.).
- Rights are non-negotiable, they are legal entitlements recognized by Government.
- The Governments are the bearers of rights of children. They have an obligation to fulfill them.

Difference between Need and Rights Based Approaches

Needs Based Approach	Rights Based Approach
Children deserve help	Children are entitled for help
Government ought to do something	Government have binding legal and moral obligation

Children can participate so as to improve service delivery	Children are active participants in all matters concerning them
Given scarce resources, some children may have to be left out	All children have same rights to fulfill their potential
Each activity meets a set goal, but there is no unifying purpose	All activities contribute to an overarching goal
Certain groups have expertise to meet children's needs	All adults can play a role in achieving children's right
Focus is on the specific immediate situation	Analyses root cause

Evolution of Children's Rights and UNCRC

Year	Developments
1914-18	First World War
1919	Save the Children Fund
1924	League of Nations Concedes to Child Rights
1948	The Universal Declaration of Human Rights
1959	Acceptance of Right of the Child. It is the duty of Humanity to offer the best to every child
1978	Poland demanded for creation of Child Rights in the background of past and present situation of children
1979	International Children's Year. Committee on Child Rights Starts Functioning
1989	United Nations adopts Convention of Rights of the Child (UNCRC)
1990	World Leaders' Summit
1990	CRC – an International Law
1992	India Signs and ratified CRC
1997	India submitted First Country Report to UN Committee
2000	UN Committee reviews India's First Report

Articles on UNCRC

- The Convention on the Rights of the Child is the first legally binding international instrument to incorporate the full range of human rights – civil, cultural, economic, political and social rights.
- The Convention sets out these rights in 54 articles and two Optional Protocols.
- The cluster of rights of children covered by Convention are:
 1. Right to Survival
 2. Right to Development
 3. Right to Protection
 4. Right to Participation
- Every right spelled out in the Convention is inherent to the human dignity and harmonious development of every child.

- The Convention protects children’s rights by setting standards in health care; education; and legal, civil and social services.
- States parties to the Convention are obliged to develop and undertake all actions and policies in the light of the best interests of the child.

Given below are descriptions of some important Articles of UNCRC:

UNCRC Article	Title of the UNCRC Article	Detail
Article 1	(Definition of the Child)	A child means every human being below the age of 18 years unless under the law applicable to the child majority is attained earlier.
Article 3	(Best Interests of the child)	The best interests of the child must be a top priority in all actions concerning children.
Article 6	Survival and Development	Every child has the inherent right to life. Governments shall ensure the survival and development of the child.
Article 7	Registration, Name, Nationality, Care	Every child has the right to be registered immediately after birth, right to name and right to acquire Nationality.
Article 8	Preservation of Identity	Governments must respect and protect a child’s identity and prevent their name, nationality or family relationships from being changed unlawfully.
Article 9	Separation from Parents	Children must not be separated from their parents unless it is in the best interests of the child.
Article 11	Kidnapping and Trafficking	Governments must take steps to prevent children being taken out of their own country illegally or being prevented from returning.
Article 12	Respect for the Views of the Child	Every child who is capable of forming his/her own views has the right to express his/her views freely in all matters affecting them.
Article 13	Freedom of Expression	Every child must be free to seek, receive and impart information and ideas of all kinds either orally, in writing or in print or any other media of the child’s choice.
Article 16	Right to Privacy	Every child has the right to privacy. The law should protect the child’s private, family and home life.
Article 19	Protection from All Forms of Violence	Governments must take all appropriate legislative, administrative, social and educational measures to protect child from all forms of physical and mental violence, injury or abuse.

Article 20	Children Deprived of A Family	The State Govt. shall provide special protection and assistance to those children who are temporarily or permanently deprived of his/her family environment.
Article 21	Adoption	The Govt. shall ensure the best interest of the child as paramount consideration before declaring the child free for adoption.
Article 23	Children with Disability	A child with a disability has the right to live a full and decent life in conditions that promote dignity, independence and an action role in the community.
Article 24	Health and Health Services	Every child has the right to the best possible health.
Article 26	Social Security	Governments must provide extra money for the children of families in need.
Article 28	Right To Education	Every child has the right to an education. Primary education must be free. Secondary education must be available to every child.
Article 30	Children of Minorities	Every child has the right to learn and use the language, customs and religion of their family whether or not these are shared by the majority of the people in the country.
Article 31	Leisure, Play and Culture	Every child has the right to relax, play and join in a wide range of cultural and artistic activities.
Article 33	Drug Abuse	Governments must protect children from the use of illegal drugs.
Article 34	Sexual Exploitation	Governments must protect children from sexual abuse and exploitation.
Article 35	Abduction	Governments must ensure that children are not abducted or sold.
Article 36	Other Forms of Exploitation	Governments must protect children from all other forms of exploitation that might harm them.
Article 37	Detention	No child shall be tortured or suffer from cruel treatment or punishment. Children must not be put in a prison with adults and they must be able to keep in contact with their family.
Article 39	Rehabilitation of Child Victims	Children who are neglected, abused, exploited, tortured or who are victims of war must receive special help to recover their health, dignity and self-respect.
Article 40	Juvenile Justice	A child accused or guilty of breaking the law must be treated with dignity and respect.
The Convention has 54 articles in total. Articles 43-54 are about how adults and governments must work together to make sure all children get all their rights.		

Optional Protocols to UNCRC

In 2000 the General Assembly of United Nations adopted the two Optional Protocols (OPs) to the Convention to increase the protection of children from involvement in armed conflicts and from sexual exploitation.

1. Optional Protocol on the Involvement of Children in Armed Conflict

The state shall take measure to ensure that no child below the age of 18 shall be directly involved in hostilities, are not subjected to compulsory recruitment into armed forces, and if voluntary recruitment of persons under 18 does take place then certain requirements must be met. India signed the OP on 15 Nov 2004 and ratified it on the 30 Nov 2005.

2. Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography

The OP calls for the state to take measures to ensure the prohibition and prevention of sale of children, child prostitution and child pornography. States are required to alter the penal code, or create new acts to make sure their legal system covers a minimal number of provisions such as taking a child for the sale if his/her organs, for the purpose of employment, for the purpose of prostituting the child, etc. Each state is required to submit a report two years after having ratified this OP. India signed the OP on 15 Nov 2004 and ratified it on the 16 Aug 2005.

3. Third Optional Protocol to the Convention on the Rights of the Child on a communications procedure (OP3CRC)

The OP will allow individual children to submit complaints regarding specific violations of their rights under the Convention and its first two optional protocols. The Protocol opens for signature in 2012 and will enter into force upon ratification by 10 UN Member States.

All States parties are obliged to submit regular reports to the Committee on how the rights are being implemented. States must report initially two years after acceding to the Convention and then every five years. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of "concluding observations".

UN Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), 1985

The UN Standard Minimum Rules for the Administration of Juvenile Justice are not specific to education, but apply to the juvenile justice system. The Minimum Rules state that juvenile justice systems should:

1. "Emphasize the well-being" of young people and ensure that any reactions should always be in proportion to the circumstances of both the offenders and the offence
2. Encourage the use of diversion programmes which remove young people from the criminal justice process and implement supportive or community services
3. Ensure the right to privacy and procedural safeguards including presumption of innocence
4. Ensure that proceedings are conducive to the best interests of the child and that young people have the opportunity to participate and express themselves freely;
5. Use inquiry reports on social, family, and educational background to identify and provide appropriate social services;
6. Avoid institutionalization as much as possible by using other measures such as counselling, probation or community services;
7. Use institutionalization only as a last resort; and
8. Focus the goal of institutionalization on assisting young people in becoming productive members of society.

United Nations Guidelines for the Prevention of Juvenile Delinquency ("The Riyadh Guidelines"), 1990

1. The prevention of juvenile delinquency is an essential part of crime prevention in society. By engaging in lawful, socially useful activities and adopting a humanistic orientation towards society and outlook on life, young people can develop non-criminogenic attitudes.
2. The successful prevention of juvenile delinquency requires efforts on the part of the entire society to ensure the harmonious development of adolescents, with respect for and promotion of their personality from early childhood.
3. For the purposes of the interpretation of the present Guidelines, a child-centered orientation should be pursued. Young people should have an active role and partnership within society and should not be considered as mere objects of socialization or control.
4. In the implementation of the present Guidelines, in accordance with national legal systems, the well-being of young persons from their early childhood should be the focus of any preventive programme.
5. The need for and importance of progressive delinquency prevention policies and the systematic study and the elaboration of measures should be recognized. These should avoid criminalizing and penalizing a child for behaviour that does not cause serious damage to the development of the child or harm to others.
6. The provision of opportunities, in particular educational opportunities, to meet the varying needs of young persons and to serve as a supportive framework for safeguarding the personal development of all young persons, particularly those who are demonstrably endangered or at social risk and are in need of special care and protection.
7. Specialized philosophies and approaches for delinquency prevention, on the basis of laws, processes, institutions, facilities and a service delivery network

aimed at reducing the motivation, need and opportunity for, or conditions giving rise to, the commission of infractions.

8. Official intervention to be pursued primarily in the overall interest of the young person and guided by fairness and equity.
9. Safeguarding the well-being, development, rights and interests of all young persons.
10. Consideration that youthful behaviour or conduct that does not conform to overall social norms and values is often part of the maturation and growth process and tends to disappear spontaneously in most individuals with the transition to adulthood.
11. Awareness that, in the predominant opinion of experts, labeling a young person as “deviant”, “delinquent” or “pre-delinquent” often contributes to the development of a consistent pattern of undesirable behaviour by young persons.
12. Community-based services and programmes should be developed for the prevention of juvenile delinquency, particularly where no agencies have yet been established. Formal agencies of social control should only be utilized as a means of last resort.

United Nations Convention on the Rights of Persons with Disabilities, 2006

- The Convention on the Rights of Persons with Disabilities and its Optional Protocol was adopted on 13 December 2006. The Convention entered into force on 3 May 2008.
- The Convention is a movement from viewing persons with disabilities as “objects” of charity, medical treatment and social protection towards viewing persons with disabilities as “subjects” with rights, who are capable of claiming those rights and making decisions for their lives based on their free and informed consent as well as being active members of society.
- The Convention is intended as a human rights instrument with an explicit, social development dimension. It adopts a broad categorization of persons with disabilities and reaffirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms. It clarifies and qualifies how all categories of rights apply to persons with disabilities and identifies areas where adaptations have to be made for persons with disabilities to effectively exercise their right and areas where their rights have been violated, and where protection of rights must be reinforced.

The Hague Convention on Inter-country Adoption, 1993

The Hague Convention on Inter-country Adoption is an international agreement between participating countries on best adoption procedures.

These procedures have basically two goals in mind:

- The best interest of children is considered with each inter-country adoption.
- The prevention of abduction, exploitation, sale, or trafficking of children.

The guidelines and procedures that are set forth in the Hague Convention are also for the protection of birth families, as well as adoptive families. Part of the Convention's guidelines ensures the one Central Authority in each country so that adoptive parents get the most accurate information regarding adoption.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979

It was adopted by the UN General Assembly as an international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination.

By accepting the Convention, States commit themselves to undertake a series of measures to end discrimination against women in all forms, including:

- To incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women; to establish tribunals and other public institutions to ensure the effective protection of women against discrimination; and
- To ensure elimination of all acts of discrimination against women by persons, organizations or enterprises.

The Convention provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life – including the right to vote and to stand for election – as well as education, health and employment.

States parties agree to take all appropriate measures, including legislation and temporary special measures, so that women can enjoy all their human rights and fundamental freedoms.

The Convention is the only human rights treaty which affirms the reproductive rights of women and targets culture and tradition as influential forces shaping gender roles and family relations. It affirms women's rights to acquire change or retain their nationality and the nationality of their children. State parties also agree to take appropriate measures against all forms of traffic in women and exploitation of women.

Declaration of the Rights of the Child, 1959

The General Assembly proclaimed the Declaration of the Rights of the Child to the end that the children may have a happy childhood and enjoy for their own good and for the good of society the rights and freedoms herein set forth, and calls upon parents, upon men and women as individuals, and upon voluntary organizations, local authorities and national Governments to recognize these rights and strive for their observance by legislative and other measures progressively taken.

1. The child must be given the means requisite for its normal development, both materially and spiritually;
2. The child that is hungry must be fed; the child that is sick must be nursed; the child that is backward must be helped; the delinquent child must be reclaimed; and the orphan and the waif must be sheltered and succored;
3. The child must be the first to receive relief in times of distress;
4. The child must be put in a position to earn a livelihood, and must be protected against every form of exploitation;
5. The child must be brought up in the consciousness that its talents must be devoted to the service of fellow men.

Basic principles on the use of restorative justice programmes in criminal matters

“Restorative process” means any process in which the victim and the offender, and, where appropriate, any other individuals or community members affected by a crime, participate together actively in the resolution of matters arising from the crime, generally with the help of a facilitator. Restorative processes may include mediation, conciliation, conferencing and sentencing circles.

Recalling that there has been, worldwide, a significant growth of restorative justice initiatives, Recognizing that those initiatives often draw upon traditional and indigenous forms of justice which view crime as fundamentally harmful to people, Emphasizing that restorative justice is an evolving response to crime that respects the dignity and equality of each person, builds understanding, and promotes social harmony through the healing of victims, offenders and communities, Stressing that this approach enables those affected by crime to share openly their feelings and experiences, and aims at addressing their needs, Aware that this approach provides an opportunity for victims to obtain reparation, feel safer and seek closure; allows offenders to gain insight into the causes and effects of their behaviour and to take responsibility in a meaningful way; and enables communities to understand the underlying causes of crime, to promote community wellbeing and to prevent crime, Noting that restorative justice gives rise to a range of measures that are flexible in their adaptation to established criminal justice systems and that complement those systems, taking into account legal, social and cultural circumstances, Recognizing that the use of restorative justice does not prejudice the right of States to prosecute alleged offenders.

United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), 1990

The basic principle are:

- The present standard minimum rules provide a set of basic principles to promote the use of non-custodial measures, as well as minimum safeguards for persons subject to alternatives to imprisonment

- The Rules are intended to promote greater community involvement in the management of criminal justice, specifically in the treatment of offenders, as well as to promote among offenders a sense of responsibility towards society.
- The Rules shall be implemented taking into account the political, economic, social and cultural conditions of each country and the aims and objectives of its criminal justice system.
- When implementing the Rules, Member States shall endeavour to ensure a proper balance between the rights of individual offenders, the rights of victims, and the concern of society for public safety and crime prevention.
- Member States shall develop non-custodial measures within their legal systems to provide other options, thus reducing the use of imprisonment, and to rationalize criminal justice policies, taking into account the observance of human rights, the requirements of social justice and the rehabilitation needs of the offender.

United Nations Rules for the Protection of Juveniles Deprived of their Liberty, 1990

An area of concern identified by the UN has been the treatment of children within state juvenile justice systems. Hence the UN drafted three documents of rules concerning child justice; the UN Standard Minimum Rules for the Protection of Juvenile Justice 1985 (the Beijing Rules), the UN Guidelines for the Administration of Juvenile Delinquency 1990 (the Riyadh Guidelines), and the UN Rules for the Protection of Juveniles Deprived of their Liberty 1990.

The main principles of these rules are:

- Depriving a child of his/her liberty should be a last resort and there should be a minimum period of deprivation set out by the state.
- Deprivation of children's right to liberty should follow the provisions and norms as laid out in international law
- The state should set up small open facilities where children can be tended to on an individual basis and hence avoid additional negative effects of deprivations of liberty
- The institutions should have adequate facilities and meaningful activities for children to promote their health, safety and responsibilities. It should also provide them with all necessary skill trainings to become responsible members of society
- Institutions should be decentralized to allow for children to continue having access to their families and community.
- Juveniles deprived of their liberty should be aided in understanding their rights and obligations.
- Personnel dealing with juveniles should have adequate training regarding child rights and welfare.
- Juvenile Justice Systems should be aimed at helping and benefiting the child so that he/she can return to society with a better understanding of rights and responsibilities.

ILO Convention No. 182 on the Worst Forms of Child Labour, 1999

Child labour, as the statistics clearly demonstrate, is a problem of immense global proportion. Following its comprehensive research into the issue, the ILO concluded that it was necessary to strengthen existing Conventions on child labour. Convention No. 182 helped to focus the international spotlight on the urgency of action to eliminate as a priority, the worst forms of child labour without losing the long term goal of the effective elimination of all child labour.

ILO Conventions No. 138 on the Minimum Age for Admission to Employment and Work, 1973

One of the most effective methods of ensuring that children do not start working too young is to set the age at which children can legally be employed or otherwise work. The main principles of the ILO's Convention concerning the minimum age of admission to employment and work are in the table below.

	The minimum age at which children can start work.	Possible exceptions for developing countries
Hazardous work Any work which is likely to jeopardize children's physical, mental or moral health, safety or morals should not be done by anyone under the age of 18.	18 (16 under strict conditions)	18 (16 under strict conditions)
Basic Minimum Age The minimum age for work should not be below the age for finishing compulsory schooling, which is generally 15.	15	14
Light work Children between the ages of 13 and 15 years old may do light work, as long as it does not threaten their health and safety, or hinder their education or vocational orientation and training.	13-15	12-14

ILO Declaration on Fundamental Principles and Rights at Work, 1998

Both Conventions Nos. 138 and 182 are fundamental Conventions, Under the ILO Declaration, even the member States that have not yet ratified these Conventions should respect, promote and realize the principles.

Relevance of UNCRC to Rights of Children

Right is something you have as a person, for example the right to an education, or the right to life. Every child, no matter who they are, where they live or what they believe in has the right to grow up safe, happy and healthy. In 1989, the world's leaders officially recognised the human rights of all children and young people under 18 by signing the [UN Convention on the Rights of the Child](#). The UNCRC is an agreement between countries which sets out the basic rights all children should have. Almost every country in the world apart from the United States and Somalia has signed the agreement.

A common approach is to group the articles of UNCRC together under the following themes:

1. **Right to Survival:** include the child's right to life and the needs that are most basic to existence, such as nutrition, shelter, an adequate living standard, and access to medical services.
2. **Right to Development:** include the right to education, play, leisure, cultural activities, access to information, and freedom of thought, conscience and religion.
3. **Right to Protection:** ensure children are safeguarded against all forms of abuse, neglect and exploitation, including special care for refugee children; safeguards for children in the criminal justice system; protection for children in employment; protection and rehabilitation for children who have suffered exploitation or abuse of any kind.
4. **Right to Participation:** encompass children's freedom to express opinions, to have a say in matters affecting their own lives, to join associations and to assemble peacefully. As their capacities develop, children should have increasing opportunity to participate in the activities of society, in preparation for adulthood.

The UNCRC includes 42 rights given to all children and young people. Five important rights are:

- The right to a **childhood** (including protection from harm)
- The right to be **educated** (including all girls and boys completing primary school)
- The right to be **healthy** (including having clean water, nutritious food and medical care)
- The right to be treated **fairly** (including changing laws and practices that are unfair on children)
- The right to be **heard** (including considering children's views)

It's the most complete statement of children's rights ever produced and is the most widely-ratified international human rights treaty in history.

These are our rights and together we must make sure that every child and young person in India and across the world has the opportunity to grow up in a safe, happy,

clean and healthy environment. The respective governments must report to the United Nations on the progress it has made in meeting the rights outlined in the UNCRC.

Rights-based approach in working with children

Rights-based national child protection systems

The building and strengthening of rights-based national child protection systems will lead to holistic, sustainable and well-coordinated ways of protecting all children.

An effective National Child Protection System recognizes the state's ultimate responsibilities and human rights obligations to children. It consists of:

- Laws and policies that protect children from abuse, neglect, exploitation and violence and respond in the best interests of the child when violations occur.
- A Central Government coordination mechanism for child protection, bringing together Central Government departments, different provinces, central and local levels of government and civil society.
- Effective regulation and monitoring at all levels of child protection standards, for instance, in child care institutions and schools.
- A committed working with relevant competencies and mandates.

A functioning child protection system is informed by children's views and experiences and strengthens families in the care and protection of their children. It connects child and family support mechanisms in the community with child-friendly services at all levels, regulated by quality standards and delivered by the government or accredited social agencies.

Components of national child protection systems

A rights-based National Child Protection System is made up of components that, work together to strengthen the protective environment around each child and his or family.

- Child protection laws and policies, including customary law, are all compliant with the UNCRC and other international and regional standards and good practice, and a plan of action exists to prevent, protect and respond to all forms of violence against children.
- There are coordination mechanisms across government, with civil society, human rights bodies and mechanisms, International organisations and between sectors at different level, with a framework for reporting and referral of child protection issues for each agency involved in working with children's rights and wellbeing, in emergency as well as development context.
- A centralized data collection system ensures regular information on both prevalence and knowledge of child protection issues and good practices.
- Services and responses are effectively regulated, including through accreditation and licensing of care providers, enforced minimum standards of care institutions and independent oversight of these.
- There is a range of preventive and responsive child-friendly services that recognize the need to support and strengthen the role of families in the care and

protection of their children and which can intervene when families are unable or unwilling to fulfill their role appropriately.

- A skilled and committed child protection workforce has the mandate to respond effectively to issues faced by children, their families and communities.
- Adequate and appropriate resource allocation underpins effective children's and family services at all levels, including within the child's community.
- Children have genuine opportunities to express their views and be involved in responses and interventions deployed to protect them and in the development of policies and services relevant to their protection and the fulfillment of their rights.
- An aware and supportive public is engaged and involved in efforts to prevent harm to children and respond to child protection issues in their communities and neighbourhoods and in wider society.

Guiding principles of rights-based child protection system

A child protection system that truly promotes children's rights and wellbeing is based on the Government's obligations to respect, protect and fulfill children's right to protection and is guided by the following principles:

- Everyone has the right to participation (especially children, families and communities)
- Non-discrimination and inclusion of all children (especially groups who are discriminated against – such as girls, children with disabilities and those of minority ethnic background), regardless of their or their parents' legal identity and residency status.
- Every child is treated with dignity and respect
- Sensitivity to children's ages and their stage of development, recognising children's individuality and differences
- An absolute focus on the child and the promotion of the child's best interests is the primary consideration
- The system builds on the strengths of children, families and communities
- There is an emphasis on prevention as well response, with a focus on supporting the role and responsibilities of parents and caregivers
- Evidence of how children of different ages, gender and background are affected by violence, abuse, exploitation and neglect, ensuring that services and interventions are reviewed regularly, respond to needs and are proven to work in the long term
- Mandates, responsibilities, standards and systems of supervision are established to ensure compliance
- It is contextualized to the cultural, social, political situation. Positive aspects of traditional practices must be integrated into child protection policies and structures, while addressing aspects that hinder child protection

Rights-based Monitoring and Evaluation

Monitoring and evaluation can be undertaken for a range of purposes, including:

- To measure impact, outputs, efficiency, effectiveness or change;
- To strengthen accountability;
- To facilitate organisational learning; to strengthen partnerships and team building; to support advocacy efforts; or
- To influence an organisation's culture.

Reporting mechanisms

The UNCRC reporting mechanism

The UNCRC is monitored through a system of reporting by States Parties to the Committee on the Rights of the Child. Each State Party is required to submit a report two years after ratification of the Conventions. Progress reports are required every five years after that. The Committee may also request a complementary report or additional information between these periods. All States Parties from South Asia have submitted their initial reports to the Committee.

Committee on the Rights of the Child

- The Committee is composed of 18 independent experts who are elected in their personal capacity to four-year terms by States Parties.
- The Committee is responsible for examining the progress made by States Parties in fulfilling their obligations under the Convention and the Optional Protocols.
- The mechanism for addressing individual complaints under the UNCRC, once introduced, will help those children whose voices are not heard by the national authorities.

Essential elements of State Party reporting

- Cooperation with civil society organisations.
- Awareness and dissemination of reports.
- National human rights institutions.
- States Parties are expected to provide detailed information on their budgetary allocations for implementation of Child Rights.

(Source: Save the Children)

The status of reporting system of UNCRC can be seen in the Ministry of Women and Child Development website www.wcd.nic.in .

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 salient features of POCSO Act, 2012
- To enable participants to understand the different types of sexual offences and appropriate punishments for the same

Methodology: Presentation, lecture and discussion

Material Required:

Projector, computer, soft copy/hard copy of the concerned presentation, flip chart and marker.

Duration: 2 hours 30 minutes

Instructions:

- Evaluate the pre training assessment questionnaire which was given to the participants on the day 1 to know the knowledge of the participants on POCSO Act.
- Also ask the participants to share what they know on the provisions and components of the Act.
- Quickly write the responses of the participants on flip chart/white board.
- Taking relevant information given by the participants, use power point presentation to explain additional contents and to lead the discussion.
- Emphasize issues of the state which the participants represent (use media report as referral point).
- Quickly analyze the responses and presentation with discussion
- Keep track of time and wind up the session.

Tips for the Facilitators/Resource Persons:

- This session is meant to make the participants understand the provisions, procedures and punishments given in POCSO Act/Rules.
- As this is theoretical session try to seek as much participation as possible
- Link the participants view points with the available literature
- Read/Review the slides carefully before conducting the session.
- Have updated data and knowledge on the topic.
- Keep track of the time as it is an extensive session with limited time.

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, bodily 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:

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

3	<p>Section 7 Sexual Assault With sexual intent touching the private parts of a child</p>	<p>Section 8 Not less than three years of imprisonment which may extend to five years, and fine</p>
4	<p>Section 9 Aggravated Sexual Assault</p> <p>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>Section 10 Not less than five years of imprisonment which may extend to seven years, and fine (Section 10)</p>
5	<p>Section 11 Sexual Harassment of the Child With sexual intent:</p> <ul style="list-style-type: none"> • showing any object/body part, or • making any gesture aimed at a child • making a child exhibit her body • enticing or threatening to use a child for pornography 	<p>Section 12 Up to three years of imprisonment and fine</p>
6	<p>Section 13 Use of Child for Pornographic Purposes</p>	<p>Section 14 (1) Imprisonment up to five years and fine and in the event of subsequent conviction, up to seven years and fine</p>
7	<p>Section 14 (2) Penetrative sexual assault by directly participating in pornographic acts</p>	<p>Section 14 (2) Not less than ten years of imprisonment, which may extend to imprisonment for life, and fine</p>
8	<p>Section 14 (3) Aggravated penetrative sexual assault by directly participating in pornographic acts</p>	<p>Section 14 (3) Rigorous imprisonment for life and fine</p>
9	<p>Section 14 (4) Sexual assault by directly participating in pornographic acts</p>	<p>Section 14 (4) Not less than six years of imprisonment which may extend to eight years, and fine</p>
10	<p>Section 14 (5) Aggravated sexual assault by directly participating in pornographic acts</p>	<p>Section 14 (5) Not less than eight years of imprisonment which may extend to ten years, and fine</p>
11	<p>Section 15 Storage of pornographic material involving a child for commercial purposes</p>	<p>Section 15 Three years of imprisonment and / or fine</p>

12	<p>Section 21 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)</p>	<p>Section 21 (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.</p>
13	<p>Section 22 (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)</p>	<p>Section 22 (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.</p>

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

Technical Session III: Communicating to Children about Sexuality

Learning Objectives:

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

Methodology: Presentation, lecture and discussion

Material Required:

Projector, computer, soft copy/hard copy of the concerned presentation, flip chart and marker.

Duration: 1 hour 45 minutes

Instructions:

- Show the slides on the topic.
- Ask the participants to share the situation of children in their area/region/state.
- Ask the participants about the categories of vulnerable children.
- Clarify the categories of vulnerable children with the help of slides.
- Discuss the issues related to vulnerable children with participants.
- Discuss on the safeguards for protection of children.
- Also discuss on the significance of the need to talk to children about sexuality.
- Use power point presentation to lead the discussion.
- Emphasize issues of the state which the participants represent (use media report as referral point).
- Quickly write the responses of the participants on flip chart/white board.
- Quickly analyze the responses and presentation with discussion.
- Keep track of time and wind up the session.

Tips for the Facilitators/Resource Persons:

- This session is meant to make the participants understand the situation and condition of children in various parts of India and the types and causes of their vulnerability and also the significance of the need to talk to children about sexuality.
- As this is theoretical session try to seek as much participation as possible.
- Link the participants view points with the available literature.
- Read/Review the slides carefully before conducting the session.
- Have updated data and knowledge on situation of children in India.
- Keep track of the time as it is an extensive session with limited time.

Reference Material for Technical Session III

CONTENTS

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

Significance of the need to talk to children attending educational institutions 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 engaged 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 counselor 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 counselor find effective ways to provide the facts about sex, sexual health, and the physical changes the child may be going through.

Defining sexual abuse with its root causes

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***

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.

- Counselors 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.

'Good Touch' and 'Bad Touch'

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 counselor, 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 counselor 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 has 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 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 and skill building on reproductive and sexual health including HIV/AIDS/STIs (Sexually Transmitted Infections)

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 Techniques¹

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.

¹ This section draws from the IASC Training Manual on Caring for Survivors, United Nations International Children's Fund (UNICEF). (2010).

- 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.
- 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 want 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 IV: Role of Faculty of Educational Institutions in Implementation of POCSO Act and Rules, 2012

Learning Objectives:

- To develop an understanding of role of Educational Institutions in implementation of POCSO Act and Rules, 2012
- To sensitize the participants on the procedures laid down in the Act, 2012

Methodology: Presentation, lecture and discussion

Material Required:

Projector, computer, soft copy/hard copy of the concerned presentation, flip chart and marker

Duration: 2 hours

Instructions:

- Ask the participants about their roles as faculty of educational institutions
- Quickly write their responses on the flip chart
- Ask them to prioritize their responses
- Clarify the responses with the help of power point presentation referring the POCSO Act and Rules
- Ask the participants what mechanism they follow to review the cases.
- Appreciate their responses and clarify with presentation.
- Wind up the session by answering the relevant queries.

Tips for the Resource Persons:

- This session is important to make the participants clarify their roles as faculty of educational institutions as per the POCSO Act 2012.
- Encourage the participants to share their experiences while dealing with cases
- As this session would be relying heavily on the knowledge of facilitation and legal aid services, the resource person must be well-versed with all these issues specified in the Act.
- Read the slides carefully before conducting the session
- Keep a track of the time as it is an extensive session

Reference Material for Technical Session IV

CONTENTS

Role of Faculty of Educational Institutions in POCSO Act:

- Educational institutions have a positive role to play in the effective implementation of the Act, 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.
- Scientific way of analyzing cause and effect of sexual abuse in the society.

Role of faculty of educational institutions

Legal Provisions framed under the POCSO Act, 2012:

Section 5(f) states, *“whoever being on the management or staff of an educational institution or religious institution, commits penetrative sexual assault on a child in that institution” is said to commit aggravated penetrative sexual assault.*

Section 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.

Section 9(f) states, *“whoever being on the management or staff of an educational institution or religious institution, commits sexual assault on a child in that institution” is said to commit aggravated sexual assault.*

Section 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.

Section 21(2)-Punishment for failure to report or record a case

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.

Sub-section (1) of section 19-Reporting of offences

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, 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.

Role of Educational Institutions in POCSO Act:

- Educational institutions have a positive role to play in the effective implementation of the Act in
 - ✓ raising public awareness on children's rights
 - ✓ disseminating a new culture of child-adult relationships
 - ✓ 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

- Educational institutions have also the responsibility of scientific way of analyzing cause and effect of sexual abuse in the society.

Technical Session V: Developing a strong system of initiating action against abusers in case of abuse and monitoring preventive measures in educational institutions

Learning Objectives:

- To develop participants understanding on preventive and rehabilitation measures and action to be taken in case of child sexual abuse taking place in educational institutions

Methodology: Presentation, lecture and discussion

Material Required:

Projector, computer, soft copy/hard copy of the concerned presentation, flip chart and marker.

Duration: 1 hour 15 minutes

Instructions:

- Ask the participants to share what they know on child sexual abuse, its effect on children and interventions required for the same.
- Also discuss with the participants from educational institutions on the initiatives taken by them in developing a system to take action against child (sexual) abusers and how they monitor preventive measures of such abuses in institutions.
- Quickly write the responses of the participants on flip chart/white board.
- Show the slides on the topic
- Taking relevant information given by the participants, use power point presentation to explain additional contents and to lead the discussion.
- Emphasize issues of the state which the participants represent (use media report as referral point).
- Quickly analyze the responses and presentation with discussion
- Keep track of time and wind up the session.

Tips for the Facilitators/Resource Persons:

- This session is meant to make the participants understand child sexual abuse, trauma faced by them, its effect and the interventions required to bring the victims back to normal life.
- This session is also meant to make the participants aware of the monitoring mechanisms to be put in place in educational institutions when such abuses take or going to take place.
- The session also aims to inform participants about the necessity of developing a strong system of initiating action against abusers in case of abuse.
- As this is theoretical session try to seek as much participation as possible

- Link the participants view points with the available literature
- Read/Review the slides carefully before conducting the session.
- Have updated data and knowledge on the topic.
- Keep track of the time as it is an extensive session with limited time.

Reference Material for Technical Session V

CONTENTS

- Current measures to combat child abuse like POCSO Act, 2012 and JJ Act, 2000
- Need for preventive measures
- Institutional-based child sexual abuse preventive programs
- Action to be taken against abusers in institutions

Current measures to combat child abuse like POCSO Act, 2012 and JJ Act, 2000

In India, Child Abuse occurs in various spaces including the home, neighbourhood, schools, and temporary homes of shelter for abandoned and neglected children, railway platforms, jails and refugee camps. The problem is deep rooted and is one that the community is hesitant to accept and acknowledge. Fifty three per cent of children in India face some form of child sexual abuse. The need for stringent law has been felt many times. Child sexual abuse laws in India have been enacted as part of the nation's child protection policies.

List of Domestic Policies and Legislations

Policies/Programmes

- National Policy on Education, 1986
- National Policy on Child Labour, 1987
- National Nutrition Policy, 1993
- Report of the Committee on Prostitution, Child Prostitutes and Children of Prostitutes and Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children, 1998
- National Health Policy, 2002
- National Charter for Children, 2004
- National Plan of Action for Children, 2005
- The Integrated Child Protection Scheme, 2009
- National Policy for Children, 2013

Legislations

- Indian Penal Code, 1860
- Guardian and Wards Act, 1890
- Hindu Adoption and Maintenance Act, 1956
- Probation of Offenders Act, 1958
- Orphanages and Other Charitable Homes (Supervision and Control) Act, 1960
- Bonded Labour System (Abolition) Act, 1976
- Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1987
- Immoral Traffic Prevention Act, 1986
- Child Labour (Prohibition and Regulation) Act, 1986
- Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994
- Persons with Disabilities (Equal Protection of Rights and Full Participation) Act, 2000
- Juvenile Justice (Care and Protection of Children) Act, 2000
- The Information Technology Act, 2000
- Commissions for Protection of Child Rights Act, 2005

- Prohibition of Child Marriage Act, 2006
- Protection of Children from Sexual Offences Act, 2012

Existing Constitutional and Legal Framework

Domestic Legal Provisions **Constitutional Basis**

The Constitution of India is a living, dynamic constitution which ensures to all its citizens certain values enshrined therein.

- Article 14: The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India;
- Article 15: The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them;
- Article 15 (3): Nothing in this article shall prevent the State from making any special provision for women and children;
- Article 19(1) (a): All citizens shall have the right (a) to freedom of speech and expression;
- Article 21: Protection of life and personal liberty-No person shall be deprived of his life or personal liberty except according to procedure established by law;
- Article 21A: Free and compulsory education for all children of the age of 6 to 14 years;
- Article 23: Prohibition of traffic in human beings and forced labour-(1) Traffic in human beings and beggars and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law;
- Article 24: Prohibition of employment of children in factories, etc. - No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment;
- Article 39: The state shall, in particular, direct its policy towards securing: (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter vocations unsuited to their age or strength; (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

International Legal Provisions

India is signatory to a host of International Covenants and Instruments focussing on Child Protection, inter alia

- UN Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), 1985 which endeavour to provide a stabilising environment to a

juvenile and a juvenile in conflict with the law so as to reduce and reform delinquent behaviour.

- United Nations Convention on the Rights of the Child, 1989 – A Convention which states that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration and appropriate legislative, administrative, social and educational measures are taken to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child . India ratified the UNCRC in 1992.
- Optional protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2002)
- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (2002)
- SAARC Convention on Prevention and Combating Trafficking in Women and Children for Prostitution (2002) emphasizes that the evil of trafficking in women and children for the purpose of prostitution is incompatible with the dignity and honour of human beings and is a violation of basic human rights of women and children
- SAARC Convention on Regional Arrangements on the Promotion of Child Welfare in South Asia (2002), which recognises survival, protection, development and participatory rights of the child as a vital pre-requisite, and promotes solidarity, cooperation and collective action between SAARC countries in the area of child rights In 2007, India ratified the UN Convention on the Rights of Persons with Disabilities (UNCRPD), and committed itself to the rights of PWDs, including the rights of children with disabilities
- The Stockholm Declaration and Agenda for Action, 1996 reaffirmed by the Dhaka 8 Consultation

The latest legislation in India covering child abuse is the Protection of Children from Sexual Offences Act, 2012. The Act defines various forms of sexual offences including:

- ✓ Penetrative Sexual Assault
- ✓ Sexual Assault
- ✓ Sexual Harassment
- ✓ Use of child for pornographic purposes

The reality of the issue however, belies the existence of such systems and legislations. Moreover, the existing mechanisms, particularly ones dealing with sexual abuse, give detailed procedures on the handling of a case post occurrence; very few if any deal with prevention.

Legislation passed before the 2012

Goa Children's Act, 2003, was the only specific piece of child abuse legislation before the 2012 Act. Child sexual abuse was prosecuted under the following sections of Indian Penal Code:

- I.P.C. (1860) 375- Rape
- I.P.C. (1860) 354- Outraging the modesty of a woman
- I.P.C. (1860) 377- Unnatural offences
- I.P.C. (1860) 511- Attempt

However, the IPC could not effectively protect the child due to various loopholes like:

- IPC 375 doesn't protect male victims or anyone from sexual acts of penetration other than "traditional" peno-vaginal intercourse.
- IPC 354 lacks a statutory definition of "modesty". It carries a weak penalty and is a compoundable offence. Further, it does not protect the "modesty" of a male child.
- In IPC 377, the term "unnatural offences" is not defined. It only applies to victims penetrated by their attacker's sex act, and is not designed to criminalize sexual abuse of children.

Current Measures to Combat/Prevent Child Abuse

There are certain laws, rules and programs in place currently which contain preventive strategies. Some of them are listed below

Specific Preventive Measures within Child Protection Laws

The Protection of Children from Sexual Offences Act & Rules, 2012

While, this Act comprehensively deals with all manner of sexual offences, reporting mechanisms and subsequent penal consequences, very few parts of it look only at preventive measures. Section 19 is worth mentioning here as it makes it mandatory upon any person who has an apprehension that an offence is likely to be committed, to report the same to the SJPU or the local police

- i. Section 19 (1): Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any person (including the child), who has an 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
- ii. Section 19 (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)
- iii. Rule 4 (3) : Where the SJPU or 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.

The Juvenile Justice (Care & Protection of Children) Act 2000 and Delhi Rules 2009 –

Specific preventive provisions

- Segregation of children in residential facilities according to their age
- Provisions to create effective linkages between government, non-government organisations and community agencies. It also envisions using the NIPCCD for training and development
- Standards of care for the physical infrastructure in place
- Ensuring there is adequate, high quality mental health therapy and that the environment should be free of abuse

- Individualized attention to children by developing and monitoring an individual care plan for each child
- Establishing Management Committees and Children's Committees to document the concerns of children and report them. Children's Committees also encourage peer sharing and learning
- Prevention of abuse and ensuring the staff are aware of what constitutes abuse and how to respond effectively
- Inspection committees to ensure institutions are maintaining the mechanisms under the Act
- State and District Child Protection Units to ensure the effective implementation of the Act
- Duties, role and responsibilities of the staff including their training

The Right of Children to Free and Compulsory Education Act, 2009

While the RTE Act does not deal with the question of Child Abuse in particular, it is evident that children must be protected in order to fully partake of a quality education process. The Act also states that the NCPCR or SCPCR as the case may be, shall mandatorily discharge their functions as prescribed under the Commission for Protection of Child Rights Act, 2005 as well as certain other functions. The RTE Act prohibits “physical punishment” and “mental harassment”. School Management Committees also play an important role in monitoring the school and child rights violations by bringing to the notice of the local authority any deviation from the rights of the child, in particular mental & physical harassment of children.

The Integrated Child Protection Scheme

This is a central government sponsored scheme to significantly contribute to the realization of Government/State responsibility for creating a system that will efficiently and effectively protect children. It is based on cardinal principles of “protection of child rights” and “best interest of the child”. The ICPS' objectives are to contribute to the improvements in the well being of children in difficult circumstances, as well as to the reduction of vulnerabilities to situations and actions that lead to abuse, neglect, exploitation, abandonment and separation of children.

Adolescence Education Programme – MHRD

In April 1993, a National Seminar on Adolescence Education was organised by the NCERT with a view to evolving national consensus on the salient issues. As a follow-up of the recommendations of the Seminar, adolescence education was conceptualised as an educational intervention focusing on critical elements of adolescent reproductive and sexual health (ARSH) including HIV/AIDS and substance (drug) abuse. A comprehensive set of materials was introduced for the training and awareness of adolescents and the development of life skills was considered paramount to enable a child to deal with difficult situations and circumstances.

Guidelines for Eliminating Corporal Punishment in Schools

These guidelines deal with the issue of physical abuse and corporal punishment and suggest methods of eliminating such practices from schools. It also provides for certain mechanisms which hit at the root of the problem such as involving mental health 30 professionals to conduct workshops and guidelines for positive engagement with 31 children. Further, it envisions the creation of a Corporal Punishment Monitoring Cell 32 consisting of teachers, parents, doctors, lawyers and counsellors.

These are merely a few of the measures to prevent child sexual abuse. While the Acts and Rules are comprehensive enough to delve into the issue and describe detailed standards to be maintained, implementation is sadly lacking. Even though the standards contain a plethora of rules residential facilities, dietary requirements, class room infrastructure and sanitation, they do not refer specifically to measures of prevention.

Need for preventive measures

The Constitution of India guarantees several rights to children and enables the State to make provisions to ensure that the tender age of children is not abused. Even though India is a signatory to a host of International Covenants and Instruments focusing on Child Protection, these along with the existing domestic legal mechanisms have not been able to provide the necessary systems which could prevent child abuse. The 12th Five Year Plan (2011-2016) of the Ministry of Women & Child Development has unequivocally stated that “Strict measures are required to ensure that abuse of the child for sexual purposes is prevented”. The new National Policy for Children, 2013, recognizes that “childhood is an integral part of life with a value of its own”. One of the key priorities of the Policy mandates the State to “create a caring, protective and safe environment for all children, to reduce their vulnerability in all situations and to keep them safe at all places, especially public spaces” and “protect all children from all forms of violence and abuse, harm, neglect, stigma, discrimination, deprivation, exploitation including economic exploitation and sexual exploitation, abandonment, separation, abduction, sale or trafficking for any purpose or in any form, pornography, alcohol and substance abuse, or any other activity that takes undue advantage of them or harms their personhood or affects their development”.

Despite the best intentions and plans in place, as well as two comprehensive legislations for the protection of children, The Juvenile Justice (Care & Protection of Children) Act, 2000 and the Protection of Children from Sexual Offences Act 2012, instances of child abuse have been known to occur in our schools, homes for children and other child care institutions as also in the child's own residence. Of the total crimes against children in India, Delhi accounts for 11.6 per cent of crimes and 4.8 per cent of rape committed on children. It is in this context that in October, 2012, former Chief Minister of NCT of Delhi Smt. Sheila Dikshit had convened a meeting on the issue and, thereafter, a decision was taken for putting in place comprehensive guidelines for the prevention of child abuse which would address the occurrence of such instances in all institutions, whether residential or educational, religious or charitable, registered or non-registered which deal with the care and protection of children in any manner.

The Delhi Commission for Protection of Child Rights (DCPCR) took upon itself the task of formulating these guidelines which focus on sexual abuse. The guidelines not only address the requirement spelt out in Rule-31 of the Delhi Juvenile Justice (Care and Protection of Children) Rules, 2009 but have also factored in the requirements of the Protection of Children from Sexual Offences Act, 2012.

Child Abuse consists of a labyrinth of causes, factors and myths that perpetuate the issue, especially in India. Foremost among these is the closed, shameful and fearful prevailing attitude that does not allow a victim the protected and comfortable environment required to report a case. The key therefore, lies in prevention, and equipping children and society with the necessary tools to prevent an act that has harmful, deep rooted, long term effects on the psyche of a child. Prevention strategies

are myriad and require multiple stakeholders to play a role in implementing them. Prevention becomes all the more complex in light of the fact that abuse is inherently a taboo subject and occurs behind closed doors, hence also hiding the offender behind a web of secrecy and unreported incidents.

“It is important that governments don't only try to do something about violence against children after it has happened. They must also take action to prevent it from occurring in the first place.” Keeping this in mind, the Government of NCT of Delhi hopes to tackle the issue head on with a set of multidisciplinary prevention guidelines which are supported by legal provisions under the Delhi Juvenile Justice (Care and Protection of Children) Rules, 2009 and the Protection of Children from Sexual Offences Act, 2012. These guidelines serve as a method for numerous stakeholders from teachers to community welfare associations to the police to ensure that all possible steps are taken to prevent Child Abuse and empower children to recognise symptoms of potentially abusive situations.

Institutional-based child sexual abuse preventive programs

A child lives within the broader confines of a society and is sometimes unfortunately the victim of the horrors perpetuated by that very same society. Crimes against children occur within homes, schools, institutions and the state itself, whose responsibility it is to house, educate and empower children.

Education plays a vital role in transforming a society by making its children more aware, open minded and independent. Schools and other institutions that provide education therefore, are vital in the role they play in creating a nurturing environment for children where they can learn their core values and define their initial behaviours. On the flip side however, they are also targeted breeding grounds for sexual abuse and without the right preventive mechanisms, can be the unwitting accomplices to the perpetuation of Child Sexual Abuse.

Schools are uniquely placed to break the patterns of violence by giving children, their parents and communities the knowledge and skills to communicate, negotiate and resolve conflicts in more constructive ways. However, patterns of violence are often entrenched in school culture, sometimes as a matter of policy supported and promoted by certain theories about childhood development and learning. Educational institutions can also help in preventing the creation of future abusive behaviour in children by inculcating in them the right attitudes and ensuring they have access to the correct information, particularly around gender, health and myths that shroud abuse.

In most situations, the child or teacher can neither recognise early behaviours and therefore prevent the onset of sexual abuse nor do they know what to do once it has occurred. Various cases of abuse of children on the way to and from school, underline the fact that a wide variety of cases occur on the buses and transportation of children to school which neither the school nor the parent are in a position currently to prevent.

Apart from schools, there is a strong need for guidelines which will prevent sexual abuse within institutions which house children in need of care and protection and other registered or unregistered institutions where children spend a significant part of their day. Hence all stakeholders must form a part of the preventive system.

Capacity Building

1. A uniform and standard teacher training module shall be developed and adopted by the institution which covers a broad spectrum of child protection issues ranging from recognising suspicious behaviours, being aware of a child who displays erratic and/or unusual behaviour and the ability to engage a child and create a safe environment as well as the legal mechanisms covering the issue of child sexual abuse.
2. Training should include knowledge of the relevant child care legislation, national and local agency policies, procedures and protocols (as well as a knowledge of the local network within which they work) and skills in the use of these.

3. All schools and educational institutions must adhere to this Uniform Training module.
4. Training materials should be simple, easy to understand and given to all personnel who hold a position of authority and influence over the child.
5. If the need arises, these courses must be refreshed each academic year and a refresher course will be conducted annually to remind the staff and teachers of procedures and updates on new developments.
6. A full day orientation on Child Protection issues for all new recruits [staff, teachers, trainees and volunteers] shall be held within 1 month of joining.
7. The Delhi police and SJPU shall also undergo a specially customised training in order to upgrade their knowledge of laws as well as to sensitize them towards child friendly behaviours.
8. At least one training session shall include a group session along with parents, local police and school/institution personnel.

Child Protection Safeguards

1. As part of the framework for child protection, each institution shall have a standard and uniform Child Protection Policy applicable to all persons employed by the institution as well as those who visit the institution from time to time. This policy shall take a child rights based approach.
2. This policy document will be signed by all personnel, outside instructors, visitors and anyone who is put in a position of responsibility and authority over children.
3. These policies should broadly outline the responsibilities and role of each stakeholder in the institution and lay down guidelines on how to report any concern or incident of abuse.
4. The policies should ensure that all persons are committed to the prevention of child abuse.
5. The Child Protection Policy should be summarised and a one pager must be displayed at the reception or main lobby area of the institution along with the 1098 Child line number and be available in English as well as Hindi.
6. Children should be given appropriate training and orientation on the institution's protection policy and complaints & reporting mechanism.
7. The policies should outline a zero tolerance policy towards Child Abuse which will result in the immediate dismissal of any employee convicted of an offence under POCSO and/or any other sexual or violent crime under any other law for the time being in force.
8. The institution shall develop and implement guidelines for the prevention of ragging within its premises.
9. The Child Protection Policy shall become a part of the Human Resource policies of the institution.
10. Complaints mechanisms for children must be established and made known to children and their parents/guardians. The mechanism so established shall be effective and impartial whereby children can notify complaints or concerns regarding their treatment or conditions of placement.

11. Children and their parents/representatives should be informed of the outcomes or resolutions of their complaints and should get the information they seek from time to time.
12. All decisions taken by the management against a complaint of sexual or physical abuse should be given in writing to the parents/representatives of the child on behalf of whom the complaint has been made.

Committees

1. Every institution shall constitute or designate, from an existing Management Committee or otherwise, including the School Management Committee, a Child Abuse Monitoring Committee (CAMC) whose primary responsibility shall be prevention of child abuse and the monitoring and implementation of these guidelines within the institution.
2. At least one member of the committee shall be an independent person, with experience of child rights issues to ensure that the Committee works in an impartial manner. In case of a school, this could also be a parent on the School Management Committee.
3. In case of a school, the CAMC may also have two student representatives. In co-ed schools, one boy and one girl would be included.
4. To this end, the Committee shall meet as frequently as required.
5. The Chairperson of the Committee shall appoint one representative who will be responsible for communication and reaching out to the community, police, SJPU and Child Welfare Committees.
6. All incidents of child abuse shall be reported to the Committee and the committee shall be responsible to make all persons and children within the institution or availing of services or providing services to the institution, aware of the procedure of reporting incidents of child abuse.
7. There shall be at least 2 parent-teacher meetings a year to ensure parents are aware of child protection policies and implement them within family environments as well.
8. Every institution shall have a suggestion/complaint box at a prominent place within the premises.
9. Each class will have a children's committee which act as for a peer to peer sharing and learning. This committee shall meet as frequently as desired to discuss ideas relating to prevention of child sexual abuse and the implementation of these guidelines.
10. Confidentiality of cases will be maintained in case they are brought to the notice of the children's committee and reported to the concerned teacher or care giver.

Awareness and Education

1. Institutions should have standard and uniform training modules on sexuality and gender education where the thrust has to be inculcation of respect for another person especially that of the other gender.

2. Training modules focussing on children should be developed or adopted which teach gender awareness and notions of sexual activity and appropriate sexual behaviour.
3. In schools teachers should promote group interactive practices so that the idea of a male child having masculinity and which necessarily implies an implied repudiation of femininity or sensitivity is discouraged. The attempt of education should be to liberate children from social constructs and not to reinforce them.
4. The training should remove the taboo on gender sensitisation and education such that it does not allow abusers to hide behind the shame that is usually associated with a victim. Schools must encourage learning modules which are uniform, consistent and rendered in child friendly language. Moreover, they must be clinical and objective, allowing no space for it to be misunderstood.
5. Training modules must be age appropriate.
6. Training modules can also be in electronic form so that it is easy to use and understand.
7. Children must be trained to recognise predatory and suspicious behaviour and what constitutes abuse.
8. The staff of the institution must develop a manual in child friendly language to be used specially in relation to sexuality topics and abuse. This ensures that children are able to express themselves in a comfortable manner and are not ashamed of using certain taboo words and expressions.
9. All residential institutions must have adequate extra-curricular and vocational activities to create an environment for the overall growth and development of a child. For this purpose, institutions can use the services of NGO's, the community and other individuals trained to provide such courses and activities.
10. A time table must be developed within residential institutions for extra-curricular and vocational activities being conducted after school hours. This schedule must be displayed at prominent places within the institution and every child should be made aware of the same.
11. Children should be taught "Safety Rules" such as moving in groups, alerting school personnel if a stranger is on school premises, and reporting situations that threaten their own and others safety, etc.

Transport

1. At least one female ward/guard should be present on the bus until the last child is dropped home, irrespective of whether the child is male or female.
2. The child and women helpline numbers, the number of the police stations in the locality as well as the contact details of the SJPU and DCPU must be prominently displayed inside the bus in English as well as Hindi.
3. The School's child protection policies and protocols for reporting offences must be prominently displayed in English as well as Hindi inside the bus.
4. Any and all reports of bullying and/or physical dominance reported or seen in the bus must be quelled immediately and the victims separated immediately from the perpetrator.

5. While dropping off a child at a bus stop/public place, the bus must wait until the parent/caregiver is present. For this purpose, all teachers/guards travelling on the bus should have the phone numbers of the parent/caregiver as well as the emergency contact person to facilitate easier communication.
6. School buses and vans which are not in use shall be locked and parked in the school allotted parking facility and the keys shall remain with the school administration.
7. Old school buses and vans which are in disrepair or a dilapidated condition shall not be parked or housed anywhere on school premises.

Travel, Picnics and Outdoor Activities

1. Parents/guardians and caregivers must give their permission in writing before children can be taken out of the institution premises for activities and outings.
2. The exact route, destination and timings must be communicated well in advance to parents/guardians and caregivers as well as Delhi police/SJPU at the destination.
3. Participants must be made aware at least 3 days prior to the program, of safety precautions, helpline numbers etc.
4. The relevant applicable guidelines mentioned in Chapter IX will also apply to this chapter.
5. In case of public transportation, the school must ensure that all local rules in force applicable to public vehicles are adhered to.
6. In case of outstation travel, at least one female teacher or care giver must accompany the group for the duration of their stay, except if it is an all-boys trip.
7. Whenever possible, no outing or trip should be initiated after dark.
8. No outing or trip should be made compulsory for children.

Online Safety

1. Internet safety protocols must be established and implemented in schools
2. Teachers/staff should not be allowed to email or call children except and unless it is related to school work.
3. All emails sent to children by teachers/staff should be copied to the parent/guardian or caregiver unless a teacher or staff member is suspicious that a parent/guardian/care giver is abusing the child.
4. Teachers should not engage in any relationships with students on social media platforms unless in officially approved group settings.
5. No child must be recorded in any manner that makes them uncomfortable and children must always be asked permission before taking of any photographs/recording videos

Residential Facilities & Infrastructure

1. Residential Facilities, including bathrooms in a school/educational institution shall be maintained separately for boys and girls and at a suitable distance from each other.
2. The corridors and landings shall be well lit and airy and have convenient exits.
3. Dead-end hallways and staircase hideaways should be eliminated, and restrooms should be located closer to administrators.
4. CCTV cameras must be installed and maintained at appropriate public spaces within the premises.
5. There must be at least one full time warden for each hostel; and in the case of a female hostel, it must be a female warden.
6. All staff, cleaning persons, administrative staff etc in the female hostel are required to be female.
7. Strict rules and timings will be adhered to for hostels and male visitors should not be allowed in female hostels, or vice versa after dark.
8. Child and women helpline numbers and the numbers of the local police/SJPU must be prominently displayed inside dormitories. There must be at least 2 phones for the use of students within easy access.
9. Dormitories must be divided by age and care must be taken to see that no opportunities are left open for older children to be left alone with younger children without the supervision of a teacher/counsellor.
10. A hostel committee shall be formed whose functions are similar to the Child Abuse Monitoring Committee.
11. All gates should be duly manned by security personnel. Registered visitors can be given a pass or badge to display prominently to let staff and students know that they have been acknowledged by the administration.
12. Schools should ask parents to give the names of adults who are allowed to pick up a child, and require those individuals to show identification to school personnel when signing a student out. In case of a visitor, other than the parent or guardian or care giver of the child, taking a student outside the class or school premises, a proper check, including a phone call to the child's parent, guardian or care giver, must be done by the class teacher prior to sending away the child.

Expln: In case of a child in need of care and protection, or any child without a known relative, the phone call should be made to a responsible person from the place of residence of the child.

Family & Community Awareness

1. In case of a child who is allegedly abused, once the family of a child is contacted, the concerned CWC, if it sees fit to do so, may organise a counselling session within the concerned institution with the child and family.

- The family shall be counseled on matters of child protection including abuse and how to recognise the symptoms and behaviours.
2. The institution must afford access to communication, such as telephones, for children to use in case of an emergency. Children and women helpline numbers, as well as the numbers of the DCPU, Delhi police and SJPU must be displayed next to the phone.
 3. Local Residents welfare associations, community associations, traders associations etc should be approached by institutions and the police in order to help build awareness and spread the message.
 4. Certain days such as Children's Day, World Disability Day and World Day for Prevention of Abuse and Violence against Children can be used to run community programmes through skits, plays and musicals.
 5. Neighbourhood watch teams can be formed to patrol/keep a vigilant eye out for predatory behaviour or inform the residents welfare association about strangers in the locality who display suspicious behaviour.
 6. As frequently as possible, Parent-Teacher Associations of various schools should set aside time to have a meeting and exchange ideas and strategies on how best to be involved in creating more awareness.

Review & Reporting

1. The appropriate authority shall review the implementation and impact of these guidelines annually based on surveys and other monitoring mechanisms.
2. The appropriate authority shall revise the guidelines, if so required, annually.
3. A comprehensive report based on institutional data and other means may be released by the appropriate authority in order to better understand the scope and depth of the issue and develop better solutions.

Action to be taken against abusers in institutions

Therapeutic Intervention

1. Therapeutic intervention in the form of counselling services must be made available to every child and the availability of such intervention should be made apparent through relevant signage and indicators.
2. It is desirable that institutions designate an area/space as a counselling centre. This centre shall be a child friendly space with adequate provisions to protect the privacy of a child who has come to share his/her grievances.
3. Each institution should employ at least one expert and may make use of the services of para counsellors as and when required in addition to a career counsellor.
4. The Counselling centre must have the capacity to cover the needs of special children and/or disabled children.
5. If requested by family members, in case of an incident of abuse, the institution may provide access and information about the availability of counselling services for the family within the institution.
6. Confidentiality must be maintained at all times during counselling and any other therapeutic intervention. The institution shall be liable for any breach of confidentiality of the identity of the child or details of the issues brought to the counsellor.

Post Occurrence Intervention

Role of the Institution

1. All institutions shall maintain the contact details for the nearest local police station, hospitals, Special Juvenile Police Unit and Child Welfare Committee.
2. In case an offence against any child is apprehended by or comes to the notice of the management or staff of an institution or any other person, such person shall provide the relevant information regarding the offence to the Child Abuse Monitoring Committee who will depute a counsellor and/or another adult who the child may be comfortable with, to counsel the child.
3. The institution shall, within a period of twenty four hours, intimate the emergency contact person, a responsible family member or guardian of the child, of the offence and ensures that such person is aware of the reporting procedure to be undertaken by the institution.
4. Exception: In case the offence has or apprehended to have been perpetuated by a family member or such emergency contact person, the institution shall inform any other family member or guardian.
5. In case the offence results in a medical or health related emergency, it shall be the responsibility of the institution to ensure that the child is taken to the nearest health centre for treatment immediately.

6. If there is a requirement for any forensic test or DNA profiling, the institution shall ensure that at all times through that process, a responsible adult with whom the child is comfortable, accompanies the child.
7. The institution shall ensure that a competent person, preferably from the Child Abuse Monitoring Committee, takes over the supervision and responsibility of filing the FIR. A copy of the FIR shall be maintained by the institution.
8. The institution shall be liable for any breach of confidentiality of the identity of the child and details of the offence during the reporting procedure.
9. In accordance with the Protection of Children from Sexual Offences Act, 2012, if the statement of the child is to be recorded within the institution, adequate arrangements shall be made such that the child is in a comfortable and friendly environment enabling him or her to disclose all the necessary information.
10. The institution shall, based on the recommendation of the Child Abuse Monitoring Committee, suspend the accused pending the outcome of the enquiry.
11. An enquiry, in accordance with the Child Protection Policy of the institution, shall commence no later than 24 hours after the incident has been reported.
12. A report shall be prepared by the institution upon immediate conclusion of the enquiry with a copy being given to the parent/guardian, and the Child Abuse Monitoring Committee.
13. The whole redressal mechanism within the institution, must, as far as practicable, not stretch beyond a period of 15 days.

Source for this session:

Guidelines for Prevention of Child Abuse-Delhi Commission for Protection of Child Rights

http://delhi.gov.in/wps/wcm/connect/DOIT_DCPCR/dcpcr/what+s+new/guidelines+for+the+prevention+of+child+abuse

Technical Session VI:Open House Discussion

Learning Objectives:

- To provide a platform to participants to share their experiences and views on implementation of POCSO Act, 2012
- To enable the participants to effectively deal with diverse situations

Methodology: Open discussion

Material Required: Pen/pencil, scribbling pad, white board/flip chart and marker.

Duration: 1 hour 30 minutes

Instructions:

- Initiate all the participants to start the open house discussion
- All participants are requested to take part in the discussion as this is an open house discussion
- Ask them to give their views and suggestions
- Quickly write their responses and suggestions on the white board/flip chart and lead the discussion with the help of reference material or use power point presentation, if possible
- Keep track of time and wind up the session.

Tips for the Facilitators/Resource Persons:

- This session is important to make the participants understand their role with other stakeholders in the Act
- Keep track of the time as it is an extensive session

Open House Discussion

This session is an open house discussion. Any issue/problem which the participants may like to discuss can be discussed in this session. The facilitator may use his/her strategies as to how to conduct this session.

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.

¹[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].

²[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 (l) 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, 2012¹

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