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TAMIL NADU STATE JUDICIAL ACADEMY

**CHILD PSYCHOLOGY
WITH REFERENCE TO
CHILD SEXUAL ABUSE**

STUDY MATERIAL

DECEMBER 2021

It's Not a Secret!
Just Open Up!

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It's Not a Secret!
Just Open Up!

DIRECTOR'S NOTE

This Study Material is prepared by the Tamil Nadu State Judicial Academy [TNSJA], under the guidance and as per the directions of the Hon'ble Patron-in-Chief, TNSJA / Hon'ble the Chief Justice of the Madras High Court; the Hon'ble President and Hon'ble Members of the Board of Governors, TNSJA.

This publication is brought out on the occasion of the programme organised for sensitisation of stakeholders on the Psychology of Survivors of Child Sexual Abuse, (i.e., Judicial Officers, Special Public Prosecutors, Police Officers and Medical Officers) to enhance their knowledge and sensitivity in dealing with children.

Child sexual abuse is considered a taboo in society which shrouds the abuse in secrecy. This inhibits a child survivor of sexual abuse from opening up about the abuse which causes enduring trauma. The programme incorporates the theme of a 'key' wherein endeavouring the stakeholders to enable the child to open up by understanding their psychology. The 'key' symbolizes confidence, trust, strength, sensitivity and sensibility which the child derives from the stakeholder. The child using this key of trust will open up about the abuse that they encounter to any stakeholder if the stakeholder is kind, loving and compassionate.

We acknowledge and appreciate the cooperation of the Deputy and Assistant Directors, Research Assistants and Staff of the Academy, in bringing out this publication in short time.

We extend our heartfelt thanks to UNICEF for always supporting the cause of children.

19th December 2021

Chennai – 600028

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3.	Alarming Rise in the Number of Reported Child Rape Incidents, In re,	[(2020) 7 SCC 130]
4.	Aman Lohia v. Kiran Lohia	[(2021) 5 SCC 489]
5.	Bhiku Tukaram Jadhav Vs. The State of Maharashtra Panchgani Police Station, Tal. Mahabaleshwad, Dist. Satara	[2011 SCC OnLine Bom 1715]
6.	Eera Vs. State (NCT of Delhi)	[(2017) 15 SCC 133 (157; 20)]
7.	Mrs. S Vs. The Superintendent of Prison & Ors.	WP(MD) No.20261 of 2021 (16th November 2021)
8.	Ram Sukh v. State of Rajasthan	[1989 Supp (2) SCC 189]
9.	Rohit Singhal v. Principal, Jawahar N. Vidyalaya	[(2003) 1 SCC 687]
10.	Sampurna Behura v. Union of India	[(2018) 4 SCC 433]
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CHAPTER I

INTRODUCTION



CHAPTER I - INTRODUCTION

*"Sky above me earth below me and fire within me"*¹

This study material is prepared for the sensitization of various stakeholders who are entrusted to protect the 'best interest of the child' according to law from the lowest strata till the point of safeguarding justice to the child. This material is prepared keeping in mind the principles of 'public trust', 'inter-generational equity', 'social responsibility theory' for serving the best interest of the child exterminating children from their traumatic experience of abuse. This material shall provide an inter-disciplinary approach of law and psychology. Behavior is a key determinant factor important for both law and psychology for defining a civilized society. Therefore, it is important for all the stakeholders to be vigilant, cautious and protectorate when dealing with Children.

As stakeholders of the system handling children in POCSO cases we have to be sensitive enough to save the children from their mental and physical trauma. Verse 90 of the Thirukkural can be interpreted to reflect the need to imbibe sensitivity.

“மோப்பக் குழையும் அனிச்சம் முகந்திரிந்து
நோக்கக் குழையும் விருந்து”

“The flower of 'Anicha' withers away, If you do but its fragrance inhale;

If the face of the host cold welcome convey, The guest's heart within him will fail.”

The flower anicham is very sensitive and likewise, the psychology and mentality of a child coming before a stakeholder is also sensitive, and even a harsh look may further emotionally damage the child. Therefore, it is imperative that each and every stakeholder keep good regard about the sensitive nature of a child's psychology.

¹ See, Mind Fuel Daily, Available at <https://www.mindfueldaily.com/livewell/sky-above-me-earth-below-me-fire-within-me/> (Accessed on Thursday, December 2, 2021)

Over the course of this study material, the reader would come across to experience, the need for awareness on Child psychology and Child behavior, various dos and don'ts to be followed by the stakeholders, reformatory best practices etc. The study material also discusses important legal precedents that have led to the idea of such a sensitization programme.

The study material revolves around the key aspects of The Protection of Children from Sexual Offences Act, 2012. Awareness and knowledge of child psychology and child behavior is very important for protection of children from sexual offences as India is a protectorate State.

Societal contribution to crimes by or against Children is not new and has been there since ages in our society. Sometimes we tend to mishandle such issues trivially. Therefore, this material endeavors to sensitize that, paying heed to such issues can actually reduce this all-pervasive and self-perpetuating social stigma from the head-notes of our Country.

The World Health Organization (WHO) defines Child Sexual Abuse as, "The involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that violate the laws or social taboos of society. Child sexual abuse is evidenced by this activity between a child and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the needs of the other person. This may include but is not limited to: the inducement or coercion of a child to engage in any unlawful sexual activity; the exploitative use of child in prostitution or other unlawful sexual practices; the exploitative use of children in pornographic performances and materials."²

² World Health Organization, Report of the consultation on child abuse prevention (WHO/HSC/PVI/99.1) (1999)
(Available at: <http://www.who.int/mip2001/files/2017/childabuse.pdf>)

1.1. Need for awareness on Child Psychology and Child Behavior

The need for awareness on Child Psychology and Child Behavior can be understood through five basic primordial questions. Firstly, how do children receive information from environment and perceive objects? Secondly, how children, learn and remember experiences? Thirdly, how do children think, reason and solve problems? Fourthly, how do they differ in various psychological characteristics like intelligence, personality and interest? Lastly, how do children cope with various problems in life? Each and every stakeholder is a protectorate person for children. Each Stakeholder is accountable for understanding the best interest of the child.

It is imperative for each stakeholder to understand briefly, the development of psychology as a discipline; the relationship of psychology with law; and how to mould and describe the changing face of psychology in its application for law.

The decision in *Alarming Rise in the Number of Reported Child Rape Incidents*, In re³, is of crucial significance when talking about Child psychology and Child Behaviour with reference to Child Sexual Abuse. In this case the Supreme Court of India went into the economics and statistics of the raising number of POCSO Cases in India. An elaborate assessment state-wise was conducted and placed before the apex court. The apex court affirmed the importance of Article 21 and its auxiliary 'procedure established by law' placing relevance to Protection of Children from Sexual Offences Act, 2012. Concerns about the pendency of such cases and the need for expeditious disposal of such cases are a matter that has to be attributed primordial importance.

In a subsequent Order dated 8th January 2020, the Supreme Court issued directions for developing programmes to impart training to the special public prosecutors of each State, not only in law, but also in child psychology, child behaviour, health issues etc.

³ (2020) 7 SCC 112

After considering these critical statistics on the raising number of POCSO Cases in India, many critical decisions have come up, further promoting the importance of a child's mental well-being after going through sexual abuse. Decisions have evolved to study various forms of psychiatric ailments that a child survivor might develop in the future especially after encountering sexual abuse.

The Hon'ble Madras High Court in the decision of Mrs. S Vs. The Superintendent of Prison & Ors. WP(MD)No.20261 of 2021 (16th November 2021) while deciding a writ petition observed that, "Psychiatric ailments are ticking bombs. They lie beneath the surface. Unless they manifest themselves in a concrete manner in the behavior and conduct of the patient, one is hardly aware of it. Every police officer and judge should read Jerry Pinto's "A book of Light: When a Loved One Has a Different Mind". It is a collection of thirteen stories from people who recount their lives with loved ones who have had mental illnesses. When the writ petitioner broke down before me while narrating her husband's condition, I could really empathize. Every stakeholder should also watch the film "A Beautiful Mind" based on the book with the same title by Sylvia Nasar. It is a biography of John Nash, the American mathematician who won Nobel Prize. One then will know what is depression, what is schizophrenia and what is bipolar disorder. Time has come to conduct awareness programs in police training academies and judicial academies to sensitize the officers concerned."

The Madras High Court considered the importance of psychology and behaviour of children who have survived sexual abuse wholesomely. It can be observed that when psychology fails, psychiatric ailments breeds. It is important to manifest a healthy child behavior to a child survivor. It can be seen that psychiatric ailments to a child survivor of sexual abuse do develop, if ignored. Therefore, the stakeholders have an accountable responsibility to ensure a beautiful mind to the survivors of child sexual abuse.

What is the right thing to do for doing justice? Asked Michael Sandals⁴, consider the following conundrums...

Suppose a stakeholder carrying out their daily affairs and duties in a case of child sexual abuse carelessly, ignoring the mental and psychological feelings of the child. On the contrary, another stakeholder, dealing with the same case, acts more virtuously to children by giving a long-term positive impact on the child's innocent mindset to go forward and move on. Here, the stakeholder saves the child and their generation to come up in life better but the first stakeholder would have given a repulsive aftershock to the trauma that child has already suffered. What do you think?

Although this is considered as a factual situation that always traumatizes judges in decision making, there should be a fair balance of moral, ethical and legal grounds when it is the matter of Children. Their psychology cannot be equated to that of a common man. It is the duty of each and every stakeholder to protect the interests of the Children mentally and psychically right, necessarily for achieving justice. There is a swaying factor that is reliant on the social, cognitive, emotional and educational behavior of children. With that tune in mind, each and every stakeholder should necessarily pay more heed to the alarming rise in the number of reported child rape incidents in India.

Child Psychology is a science which studies mental and behavioral functioning in a systematic manner, using scientific methods to devise mechanisms to serve the best interest of the child. Child Psychologists describe, predict and control the processes like perception, motivation, cognition, memory, learning, personality, and intelligence. Child Psychologists apply psychological knowledge towards the solution of problems in various settings including schools, industries, hospitals and organizations.

⁴ Sandel, Michael J. 2009. Justice: what's the right thing to do? New York: Farrar, Straus and Giroux.

The study of psychological issues of children and their problems has been characterized by behavioural, cognitive, psychodynamic, humanistic, and biological perspectives. As a growing discipline, psychology is expanding across various branches of law which specialize in providing psychological services to children in different walks of life.

Social psychology tries to understand the influence of other individuals and groups on child behaviour. The way a child, perceives other individuals, forms attitudes, persuades others to change their views, prejudices about others, shows interpersonal attraction, collaborates for group decisions, indicates social motivation and leadership are important themes in social psychology.

Cognitive psychology tries to explain processes involved in the perception, comprehension and use of information for various purposes. Reasoning, problem solving, attention and related processes are being analysed with sophisticated methods and tools. To understand the fundamental causes of child behaviour it is highly imperative that such techniques are devised.

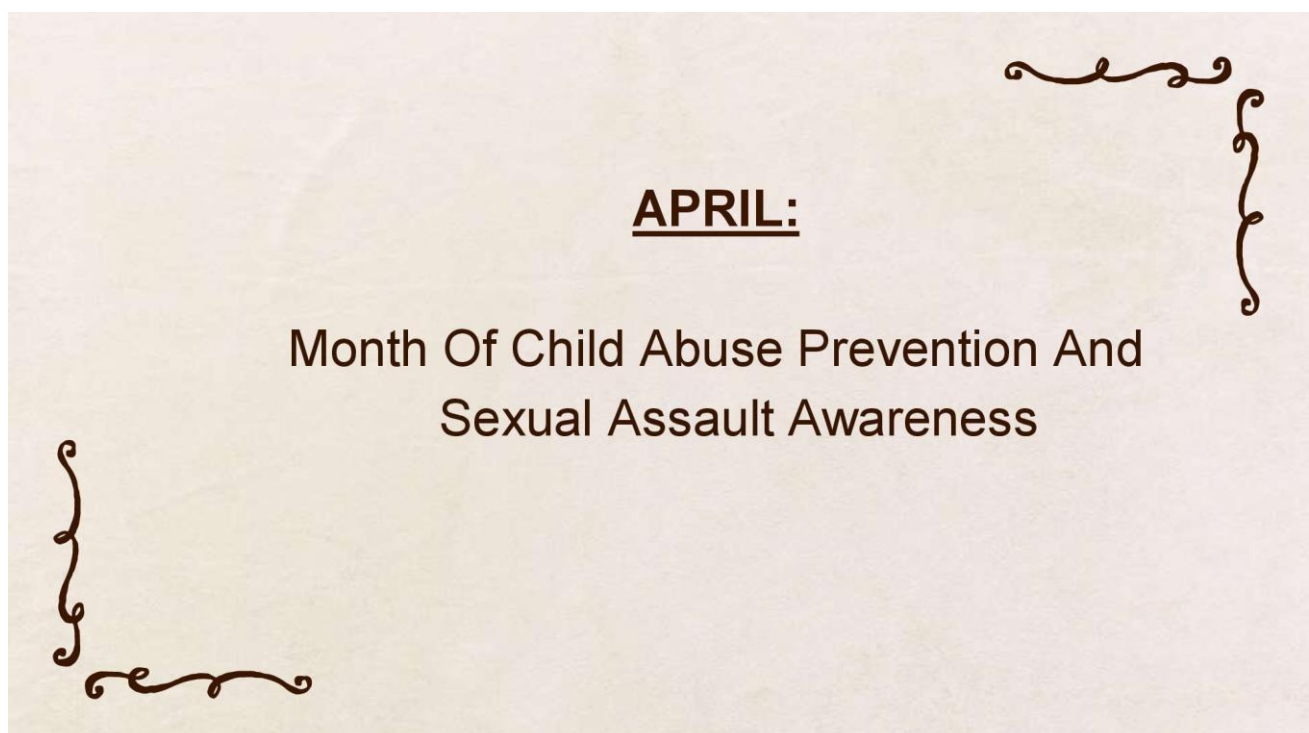
Educational psychology is used to plan and suggest curriculum to a school board in the light of student's interest, abilities, and needs. The job of school psychologists is to deal with more immediate problems of children in the school. The school psychologists are particularly concerned with diagnosis of learning difficulties and their remediation, and vocational and other forms of counseling. This should be extended to cover the problems of children also.

1.2. Effective implementation of POCSO Act

Keeping in mind the effective implementation of POCSO Act, 2012, psychologists use certain procedures and tools to collect information and tries to draw inferences and conclusions about the probable causes of Child behavior. Psychologists share twin goals in POCSO Act, firstly, understanding and explaining the complexities of behavior, and secondly, contributing to the improvement of the quality of human life.

In studying child behavior we need to remember that,

- Child behaviour at any moment is a joint function of the personal characteristics and the properties of environment.
- The measurement of psychological attributes (e.g., personality, intelligence, interest, and attitude) is usually indirect and based on inferences.
- Many aspects of social behaviour are rule-governed and culture specific.





CHAPTER II

CHILD PSYCHOLOGY AND CHILD BEHAVIOUR

CHAPTER II – CHILD PSYCHOLOGY AND CHILD BEHAVIOUR

This chapter deals with the significance of understanding child psychology as a tool to respond to instances of child sexual abuse. It discusses the stages of physical, mental and emotional development of a child. It highlights the short- and long-term consequences of sexual abuse on a child. It is purported that understanding the trauma of a child survivor of sexual abuse, would motivate the stakeholders to imbibe sensitivity in dealing and interacting with a child survivor at various stages of a POCSO case, which strengthens the effective implementation of the POCSO Act, 2012 and the POCSO Rules, 2020.

2.1. Relevance of Child Psychology in Addressing Child Sexual Abuse

The incidence of child sexual abuse has been the subject of study by various academic disciplines, be it law, social science or various branches of medical science. Each discipline adopts a specific perspective to answer the questions of 'what', 'why', and 'how' circling the occurrence of child sexual abuse. One of the facets studied herein is the question of how the child evolves from the intervening event of sexual abuse. At the core of this question, lies the understanding of human behaviour and mentality. This takes us to 'developmental psychology' which is the study of how and why human beings change over the course of their lives. As an academic discipline, developmental psychology focuses on the major transitions in human life, all the way from foetal development through to death, taking into account the physical, cognitive, social, and emotional domains in which we all exist.⁵

Child Psychology is a specialised branch of Developmental Psychology. It concerns the study of a child's development, behaviour, emotions and socialisation. Events that happen during childhood, even small, seemingly insignificant ones, can have a direct impact on how people feel and behave as adults. Child psychology is important because it can help us better understand how children function and

⁵ What Is Developmental Psychology?, National University (Available at: <https://www.nu.edu/resources/what-is-developmental-psychology/>)

interact with their environment, as well as how best to support them to become well rounded individuals.⁶

Jean Piaget is regarded as the founder of modern child psychology. Through his work in the 1920s, it was established that children and adults think differently from each other. One of his major contributions was that throughout the course of their childhood, children pass through distinct stages of emotional and mental development. He also proposed that intellectual development is closely linked to emotional, social and physical development.⁷ By means of direct observation and interaction, Piaget developed a theory of the acquisition of understanding in children. He described the various stages of learning in childhood and characterized children's perceptions of themselves and of the world at each stage of learning.⁸

The dynamics of child sexual abuse differ from those of adult sexual abuse. In particular, children rarely disclose sexual abuse immediately after the event. "Childhood sexual abuse often occurs alongside other forms of abuse or neglect, and in family environments in which there may be low family support and/or high stress, such as high poverty, low parental education, absent or single parenting, parental substance abuse, domestic violence, or low caregiver warmth. Children who are impulsive, emotionally needy, and who have learning or physical disabilities, mental health problems, or substance use may be at increased risk."⁹

With an understanding of the effects of child sexual abuse, stakeholders in the legal and judicial system would be better equipped to assist survivors address the impact of child sexual abuse. Thus, child psychology can be used as a tool to design and implement policy and legal interventions in dealing with trauma.

⁶ Saranne Durham, What is Child Psychology and why is it important?, SACAP, 14th Jul 2020 (Available at: <https://www.sacap.edu.za/blog/applied-psychology/child-psychology/>)

⁷ Saranne Durham, What is Child Psychology and why is it important?, SACAP, 14th Jul 2020 (Available at: <https://www.sacap.edu.za/blog/applied-psychology/child-psychology/>)

⁸ Child Psychology, Britannica (Available at: <https://www.britannica.com/science/child-psychology>)

⁹ Laura K. Murray, Amanda Nguyen, and Judith A. Cohen, Child Sexual Abuse, Child Adolesc Psychiatr Clin N Am. 2014 Apr; 23(2): 321–337 (Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4413451/>)

2.2. Stages of Psychosocial Development of an Individual

Psychologists have studied the development of an individual, across various age groups, i.e., infant, toddler, prepubescence and adolescence. It is established that a child thinks, behaves and perceives their surroundings differently from adults. However, in order to intrinsically understand the motivations behind a child's behaviour, as well as the shifts in the psyche of a child, one needs to be aware of the various stages of growth of an individual. This would aid the stakeholder in responding accordingly to child in a time of crisis.

The three basic components of human psyche were developed by Sigmund Freud as consisting of [1] Id, which consists of powerful urges and drives for gratification and satisfaction [2] Ego, which refers to the executive of the personality, acting as a moderator between the superego and id, and [3] Superego, which acts as a moral code or conscience. Expanding on these basic components, Erik Erikson proposed an eight-stage model of psychosocial development of an individual spanning from birth to death.¹⁰ According to Erikson, development is a life-long process and is influenced by biological forces, social demands, and an individual's success in resolving developmental, age-specific 'crises' associated with each stage. Each crisis can be viewed as a turning point with potential to advance or hinder development. Resolution of each psychosocial crisis fosters growth, increases interconnections, and develops equilibrium between self and environment. In other words, at each stage, the child acquires attitudes and skills resulting from the successful negotiation of the psychological conflict. Failure to meet the psychosocial challenge of a particular stage may lead to regression or fixation within a particular stage of development, and impede development in subsequent stages.¹¹

¹⁰ Gabriel A. Orenstein, Lindsay Lewis, *Eriksons Stages of Psychosocial Development*, 22nd November, 2020 (Available at: <https://www.ncbi.nlm.nih.gov/books/NBK556096/>)

¹¹ Kristen Brown, *Impacts of Childhood Sexual Abuse on Adult Psychosocial Functioning*, Counselor Education Capstones, Winona State University (2017) (Available at: <https://openriver.winona.edu/counseloreducationcapstones/73/>)

Erikson emphasized that psychological outcomes occur along a continuum between the two polarities of each stage:

- mistrust versus trust (birth–18 months)
- autonomy versus shame and doubt (2–3 years)
- initiative versus guilt (3–5 years)
- industry versus inferiority (6–11 years)
- identity versus role confusion (12–18 years)
- intimacy versus isolation (19–35 years)
- generativity versus stagnation (35–65 years)
- integrity versus despair (65–death).

In healthy development, a balance between each pair of ego qualities is achieved. For example, a measure of mistrust may be adaptive in situations involving threat of harm. However, optimal development occurs when psychosocial strengths (trust, autonomy, initiative, industry, identity, intimacy, generativity, integrity) outweigh corresponding vulnerabilities.

Each stage builds on previous stages, and impacts later stages. Additionally, personal experience and environmental influences may account for variations in the timing of stages. Erikson believed earlier stages may be revisited later in life, and later stages may be addressed earlier in life. The process of human development is life-long and conflicts remain throughout the life cycle. Successfully navigating conflicts from birth to adolescence positions a person to function successfully in adulthood.¹²

Kristen Brown in her research refers to Erikson's stages of development and explains the trauma that occurs at various stages of individual growth. She records the traumatic impact of child sexual abuse on survivors pervading various spheres of their personal and social life.

¹² Kristen Brown, Impacts of Childhood Sexual Abuse on Adult Psychosocial Functioning, Counselor Education Capstones, Winona State University (2017) (Available at: <https://openriver.winona.edu/counseloreducationcapstones/73/>)

2.3. Impact of Sexual Abuse – Short Term Impact

Despite children's lack of knowledge of sexuality issues, even very young children (2-3 years) can have a sense of discomfort with sexual touching of genitals and private parts. This is because socialisation processes have already been introduced to the children, teaching them the importance of wearing clothes, especially underwear, and the need to hide and not touch the private parts and genitals.

Therefore, in many children, methods of abuse also create confusion regarding love and caregiving and around sexual norms i.e., what is socially appropriate in terms of inter-personal interactions and sexual norms.

Children who have been subjected to manipulation and grooming for abuse, undergo tremendous confusion, because they have shared a deep romantic and sexual relationship with the abuser. This makes it extremely difficult for them to identify the manipulation and grooming as a method of abuse, and defend themselves against the abuser. They may also refuse to accept their experience as abuse.

Child survivors fear that if they seek help, the assault will feel fresh and it will consume them. They fear going back to that part of their life and facing the truth. In addition, the parents or caregiver's refusal to believe the child victim about the sexual abuse or cover it up further exacerbates the child's distress (i.e., betrayal trauma) and prevents her or him from getting therapeutic help when needed.¹³

Child sexual abuse has also been linked to numerous maladaptive health behaviours, and poor social, mental and physical health outcomes throughout the lifespan, and impact on neuro-biological systems.¹⁴

¹³ David K. Carson, Jennifer M. Foster & Nishi Tripathi, *Child Sexual Abuse in India: Current Issues and Research Psychological Studies*, Vol.58, pp.318–325 (2013) (Available at: <https://link.springer.com/article/10.1007/s12646-013-0198-6>)

¹⁴ Choudhry V, Dayal R, Pillai D, Kalokhe AS, Beier K, Patel V, Child sexual abuse in India: A systematic review, *PLoS ONE*, Vol.13(10) (2018) (Available at: <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0205086>)

A 2018 qualitative study on the impact of child sexual abuse¹⁵, notes that the issue of child sexual abuse must be examined under the lens of socio-cultural factors which play a crucial role in determining its impact. The study revealed the impact of child sexual abuse across six major areas of a child's functioning, namely, [1] behavioural, [2] emotional, [3] cognitive functioning and academics, [4] psychopathology, [5] biological, and [6] social functioning.

Behavioural functioning

Some of the key impacts on behavioural functioning were expressed in the form of marked anger, hypersexual behaviour, and avoidance toward all males. Upon exploring the nature of anger further, it was found that most children reported feeling dissatisfied with the way their parents handled the cases after disclosure, and felt a lack of justice and enabling attitude toward the perpetrator. Children would often display marked hypersensitivity, in forms of anger or fear, toward even slightest or unintentional touch by others.

Anger turns towards the self by engaging in deliberate attempts at self-harm, most commonly by cutting wrist or ingestion of insecticides. Reasons attributed to such behaviour was often either the inability to manage emotions due to guilt and shame or as an attempt to show anger over the injustice done against them. Further, hypersexuality included behaviours such as engaging in frequent masturbation, sexual behaviour with other children, sex chatting, people pleasing behaviour, and touching private parts of other children. Further, gripped with high guilt due to self-blaming, there was a persistent feeling of "dirtiness" they feel from inside which often continues until adulthood in the form of self-hatred.

These phenomena often lead to an overall feeling of self-hatred, loneliness, sense of helplessness, anxiety, and sadness in children continuing until adulthood.

¹⁵ V. Choudhary, et.al, Qualitative Study on the Impact of Child Sexual Abuse: Perspectives of Children, Caregivers, and Professionals in Indian Context, Journal of Child Sexual Abuse (2019) (Available at: <https://www.tandfonline.com/doi/abs/10.1080/10538712.2018.1563262>)

Cognitive Functioning & Academics

As a result of the chain reaction of significant behavioural and emotional deregulation, the child's academic functioning was most affected. This including frequent school refusal (especially if the incident has happened in school), lack of interest in studies, reduced attention, and absence-mindedness, which results in deterioration of academic performance. Further, it was recorded that many children remained lost and absent-minded after abuse, which was the most significant change leading the parents to suspect abuse.

Psychopathology

Psychopathology refers to conditions of mental illness or disorders. These conditions include dissociative identity disorder, symptoms associated with PTSD such as re-experiencing, avoidance/numbing, hyperarousal, increased or inappropriate sexual behaviour, loss of social competence, cognitive impairment, body image concerns. Dissociation occurs as a defense mechanism of the brain, when it tries to suppress memory of traumatic events and experiences. Side effects of this defense mechanism gives rise to a host of psychological issues.

Biological Functioning

coping difficulties along with psychological suffering persist for a very long time. Difficulties in sleeping were frequently experienced by the children, particularly in the form of nightmares related to themes of sexual abuse, and fearful feelings towards sleeping, especially in cases where the abuse happened during bedtime.

Social Functioning

Sometimes children who disclosed abuse at home or with peers faced bullying and marked discrimination, which was often supported and promoted by other adults. This further validates the child's internalization of blame and subsequently resulted in the avoidance of social interaction. Owing to fear and shame, many children bury the disclosure of sexual abuse under secrecy and silence. This process builds anger in children, particularly against the family members, and can potentially severely

impact on family interpersonal relations. Gender differences have been particularly pronounced in social functioning, where compared to females, male experiences greater difficulty in dealing with CSA and its impact. Apart from dealing with the trauma of the incident, a male child experiences huge trouble in disclosing abuse to their family members, as it is considered as an absolute loss of power status in society. In fact, in many cases, as children reported, they were blamed to be not strong enough to fight against the abuser and stop the incidence. This is often accompanied with the unrealistic expectation that a male child can outgrow the experience of abuse themselves without the need for any professional help. Thus, the situation worsens for them and most male children suffer in silence.

The Justice Verma Committee Report on Amendments to Criminal Law¹⁶, which was brought out in 2013, focussed on anti-rape laws and highlighted the short- and long-term trauma that a victim of sexual assault suffers from. The report states that a cluster of reactions experienced by a survivor who experienced rape is called Rape Trauma Syndrome. The various phases of this are:

- Attack — these are responses like flight, fight or freeze that the survivor exhibits during the attack to survive.
- Acute Reactions — these are responses that occur after the rape. Some of the symptoms are shock, disbelief, pain/irritation, crying spells, withdrawn, confusion, tension.
- Reorganisation Reactions — these are symptoms exhibited by the survivor when they are working on rebuilding themselves after the rape - Symptoms include intrusive thoughts, images, flashbacks, panic attacks, avoiding thinking about the incident, feeling depressed, withdrawal, difficulty in everyday functioning, confusion, hyper vigilance, disturbances in sleep & appetite, startle responses, muscle tension, anger/rage

¹⁶ Justice J.S. Verma Committee, Report of the Committee on Amendments to Criminal Law, 66 (January 23, 2013)

Acute phase or initial phase — the time period immediately after the rape

- Shock/disbelief/numbness are the immediate psychological responses
- Recurrent flashbacks are also something that the survivor tries to deal with
- Shame and guilt are major reactions, Increased fear and anxiety
- Depressed, Feeling suicidal, Loneliness, Confusion, Anger, Loss of memory
- Feeling dirty or contaminated by the rape

Second phase — In the weeks and months that follows the rape/sexual assault

- Somatic symptoms reflecting effects of physical violation & emotional trauma
- Fear of being re-victimised, anxiety, mood swings, depression, recurrent flashbacks, dreams with violent content, pre-occupation with thoughts of assault
- Survivor avoids intrusive demands which may again make them feel vulnerable
- “Why me” response is prevalent, Suicidal ideation, struggle to discover the reason for assault, Self-blame/guilt about not having tried enough to resist the attempt starts setting in now, attempts to do things that will give a sense of control
- Unaccepting, criticising attitudes of others around will increase the distressed psychological responses rather than help in coping

A study of sexually abused girls and their family members in Western Madhya Pradesh found that, despite the fact that legal action was taken against the perpetrators of sexual abuse whether in or outside the family, the family members of many of the sexually abused girls forced the victims to keep the behaviour of the abuser a secret. Parents and other family members asked the girls to forget the events and, in many cases, even forgive the offenders for the sake of family honour and family solidarity. Often family members went further in compelling their girls to forfeit the need for counselling and any other medical help even when the girls were suffering from significant mental and emotional symptoms of sexual abuse. In addition, the paradoxical behaviour of the girls’ family members became a new source of trauma.¹⁷

¹⁷ David K. Carson, Jennifer M. Foster & Nishi Tripathi, *Child Sexual Abuse in India: Current Issues and Research Psychological Studies*, Vol.58, pp.318–325 (2013) (Available at: <https://link.springer.com/article/10.1007/s12646-013-0198-6>)

2.4. Impact of Sexual Abuse – Long Term Impact

It is worth noting that, not all forms of child sexual abuse cause immediate trauma. This applies mostly in cases where the offence takes place in a phased manner. The manner in which the child is groomed or manipulated by the abuser might make the child feel accustomed to the sexual act and hence not experience trauma until a later point of time.

Also, there may be “sleeper” effects, of which the child and others are unaware, but which emerge with dramatic impact in adulthood. For example, sexual dysfunction may not be evident as a short-term consequence of sexual abuse in the prepubertal child. In adults, however, healthy sexual functioning is considered to be an important component of adjustment. It should be recognized, then, that long-term effects of sexual abuse may manifest differently from short-term effects. Because an adult is able to assess childhood events from a different psychological perspective than the child, understanding the adult perspective is necessary to unravel the full impact of CSA.¹⁸

Gender non-conforming children, neurodivergent children and children with disabilities are more vulnerable to sexual abuse, owing to restricted mobility and communication. Increased risk of CSA is also prevalent among children of commercial sex workers, young girls with mental health issues, and adolescent boys and girls out of schools and in labour force (like domestic laborers etc.) Studies have also revealed that young boys in India have similar and sometimes higher prevalence of CSA as girls. However, patriarchal society and existing social norms around masculinity and focus on young girls as primary targets for CSA programs leave vulnerabilities of young boys largely unexplored¹⁹

¹⁸ Joseph H. Beitchman *et al.*, A review of the long-term effects of child sexual abuse, *Child Abuse & Neglect*, Vol.16(1), pp-101-118 (1992) (Available at: <https://www.sciencedirect.com/science/article/abs/pii/014521349290011F?via%3Dihub>)

¹⁹ Choudhry V, Dayal R, Pillai D, Kalokhe AS, Beier K, Patel V, Child sexual abuse in India: A systematic review, *PLoS ONE*, Vol.13(10) (2018) (Available at: <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0205086>)

Trauma and adverse experiences, such as sexual abuse, can negatively affect the development of a child's brain. Abuse may alter brain architecture, lead to heightened stress responses and weaken cognitive development.²⁰ It should always be remembered that survivors have varying ways of coping with sexual assaults, and survivors who do not appear distressed may be in denial or use forgetting as a coping mechanism.

The long-term and enduring impact of child sexual abuse on survivors, which continues throughout their adulthood, has been well-documented in research in psychology. Childhood sexual abuse is proven to have short and long-term negative consequences to the victim. Physical consequences of such abuse include injuries, unintended pregnancy, and genital infections. Those who were sexually abused in childhood are more inclined to develop behavioural and psychological problems such as sleep disturbance, social-related difficulties, eating disorders, self-esteem issues, fear and anxiety, depression, and post-traumatic stress disorder. Childhood sexual abuse also increases the risk of future abuse, where the victims are more likely to suffer from domestic violence in their adulthood. From the areas of offence characteristics, those who experience childhood sexual abuse are more likely to commit sexual offences, compared to those without a history of such abuse.²¹

Symptoms can extend far into adulthood and can include withdrawn behaviour, re-enactment of the traumatic event, avoidance of circumstances that remind one of the events, and physiological hyper-reactivity. Another legacy of sexual abuse is that children abused at any early age often become hyper-sexualized or sexually reactive. Issues with promiscuity and poor self-esteem are unfortunately common reactions to early sexual abuse. Substance abuse is another common outcome of sexual abuse.

²⁰ Chapter 5: What Factors Contribute to Child Abuse and Neglect?, A Coordinated Response to Child Abuse and Neglect: The Foundation for Practice (Available at: https://www.childwelfare.gov/pubPDFs/foundation_34.pdf)

²¹ Yeong Yeong Lim *et. al*, Typologies and Psychological Profiles of Child Sexual Abusers: An Extensive Review (Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8146192/>)

Because psychosocial development is epigenetic, with each stage building on subsequent stages, the trauma of sexual abuse in childhood often produces a highly unstable foundation for subsequent psychosocial development. Adult CSA survivors often face profound challenges in developing and maintaining secure attachments, healthy identity and self-esteem, strong relationships, healthy sexuality, and mental health. To better address the child survivors needs, develop empathy, and accurately conceptualize their problems, it is imperative for stakeholders to expand their knowledge on the dynamics and enduring impacts of childhood sexual abuse.

The physical health consequences include²²:

- gastrointestinal disorders (e.g. irritable bowel syndrome, non-ulcer dyspepsia, chronic abdominal pain)
- gynaecological disorders (e.g. chronic pelvic pain, dysmenorrhea, menstrual irregularities)
- somatization (attributed to a preoccupation with bodily processes).

The victims of CSA were also found to have increased risks for temperamental problems, poor social adjustment, lack of trust, and insecure relations with parents.²³ In adolescent children, the experience of CSA has a strong association with feelings of hopelessness, suicidal ideation, and suicidal attempt. Children most often do not reveal their shameful truth and stay silent. However, CSA typically triggers strong emotions, including fear, uncertainty, shame, guilt, rage, helplessness, depression, and distress. Survivors of CSA may consider themselves different, disgusting, and harmed.²⁴

In a 1987 study, based on the factors of intensity of abuse, frequency of abuse, closeness of relationship between the survivor and offender, it was recorded that

²² Chapter 7: Child Sexual Abuse, Guidelines For Medico-Legal Care For Victims Of Sexual Violence, WHO (Available at:

https://www.who.int/violence_injury_prevention/resources/publications/en/guidelines_chap7.pdf)

²³ Choudhry V, Dayal R, Pillai D, Kalokhe AS, Beier K, Patel V, Child sexual abuse in India: A systematic review, PLoS ONE, Vol.13(10) (2018) (Available at:

<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0205086>)

²⁴ S Tyagi and S Karande, Child sexual abuse in India: A wake-up call, J Postgrad Med. Jul-Sep; 67(3): 125–129 (2021) (Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8445113/>)

21% of the sexually abused children have none of the symptoms thought to “prove” that a child has been sexually abused, e.g., behaviour regression, somatic complaints, fearfulness. Hence, those who are charged with determining if a child has been abused should not place undue reliance on a child’s behaviour as proving what experiences the child may or may not have had. Further, the research highlighted the powerful role the victim’s support system plays in reducing the impact of sexual abuse. Victims who have supportive relationships with nonoffending adults or siblings are less affected. Variables indicating supportive relationships with others and the general functioning of the victim’s family together explain the largest amount of variance in both measures of child functioning.²⁵

A 2014 study on child sexual abuse put forth the following findings: First, sexual abuse does not necessarily occur in isolation and may include other forms of child maltreatment. Second, although girls have higher prevalence rates, boys are also victims of sexual abuse and may experience significant difficulty disclosing their experiences due to feelings of shame. Third, some studies have noted the correlation between sexual abuse and poverty, yet CSA occurs in families of all socio-economic levels, and social isolation may be an even greater risk factor. Fourth, studies indicate that many victims of CSA are traumatized by their experiences and may suffer both short- and long-term ramifications of their abuse. Fifth, while abuse experiences have numerous negative consequences for children, counselling is frequently effective in helping children reduce their trauma related symptoms and improve their well-being. Sixth, family secrecy about CSA is harmful to victims, and adults must be mandated to properly report sexual abuse.²⁶

Experiences of childhood CSA often go undisclosed and unrecognized, which is related to various factors that inhibit disclosure. In addition to being

²⁵ Jon R. Conte and John R. Schuerman, Factors Associated with an Increased Impact of Child Sexual Abuse, *Child Abuse & Neglect*, Vol. 11, pp 201-211 (1987) (Available at: <https://www.sciencedirect.com/science/article/abs/pii/0145213487900597>)

²⁶ David K. Carson, Jennifer M. Foster and Aparajita Chowdhury, *Sexual Abuse of Children and Youth in India: An Anthropological Perspective*, *The Oriental Anthropologist*, Vol.14(2), pp.343-364 (2014) (Available at: <https://journals.sagepub.com/doi/abs/10.1177/0976343020140212?journalCode=oana>)

developmentally vulnerable, children are often manipulated to feel guilty or responsible for the abuse. These children may fear the disclosure will not be believed, or that it will negatively affect their own well-being and that of their families. Moreover, they may be concerned about consequences for the perpetrator, as often the perpetrators are familiar figures who develop complex, confusing, and ambivalent relationships with the child.²⁷

General Comment on children's rights in relation to the digital environment:

The UN Committee on the Rights of the Child launched on 24 March 2021 a guiding document on children's rights in relation to the digital environment, which highlights and raises awareness of the risks children face online, as well as the opportunities the online environment brings to them, exhorting all those responsible from the public and private sectors to take action to address them.

²⁷ Laura K. Murray, Amanda Nguyen, and Judith A. Cohen, Child Sexual Abuse, Child Adolesc Psychiatr Clin N Am. 2014 Apr; 23(2): 321–337 (Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4413451/>)

2.5. Impact on Child Survivor during the Case

Given the extensive trauma experienced by a survivor of child sexual abuse, which continues through subsequent stages of their life, it is of great importance that the stakeholders in the system exercise utmost sensitivity and sensibility in dealing with a child survivor of sexual abuse, who has come before them in a very fragile state-physically, mentally and emotionally.

The criminal justice system is designed to ensure that the due process is followed by way of a fair trial. In this process, by design, the survivor is made to recount the traumatic incident on multiple occasions across different stages of a case, be it from the moment the offence is disclosed to a parent, teacher, police or a doctor, the initial examination conducted by them, right up through the questioning, recording of statements and cross examination during trial. This might further cause or deepen the psychological trauma of the survivor. Care and caution must be exercised by the stakeholders so as to not trigger or further contribute to the trauma. This requires a multidimensional and multidisciplinary approach for the holistic well-being of child's mental health rather than focusing only on recovery from the traumatic incident of abuse.

The stakeholders need to be cognizant of the fact that the child survivor would be shouldering an enormous burden. In order to begin the unburdening process, children must feel secure, supported, and believed about the abuse.

"There is no duty more important than ensuring that child rights are respected, that their welfare is protected, that their lives are free from fear and that they grow up in peace." - Kofi Annan



Factors Behind Child Sexual Abuse

Chapter III - Factors Behind Child Sexual Abuse

While understanding the psychology of a child is essential, acquainting oneself with the psychology of the abuser is just as crucial. Peering into the mind of the child sex offender would aid the stakeholders in developing appropriate responses to deal with cases of child sexual abuse and implement measures to prevent such offences.

John Bowlby's theory of attachment provides that the quality of the early parent–infant attachment has lasting impacts on development, including the kinds of relationships people have with their friends, romantic partners, and children. He proposed that, based on their interactions with caregivers, infants construct expectations about relationships in the form of internal working models— cognitive representations of themselves and other people that guide their processing of social information and behaviour in relationships.

This chapter delves into the factors behind a person abusing children sexually, and would essentially discuss what goes on inside the mind of an abuser. This chapter would also discuss the methods and dynamics of child sexual abuse and the early warning signs which indicate that a child has undergone sexual abuse. This chapter also highlights the institutional risk zones which make a child vulnerable to sexual abuse.

3.1. Psychology of a Child Sex Offender

The social learning theory of moral behaviour suggests that moral behaviour is learned in the same way that other social behaviours are learned i.e., through observational learning and reinforcement and punishment principles. In other words, it is through such social learning experiences, accumulated over years, that children come to understand and internalize moral rules and standards.

The concept of self-discipline or emotional regulation is explicated in an experiment conducted by Walter Mischel called the Marshmallow experiments. In order to develop this emotional regulation, certain foundational steps are required. Firstly,

the child needs to have trust in their caregivers that their needs will be met. Secondly, children learn emotional regulation by imitating their caregivers. Thirdly, the capacity of the brain for emotional regulation develops over time with practice. The brain changes based on experience that is repeated. When either of these foundational steps are missing in the development of an individual, they become susceptible to crime. Several studies have found that children who have been physically abused or neglected are more likely than others to commit violent crimes later in life.

Child sex offenders cannot be understood as a homogenous group. The psychology of a child sex offender is analysed through various typologies. The most basic typology is to classify child sex offenders as Fixated and Regressed Offenders. This typology was developed in 1978 by Nicholas Groth. This classification is best understood as a continuum in order to cover those individuals who do not strictly fall into either category.

Clinically, fixated offenders are those who are sexually 'fixated' on children, or in other words, whose primary sexual orientation is towards children. Fixated offenders are more likely to victimize a child who is not already known to them. Their offences are largely premeditated, and involve a lengthy grooming process to gain the friendship and trust of the child prior to the actual assault. Such offenders will also have trouble maintaining healthy adult sexual relationships, and tend to have a preference for male children. Regressed offenders, on the other hand, are not paedophiles and will prefer sexual relationships with adults. Such offenders may appear to be as normal individuals in society. They would target children whom they are already acquainted with, and tend to have a preference for female children. Their offenses are crimes of opportunity, and are precipitated by external stressors in the offender's life, such as alcohol and/or drug abuse. The sexual abuse is an outlet for the regressed offender to cope with these stressors. The victims will be

intrafamily or accessible to the offender. They view the victim as a supplement to their adult relationship, a girlfriend or “pseudo-wife”.²⁸

Knight and Prentky, developed what is considered one of the most comprehensive typologies for child molesters. Their typology was based on two categories. The former category classified child molesters based on the extent of their fixation toward children and measurement of their social competency. In the second category, the child molesters are classified based on the meaning and levels of contact with children, amount and type of physical injury involved, and their sadistic interest.

Lanning²⁹ revised his typologies to include a motivational continuum i.e., situational to preferential. On one side of the continuum, situational child molesters are more likely to be characterised as less intelligent, from a lower socioeconomic status, involved in various unlawful behaviours, consume violent pornographic materials, more impulsive, consider risks rather than needs, likely to make sloppy mistakes, and involved in both spontaneous or planned sexual crimes. On the opposite side of the continuum, the preferential child molesters are more likely to be intelligent, from a higher socioeconomic status, involved in a specific or focused criminal behaviour, consume mostly pornographic materials with specific themes, more compulsive, consider their needs rather than risks, make needy mistakes, driven by fantasy, and engage in ritualistic behaviour patterns.

Shevlin et al., developed typologies by analysing the information on behaviours of child sexual abusers provided by adult survivors. They classified child sexual abusers into four typologies (labelled intercourse, verbal/low-contact, high sexual contact, and sexual touch). The intercourse type of child sexual abuser has the highest possibility to sexually abuse their victim using penetrative contact in contrast to other sexual abusers who only engage mostly in fondling and kissing. This typology

²⁸ James Bardon, A Study of Child Sex Offenders: Characteristics and Motivations (Available at: https://www.academia.edu/5197625/A_Study_of_Child_Sex_Offenders_Characteristics_and_Motivations)

²⁹ Lanning K.V. Child Molesters: A Behavioral Analysis For Professionals Investigating the Sexual Exploitation of Children. 5th ed. The National Center for Missing & Exploited Children; Alexandria, Virginia, VA, USA: 2010.

focuses on the characteristic of the crimes to distinguish the different types of offenders.³⁰

The typology put forth by Yeong Lim *et.al*³¹, analyses the psychological profile of child sex abusers based on four attributes, namely, psychopathic traits, cognitive distortion, empathy and impulsivity. Psychopathic traits involve characteristics which are manifestations of antisocial tendencies, including lack of remorse, lack of empathy, irresponsibility, impulsivity, and even neuroticism. These tendencies are considered to be predictors of child sexual offences. Such offenders may also be involved in other offences apart from child sexual abuse. Cognitive distortion refers to maladaptive beliefs and problematic thinking styles, which include making excuses, blaming, and rationalisation of abusive sexual actions. This can also be attributed to the neutralisation techniques in criminology. Child sexual abusers experience more cognitive distortion in the domain of disconnection/rejection, which is partially related to their fear of rejection. This belief system is likely to influence their relationship since they are unable to maintain secure and satisfactory relationships. This area of cognitive distortion supports their sexual abuse of children.

A lack of empathy refers to the low ability of the child sexual offender to recognise the distress of others and are hence more likely to support the idea that their victims hold responsibility for the sexual crime. Impulsivity refers to the inability to cognitively acknowledge the consequences of one's actions and stop an action that has already been initiated. The impulsivity factor was found to be significantly high among child sex offenders, which means that impulse control is very low among such individuals. Offenders with high impulsivity were also found to have a tendency to repeat offences and have many victims.

³⁰ Yeong Yeong Lim *et. al*, Typologies and Psychological Profiles of Child Sexual Abusers: An Extensive Review (Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8146192/>)

³¹ *ibid*

3.2. How society contributes to child sexual abuse

It is important to acknowledge that child sexual abuse does not occur in isolation. A child sex offender emerges from the very same society that preaches conformity and conservativeness. There are several social and structural factors underpinning the prevalence of child sexual abuse. These factors include an interplay of family, child-upbringing, institutional and other environmental. Because sexual abuse, molestation, and rape are such shame-filled events, our culture tends to suppress information about them. Child neglect contributes to child victimisation by making the child vulnerable and enables a person to develop anti-social tendencies.

Child characteristics such as intellectual and physical disabilities have been shown to increase vulnerability to CSA victimization. Parent and caregiver risk factors include low self-esteem, poor impulse control, depression, substance abuse, anxiety, and antisocial behaviour. Family structure influences CSA risk, and risk is lowest for children who live with their biological parents. Children who live in foster care are ten times more likely to experience CSA than children who live with their biological parents. Risk of CSA is highest for children who live with an unmarried parent who has a live-in partner. These children are more likely to be victimized than children living with both of their biological parents.³²

3.2.1. Family structure and parental factors

Family structure is a significant factor in determining the vulnerability of children to sexual abuse. Children in single-parent households or 'broken' families are more vulnerable to child neglect and child abuse.³³ Families with too many members in the household are known to contribute to child neglect. Families where marital discord or domestic violence is prevalent, are also prone to child sexual abuse.

³² Kristen Brown, Impacts of Childhood Sexual Abuse on Adult Psychosocial Functioning, Counselor Education Capstones, Winona State University (2017) (Available at: <https://openriver.winona.edu/cgi/viewcontent.cgi?article=1072&context=counseloreducationcapstones>)

³³ Chapter 5: What Factors Contribute to Child Abuse and Neglect?, A Coordinated Response to Child Abuse and Neglect: The Foundation for Practice (Available at: https://www.childwelfare.gov/pubPDFs/foundation_34.pdf)

Parents may show disbelief and provide little support when the child finally finds the courage to report.³⁴

Lack of proper family support, family and personal history of mental health pathology, and pathological family exposures to sexual images are some of the other potential risk factors. The clinical consequences and developmental delays often associated with sexual abuse pose a serious threat to the individual well-being of children and youth, as well as families and communities throughout India. Sexual abuse often goes hand in hand with other forms of abuse in the family be it physical, emotional, psychological. Moreover, although sexual exploitation of children in India is highly associated with poverty, sexual abuse in families occurs at all socioeconomic levels of society and across all religious traditions.

According to Carson *et. al*³⁵, socio-cultural and family factors behind child sexual abuse involve poor service delivery for children and families, poverty, illiteracy, abandonment of children, underreporting of child abuse and neglect, cultural beliefs and practices pertaining to parental rights and styles. These include parents believing that children are their personal property, and that the rights and choices of children solely belong to the parents. It was also noted that parents and/or close relatives are the most common perpetrators child abuse, including child sexual abuse.

3.2.2. Socio-cultural Factors

Family secrecy has been and continues to remain a major factor contributing to all forms of child abuse, and child sexual abuse is no exception to this factor. Owing to regressive cultural elements of blame and shame, it is also not unusual for children to be blamed for their own abuse. Moreover, since the child's identity is rooted in the family's identity and standing in the community, anything that would

³⁴ V. Choudhary, et.al, Qualitative Study on the Impact of Child Sexual Abuse: Perspectives of Children, Caregivers, and Professionals in Indian Context, *Journal of Child Sexual Abuse* (2019)

³⁵ David K. Carson, Jennifer M. Foster & Nishi Tripathi, *Child Sexual Abuse in India: Current Issues and Research Psychological Studies*, Vol.58, pp.318–325 (2013) (Available at: <https://link.springer.com/article/10.1007/s12646-013-0198-6>)

embarrassment the family or tarnish their good name is kept private. This practice of secrecy only serves to protect the sexual perpetrator and allows the cycle of abuse to continue. This view has been acknowledged by Kacker and Kumar (2008), who noted that the care and protection of children in India has traditionally been the responsibility of families and communities. They further observed that a strongly knit patriarchal family system has seldom held the belief that children are individuals with their own rights.³⁶

A 2014 study by Carson *et. al*³⁷ whereas incidences of physical abuse and neglect of children may lean in favour of economically disadvantaged neighbourhoods and communities, whether child sexual abuse rates are actually higher in disadvantaged neighbourhoods and communities has not been established. The preponderance of literature on CSA internationally suggests that this phenomenon is partial to no socio-economic boundaries. On the other hand, emotionally less connected and more socially isolated families of any socio-economic level in communities place children at greater risk for a variety of social ills, including various forms of child abuse and neglect that may also involve CSA. Family secrets are easier to maintain within socially isolated families, and as will be seen, this is one factor in India that may place children at higher risk for CSA.

3.2.3. Child Marriage

Child marriage is a social evil, wherein the family enables child sexual abuse, particularly penetrative sexual assault. Child sexual abuse in the form of child marriage strips the child of their rights and opportunities for a better future. It robs children of their childhood, threatening their lives and health. Girls who marry before 18 are more likely to experience domestic violence and less likely to remain in

³⁶ David K. Carson, Jennifer M. Foster & Nishi Tripathi, *Child Sexual Abuse in India: Current Issues and Research Psychological Studies*, Vol.58, pp.318–325 (2013) (Available at: <https://link.springer.com/article/10.1007/s12646-013-0198-6>)

³⁷ David K. Carson, Jennifer M. Foster and Aparajita Chowdhury, *Sexual Abuse of Children and Youth in India: An Anthropological Perspective*, *The Oriental Anthropologist*, Vol.14(2), pp.343-364 (2014) (Available at: <https://journals.sagepub.com/doi/abs/10.1177/0976343020140212?journalCode=oana>)

school.³⁸ Child marriage results in child pregnancies, which has health consequences for both the child-parent and their baby. Further, the child-parent is ill-equipped to look after their baby, which further endangers the health and safety the baby.

3.2.4. Social Inequalities and Discrimination

The patriarchal societal norms and power differentials in such societies based on class, gender, and sexual preferences, contribute to child sexual abuse. Individual factors like poor socio-economic status, death of a parent, and being born to a commercial sex worker were found to have contributed to trafficking of minor girls into commercial sex work. Early childhood experience of CSA was also documented as a risk factor for re-victimization as well as initiation into commercial sex work. Lack of sanitation and poor safety of women were also found to be community level factors that increased the risks for CSA. However negative perception about parents, lower education of mother, and perceived congeniality of family were found to be significantly associated with CSA experience. Domestic child laborers were also found to be at higher risk of all forms of abuse including CSA in one study.³⁹

3.2.5. Maslow's theory of Hierarchy of Needs

The impact of neglect, emotional abuse and physical abuse can have a harmful and damaging effect on a child. This finds relevance with Abraham Maslow's Hierarchy of Needs. If one's physiological needs such as food, shelter and clothing are not being met they cannot reach their safety needs such as health and family security or reach a sense of belongingness.⁴⁰ Children need love, support and affection to grow to be confident and happy adults. This can also be related to the social disorganisation theory of criminology which suggests that strong social interactions prevent crime

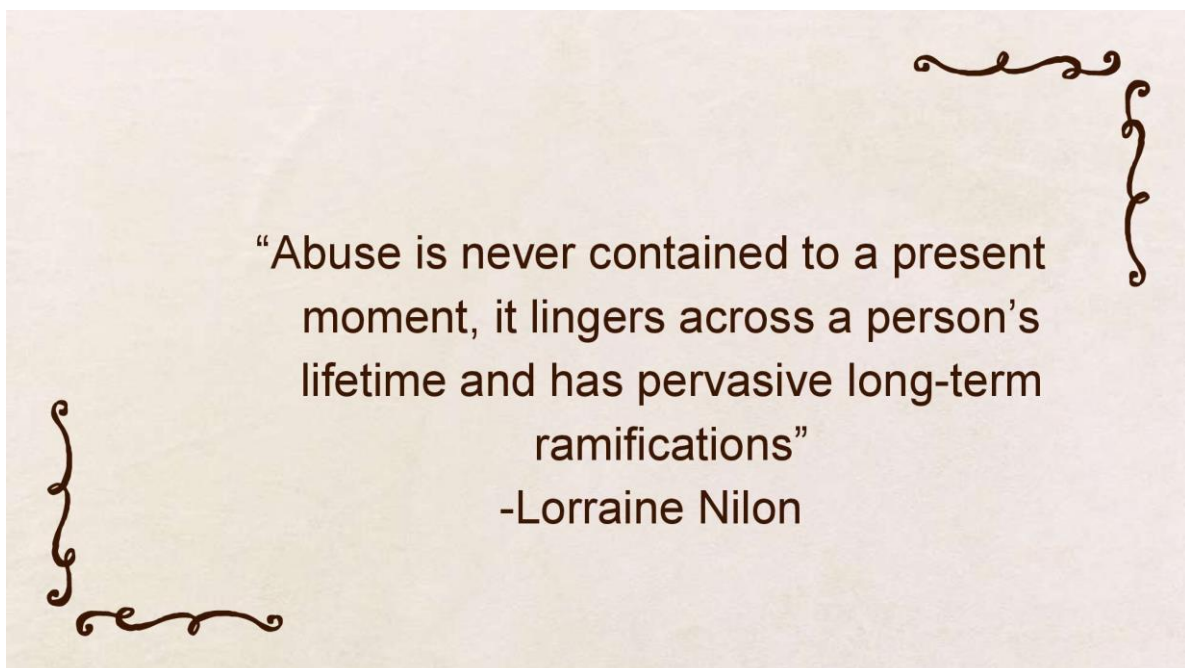
³⁸ Child Marriage, UNICEF (Available at: <https://www.unicef.org/protection/child-marriage>)

³⁹ Choudhry V, Dayal R, Pillai D, Kalokhe AS, Beier K, Patel V, Child sexual abuse in India: A systematic review, PLoS ONE, Vol.13(10) (2018) (Available at: <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0205086>)

⁴⁰ Gawel, J., Herzberg's Theory of Motivation and Maslow's Hierarchy of Needs (1997) (Available: <http://files.eric.ed.gov/fulltext/ED421486.pdf>)

and delinquency, and that when members of a society fail to achieve united values or to solve mutual problems, it leads to greater incidence of crime.

The offenders, often known to the victims, take advantage of their accessibility to potential victims and with lack of severe punishment by family members and protective nature of the family members towards the abuser, often leads to the incident getting unreported. However, studies that included adolescent boys as samples reported higher percentage of perpetration by strangers as compared to adolescent girls. Pathological family atmosphere with precocious exposures to sexual behaviours and sexual acts, traumatic sexual experiences in childhood, sexual interests and exploration, deprivation and failure in romantic relationships, and young boys who have been coerced into homosexual acts are at increased risk of becoming young sexual offenders.⁴¹



⁴¹ Choudhry V, Dayal R, Pillai D, Kalokhe AS, Beier K, Patel V, Child sexual abuse in India: A systematic review, PLoS ONE, Vol.13(10) (2018) (Available at: <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0205086>)

3.3. Online Child Sexual Abuse

The psychological profiles of online child sexual abusers and people along the supply chain of child trafficking etc., vary from those of offenders who physically and directly assault the child sexually. However, research is quite limited when it comes to sexual abuse and exploitation of children for commercial or economic gains. More attention needs to be given to rising incidences of online child sexual abuse, which has become more prevalent with the onset of the COVID-19 pandemic. The following are some clues that a child may be involved with a sexual predator or is accessing sexually graphic material.

- Prevents others from viewing the computer screen
- Has disks that he or she will not allow others to see
- Uses files that end with .gif and .jpg; these may be files that are quite innocent or could contain pornography
- Takes significant time away from schoolwork to use the computer
- Begins to exhibit furtive or secret behaviour when using the Internet.⁴²

The internet or online sexual crimes against children comprises a range of crimes from distributing and possessing child pornography, production of child pornography, to sexual solicitation. Most Online Child Sex Abusers [OCSA] also engage in non-contact exploitative sexual activities such as sending nude photos, taking part in cybersex, and grooming. The easy accessibility of technology and internet connection has changed the landscape of online child sexual exploitation. OCSAs have changed the way they engage their victims with the usage of the dark or deep web, online file sharing and storage, peer-to-peer networking, and streaming services that provide easy access to victims anonymously.⁴³

⁴² Chapter 5: What Factors Contribute to Child Abuse and Neglect?, A Coordinated Response to Child Abuse and Neglect: The Foundation for Practice (Available at: https://www.childwelfare.gov/pubPDFs/foundation_34.pdf)

⁴³ Yeong Yeong Lim *et. al*, Typologies and Psychological Profiles of Child Sexual Abusers: An Extensive Review (Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8146192/>)

3.4. Dynamics of Child Sexual Abuse

By understanding the dynamics of child sexual abuse, a stakeholder is equipped to identify a prospective offender, and even take preventive measures. A training manual developed by NIMHANS also records that in younger children, the methods of abuse entail inducement or lure, coercion and threat. Inducement or lure involves using sweets and toys to get the child to perform or cooperate in sexual acts for adult stimulation. Abusers also use attention and affection in exchange for sexual favours, and may withdraw attention and affection when the child does not cooperate, which makes the child to submit to the sexual activity, to overcome the want of attention and affection. The abuser may also lure the child by creating excitement and secrecy around the sexual act, often presenting it to the child as a special new game, a secret game that no one else plays and no one else knows about.⁴⁴

Methods of coercion and threat, often involve threats of harm to the child or to their parent or any other loved one. These methods are used more in case of older children, as they are likely to have a sense of inappropriateness of the abuser's actions. This is a key reason for the affected child not disclosing their abuse to anyone. Given the life stage of adolescents, they often feel peer pressure to experiment with sexuality. Abusers take advantage of this situation and manipulate adolescent children into sexual engagement by transmitting all sorts of misconceptions about sexual behaviours and norms. Adolescents form difficult circumstances, those with poor family support, who have been neglected and/or abused are particularly vulnerable to such attention from abusers.⁴⁵

⁴⁴ Developmental and Mental Health Implications for Eliciting Evidence under Protection of Children from Sexual Offences Act, 2012, A Training Manual for Judicial Personnel, NIMHANS, Karnataka Judicial Academy, Department of Women and Child Development, Government of Karnataka (2019)

⁴⁵ *ibid*

3.4.1. Grooming

Grooming is a method of manipulation that entails a process of engaging the child in sexual acts through:

- selecting and targeting the child, especially when they are vulnerable due to socio-economic factors and difficult family circumstances.
- Gaining trust and access through special attention, sympathy to the child, playing games or giving gifts to gain the child's friendship or affection.
- Playing a special role in the child's life, and telling them that no one understands the child like they do
- Isolating the child from other family members and friends, by brainwashing and manipulating them.
- Creating secrecy around the relationship
- Introducing misconceptions and misnomers about sexual behaviour
- Initiating sexual contact and making the child accustomed to it
- Controlling the relationship and using the advantages of age and power dynamics. Coercive elements like threats and emotional manipulation may be introduced at this stage to make the child feel that it was their fault.

3.4.2. Identifying the signs of a prospective offender

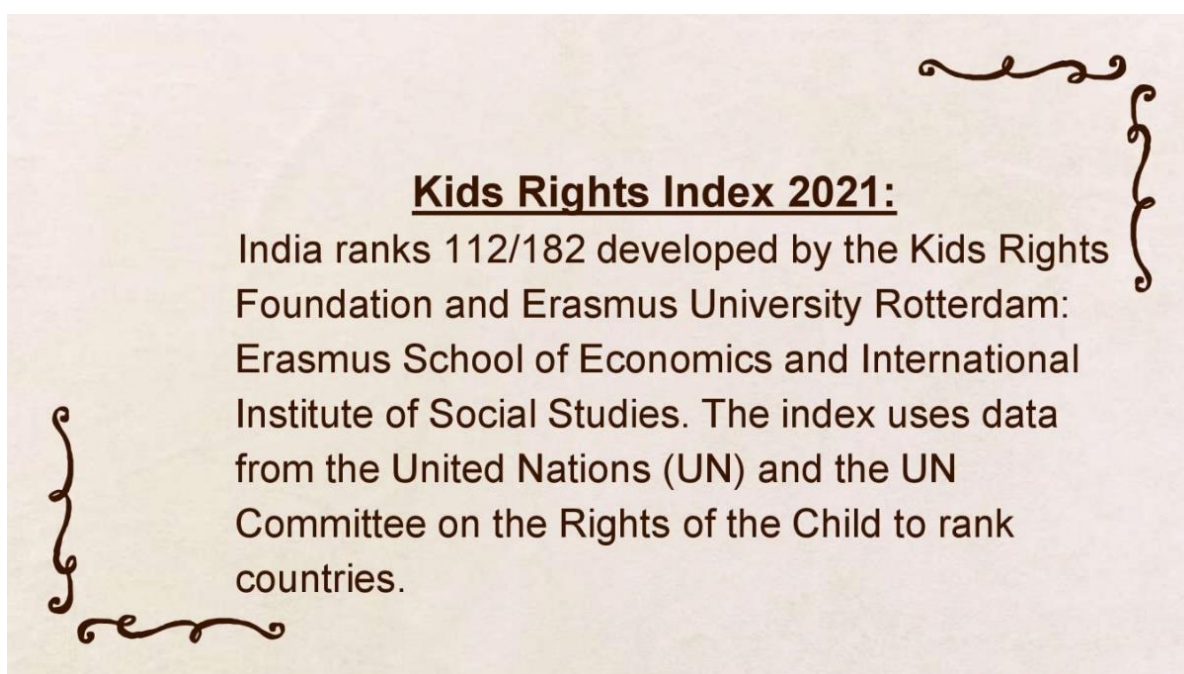
Child sex offenders are able to successfully carry out their abuse without detection, because they do not fit society's generally accepted stereotype of the dirty old man lurking around playgrounds trying to lure young children. They are fathers, uncles, brothers, neighbours and other accepted and trusted individuals in the child's lives. The sexual abuse of children frequently occurs as repeated episodes that become more invasive with time. Perpetrators usually engage the child in a gradual process of sexualizing the relationship over time (i.e., grooming). Incest/intrafamilial abuse accounts for about one third of all child sexual abuse cases.⁴⁶

⁴⁶ Chapter 7: Child Sexual Abuse, Guidelines For Medico-Legal Care For Victims Of Sexual Violence, WHO (Available at: https://www.who.int/violence_injury_prevention/resources/publications/en/guidelines_chap7.pdf)

3.4.3. Signs of grooming and child sexual exploitation⁴⁷

- going missing for periods of time or regularly returning home late
- skipping school or being disruptive in class
- appearing with unexplained gifts or possessions that cannot be accounted for
- experiencing health problems that may indicate a sexually transmitted infection
- having mood swings and changes in temperament
- using drugs and/or alcohol
- displaying inappropriate sexualised behaviour, such as over-familiarity with strangers, using sexually explicit language, dressing in a sexualised manner or sending sexualised images by mobile phone, which is also known as sexting
- increasing their screen time or showing unusual use of online platforms, such as websites, social media, apps or games
- they may also show signs of unexplained physical harm, such as bruising

Grooming takes place not only of the child, but also of the parents, in order to gain the trust that they are a reliable caregiver.



⁴⁷ How to spot child sexual exploitation, NHS (Available at: <https://www.nhs.uk/live-well/healthy-body/how-to-spot-child-sexual-exploitation/>)

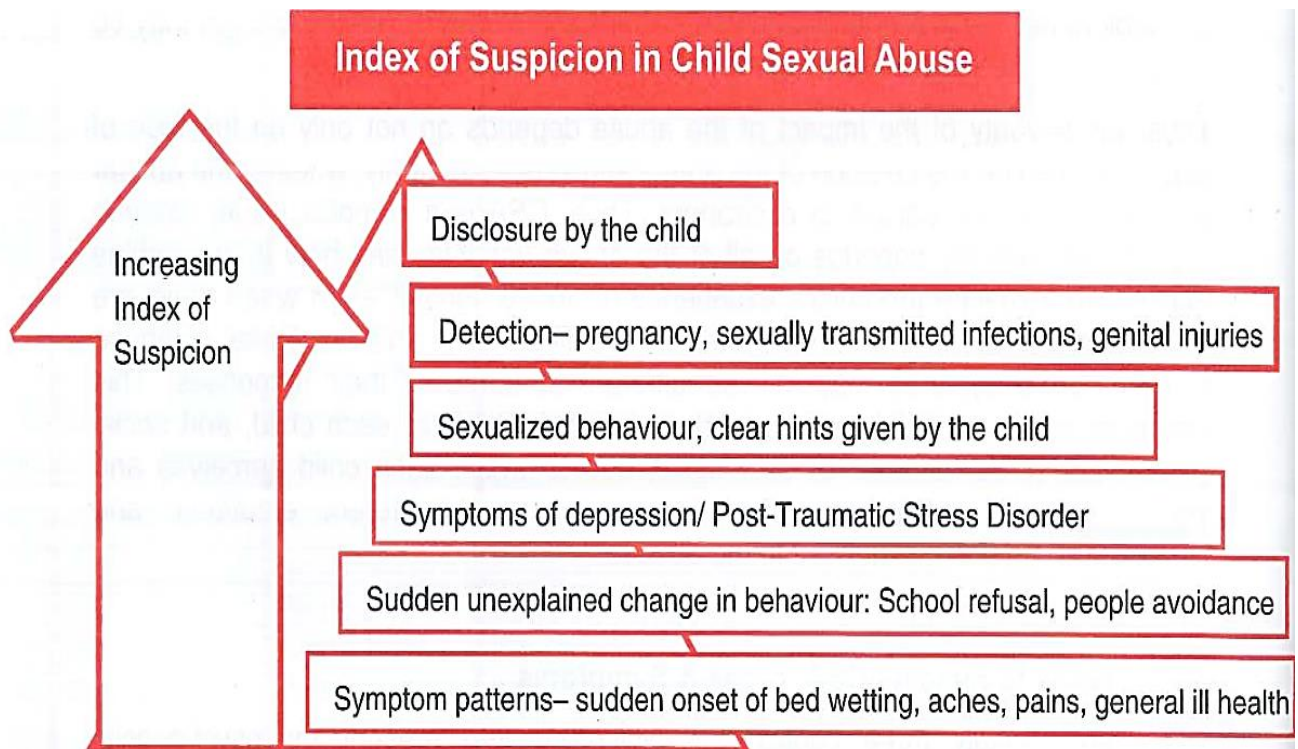
3.5. Indicators of Child Sexual Abuse

It is important to understand that most often child sexual abuse occurs in phases, which begins with subtle grooming techniques, which are less intense than the subsequent abuse or assault. In such circumstances, the child might not even be able to identify or understand the sexual act as abuse. Even in cases where they do, they would be reluctant to reveal the same. Children often do not talk about sexual abuse because they think it is their fault or they have been convinced by their abuser that it is normal or a "special secret". Children may also be bribed or threatened by their abuser, or told they will not be believed.

It is also possible that a child who is being sexually abused may care for their abuser and worry about getting them into trouble. This usually occurs in cases of sexual abuse of older children or teenagers, and in cases where the child is made to believe that they are in a romantic relationship with the offender. This phenomenon is more popularly known as the Stockholm Syndrome, wherein the victim develops a psychological bond with the offender and becomes sympathetic towards the offender.

Thus, the onus is on the stakeholders, particularly the family members and educators to be watchful of the behaviour of the child under their care, and be cognizant of any change in the behaviour of the child, howsoever minute they may be. The indicators and signs discussed below may not always actually turn out to be an occurrence of child sexual abuse. Nevertheless, it is in the best interest of the child to be wary of any physical or behavioural change in the child. A child survivor of sexual abuse may try to drop subtle hints to their parents or any caregiver, without giving any explicit or outright details. Being aware of the indicators, would enable the stakeholders to pick up on such hints and take the necessary course of action. Child sexual abuse disclosures are usually a process rather than a single event. Studies also indicate that many children who undergo child sexual abuse also

experience other types of abuse and neglect.⁴⁸ There are a range of indicators of child sexual abuse, spanning physical, emotional, psychological and behavioural changes. A study by NIMHANS also refers to an Index of Suspicion in Child Sexual Abuse, which is presented below.⁴⁹



3.5.1. Physical Indicators

The child may develop health problems, including soreness, bleeding, pain, or itching, swelling or redness in the genital areas, pain when going to the toilet, difficulty walking or sitting, bruises on soft parts of their body, like buttocks or thighs, upper arms or neck, symptoms of a urinary tract infection, symptoms of a sexually transmitted infection, like discharge from the penis or vagina, or having missed a period.⁵⁰

⁴⁸ Erin K. Martin, Peter H. Silverstone, How much child sexual abuse is below the surface and how can we help adults identify it early, *Frontiers in Psychiatry*, Vol. 4, Article 58 (2013)

⁴⁹ Developmental and Mental Health Implications for Eliciting Evidence under Protection of Children from Sexual Offences Act, 2012, A Training Manual for Judicial Personnel, NIMHANS, Karnataka Judicial Academy, Department of Women and Child Development, Government of Karnataka (2019)

⁵⁰ Safeguarding children in education: types and indicators of abuse, SCIE (Available at: <https://www.scie.org.uk/safeguarding/children/education/types-indicators-abuse#sexualabuse>)

Perhaps, the most alarming indication that a child is a survivor of sexual abuse is sexualised behaviour. However, it is often challenging to distinguish inappropriate sexual behaviour with age-appropriate sexual behaviour, which is a characteristic of human development. Research on the relation between sexualised behaviour in child and child sexual abuse suggests that, sexualized behaviour in children could be defined as problematic when:

- it occurs at a greater frequency or at a much earlier stage than would be developmentally appropriate
- it is accompanied by the use of coercion, intimidation or force (e.g. one 4 year-old forcing another to engage in mutual fondling of the genitals or an imitation of intercourse)
- it is associated with emotional distress
- it reoccurs in secrecy after intervention by caregivers.⁵¹

3.5.2. Emotional and Behavioural Indicators

A child who has been sexually abused may experience trauma in the form of psychosomatic illnesses i.e., headaches or stomach aches for which there doesn't seem to be a physical cause. The child may also experience emotional distress i.e., the child becomes angry or upset when a particular person or place is mentioned, or is aggressive or cries for no obvious reason.

They may also be absent minded because their mind preoccupied with trauma. Sometimes, the child may display clingy behaviour. They may start being aggressive, have difficulties sleeping, have regular nightmares or start wetting the bed. They may dislike or seem afraid of a particular person and try to avoid spending time alone with them. The child may also be alluding to having a secret that cannot be revealed, and express reluctance to dress or undress in presence of other people.

⁵¹ Chapter 7: Child Sexual Abuse, Guidelines For Medico-Legal Care For Victims Of Sexual Violence, WHO (Available at: https://www.who.int/violence_injury_prevention/resources/publications/en/guidelines_chap7.pdf)

3.5.3. Indicators among teenagers or older children

The following indicators are more prevalent among teenager survivors of child sexual abuse and are in conjunction with characteristics of physical and emotional development that occurs during puberty.

Older children or teenagers may display emotionally erratic behaviour i.e., being aggressive, angry, crying for no apparent reason, or for very trivial reasons. Essentially the child may become either emotionally more sensitive or more hardened. They may develop low self-esteem, or be confused about their self-identity, including sexual identity. They may also indulge in self-harm, due to shame, guilt, sense of helplessness, frustration, usually by consuming sleeping pills, or by slashing wrists. They may also display symptoms of eating disorders or sleeping disorders.⁵²

Such children may also display significant changes in their school and social life. They may experience trouble developing or maintaining relationships, including friendships. They may have either changed their friend groups, or may be unusually spending more time alone, or may tend to avoid certain people, places or activities that they previously enjoyed. They may spend a lot of time online and be secretive about their online communications. They may also experience trouble in concentrating and learning, as a result of which their performance in school may have gone down.⁵³ They may indulge in sexual behaviour which is considered problematic or risky. Survivors of child sexual abuse may turn to substance abuse as a coping mechanism to vent out their frustration, and may become prey to addiction to drugs, tobacco and other drugs. Studies have also shown that it is possible that the behavioural indicators simply indicate that the child is under some kind of stress. In this regard, a child whose parents are divorcing, for example, may exhibit many of the same kinds of behaviour as a sexually abused child. Survivors particularly

⁵² How to spot child sexual exploitation, NHS (Available at: <https://www.nhs.uk/live-well/healthy-body/how-to-spot-child-sexual-exploitation/>)

⁵³ Signs of sexual abuse in children and teenagers (Available at: <https://raisingchildren.net.au/school-age/safety/child-sexual-abuse/signs-of-sexual-abuse>)

young girls, have a tendency to run away from home, which makes them prone to various kinds of delinquency such as stealing, and even snap decisions about going into sex work, which can lead to arrest and incarceration. Research suggests that at least half of all female delinquents have been sexually abused in childhood.⁵⁴

3.6. Institutional risk zones

Schools and educational institutions continue to remain a major hotspot for child sexual abuse.⁵⁵ Perpetrators in such institutions include teachers who are overly friendly with the students, or teachers who sexually abuse students in the name of disciplining, and even staff in schools such as lab assistants, physical training educators and attenders. A teacher may lure the child by promising better marks, grades or more leniency. This is more so in case of children considered to be academically 'weaker'. The child may also be threatened with lesser grades, or of complaining to their parents. A common response when an educator is suspected of abuse, particularly when they hold a good reputation or is a long-time employee, is to deny or ignore it. Sometimes the abuser is transferred to another school. Even with a suspension or reprimand, the violation is likely to recur in the absence of intervention and monitoring.⁵⁶

Another site of child sexual abuse that has largely been ignored is private tuition centres, which predominantly function in urban cities. In the absence of a regulatory mechanism for private tuitions and coaching centres, it is imperative that parents and guardians play a proactive role in ensuring the safety and well-being of their children.

⁵⁴ Shayani Sarkar, If We Don't End Child Sexual Abuse, This Is How It Can Affect A Person's Adult Life, 3rd July, 2019 (Available at: <https://www.youthkiawaaz.com/2019/07/child-sexual-abuse-and-the-propensity-to-commit-crimes/>)

⁵⁵ Jon R. Conte and John R. Schuerman, Factors Associated with an Increased Impact of Child Sexual Abuse, Child Abuse & Neglect, Vol. 11, pp 201-211 (1987) (Available at: <https://www.sciencedirect.com/science/article/abs/pii/0145213487900597>)

⁵⁶ Chapter 5: What Factors Contribute to Child Abuse and Neglect?, A Coordinated Response to Child Abuse and Neglect: The Foundation for Practice (Available at: https://www.childwelfare.gov/pubPDFs/foundation_34.pdf)

Yet another major concern is the poor maintenance and monitoring of child care institutions.⁵⁷ A 2013 research by Carson *et. al*⁵⁸ revealed that street children, working children, and children in institutional care reported the highest incidences of sexual assault. Non-registration of child care institutions continue to fester the well-being of children.⁵⁹ It has been reported that 1,575 minors, who were victims of sexual abuse, and 189 victims of pornography were living in 9,589 child care institutions across the country.⁶⁰

“There is a large gap between what we know about violence against children and what we know should be done. We know that violence against children often causes lifelong physical and mental harm. We also know that violence erodes the potential for children to contribute to society by affecting their ability to learn and their social and emotional development. Given the importance of children to our future, the current complacency cannot continue – we must place “preventing” violence against children among our highest priorities.” – James A. Mercy

Thus, it is useful for stakeholders to know and understand the signs and symptoms of child sexual abuse because they need to read the case reports provided by the police as well as medical and psychosocial reports provided by healthcare professionals. When these reports mention any or some of the signs or symptoms, the judicial officer may already have a sense that child sexual abuse has taken place and the recording of statement and examination of the child can proceed accordingly.

⁵⁷ Mannat Singh et.al, An Epidemiological Overview of Child Sexual Abuse, J Family Med Prim Care, Vol.3(4), pp. 430–435 (2014) (Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4311357/>)

⁵⁸ David K. Carson, Jennifer M. Foster & Nishi Tripathi, *Child Sexual Abuse in India: Current Issues and Research Psychological Studies*, Vol.58, pp.318–325 (2013) (Available at: <https://link.springer.com/article/10.1007/s12646-013-0198-6>)

⁵⁹ Danish, *A crying shame: sexual abuse in children shelters*, Firstpost, 19th June 2012 (Available at: <https://www.firstpost.com/india/a-crying-shame-sexual-abuse-in-children-shelters-348852.html>)

⁶⁰ 1,575 minor victims of sexual abuse staying in child care institutions: Govt to SC, 14th Aug 2018, The Times of India (Available at: <https://timesofindia.indiatimes.com/india/1575-minor-victims-of-sexual-abuse-staying-in-child-care-institutions-govt-to-sc/articleshow/65406848.cms>)



ROLE OF STAKEHOLDERS

CHAPTER IV - ROLE OF STAKEHOLDERS

A child's mind works in a completely different way to that of an adult and that means their psychology is also different. Childhood is the process where a child develops physically and emotionally. Children are not on par with adults, they do not have the same level of understanding or mental maturity as an adult. When handling a child, who is not completely developed as a person, one should be very careful. Especially when it comes to child victim/ child survivors one has to handle them with utmost care, even a single wrong word may trigger and rekindle their trauma which may at times become irreparable.

4.1. Paradigm shift in thinking and approach for judicial stakeholders: Need to balance efficiency and sensitivity

As there are various stakeholders, different persons have different approach towards a case. But, when it comes to handling child/children, every stakeholder must be patient. Every aspect will have an effect on the child. All the stakeholders have different role to play and they have to play their part perfectly with unison. The sexual abuse or rape is in itself a trauma, which has affected the child both physically and psychologically. The judicial process should not add to that trauma, but help the child come out of it.

A common-sense approach should be taken when dealing with the testimony of young children and same standards as expected from adults should not be expected from young children. Children have been accorded special treatment by the legislature and courts because of their special needs. The court room environment is unfamiliar and would definitely be intimidating to a child who is required to testify as a witness. The trauma if the child witness is a victim is only further aggravated.⁶¹

The police are the first to come in contact with the child as a part of the judicial process. They are required to record the statements of the victim child/child survivor. While recording the statement, the police official must keep in mind,

⁶¹ State v. Rahul, 2013 SCC OnLine Del 1459

- The recording of statements is not done at the police station but at the residence of the victim child or any other place in which the child feels comfortable.
- The police official should preferably be a woman officer not be below the rank of police sub-inspector and not wear the police uniform while recording the statement of the child victim/ child survivor.
- The statements must be recorded in the same words of the child and in the language known to the child. Frequent breaks must be given to the child while recording the statements to avoid burdening and causing stress to the child.

The medical professionals play a vital role in rehabilitation of the child victims/ child survivor. It is very crucial to note that the medical professionals while dealing with a child sexually abused have to,

- Explain the child and the parents the procedure of collecting evidences and traces medically
- obtain the informed consent of the child or the parents of the child if the child is below 12 years for medical investigations.
- In a child friendly manner enquire about the incident for better understanding of conducting relevant tests.
- Assess if the child requires psychological assistance to cope with the trauma.

The special public prosecutors have huge responsibility when it comes to dealing with a case under the POCSO Act. The special public prosecutor must,

- Completely be aware of the facts of the case. They should meet the child personally in the presence of the parents or any trusted adult place to know the facts.
- They must have undergone special training to deal with children as per the orders in the case of *In re, Alarming Rise in the Number of Reported Child Rape Incidents*.
- The public prosecutor must always keep in mind that, they are dealing with children who are vulnerable and should avoid asking anything that rekindles the trauma.

- The chamber of the special public prosecutor must be child friendly and breaks must be given to the child while asking the child about the incident.

The Special Court is the most important place, as it is the site of delivering justice to the child survivor. The special judge must be trained to understand child psychology. The special judges must ensure that,

- The proceedings take place in their chamber or a small court hall which is built in a child friendly manner.
- Attire shall be a causal outfit and not robes, as it may cause fear to the child.
- The parents or any trusted adult is present during the trial of the case, to make the child feel comfortable.
- The accused is not in the vicinity of the child as it may threaten or intimidate the child. To minimise the trauma of a child victim or witness the testimony may be recorded through video conferencing or by way of a close circuit television. Alternatively, a screen or some arrangement be made so that the victims or the child witness do not have to undergo seeing the body or face of the accused. The screen should be effective and installed in such manner that the witness is visible to the trial judge to notice the demeanour of the witness. Single visibility mirrors may be utilised, to which while protecting the sensibilities of the child, shall ensure that the defendant's right to cross examination is not impaired.
- Questions put forth during cross examination do not embarrass or confuse the child and the defence counsel must route the question through the judge, who will pose the question in a child-friendly manner.
- Questions should be put to a victim child which are not connected to case to make the child comfortable and to depose without any fear or pressure.
- Unless absolutely imperative repeated appearance of child witness should be avoided.
- Give sufficient breaks to the child for refreshments so that the child does not feel the process to be tiresome.

4.2. Responsibilities of Stakeholders

The stakeholders are group of individuals without whose support a structure ceases to exist. In a case relating to child sexual also, the stakeholders play a vital role and even a single mismanagement can cause irreparable damage. The stakeholders are the persons or group of individuals that come in contact with the victim child. The stakeholders have certain duties and obligations not only after the Child Sexual Abuse has taken place, but even before such incidents takes place by taking preventive and pre-cautionary measures. The child or children who are abused sexually must be handled with due care and shall be protected from further abuse. Here is where the stakeholders meet each other and all the stakeholders must ensure that at any given point of time the best interest of the child is to be given priority.

The various stakeholders are:

- i. Parent/Guardian
- ii. Schools- Teacher
- iii. Police
- iv. Medical Professional
- v. Prosecutor
- vi. Defence Counsel
- vii. Court- Judge
- viii. Media

4.2.1. Parent/Guardian

The parents and guardian are the first persons to come in contact with the children. They have the responsibility to have a regular watch on their children. Children must be taught from the very young age that except parents and other trusted immediate family, no person can see the children naked. There should be a serious and strict 'No touch' policy. Children must be taught not only about being touched but, not to touch others too. The parents must treat their children in a friendly manner and

frequently involve the children in their day-to-day decision making, by doing so the child's confidence will be built and they will not keep any secrets from the parents. Educate the child to report any form of abusive touch or physical touch by other children or any adults to either parents, reliable adult or teachers. Make it a point to ask your children about their day and tell them about yours. This is one of the way mutual trust can be developed.

Handling young children- below 12 years:

Always teach your children the right words- the correct words of the body parts. Do not use babyish or erroneous names to denote the body parts. Tell your children the correct names of the private parts and their uses in a child friendly way as you would say hands are used for holding things firmly or writing, tell them that, the genitals are used for urinating. Always be vigilant whenever you are leaving your child/children with neighbours/relatives/friends or caretakers. Many reports suggest that most child sexual abuse happens not by strangers but, by known persons. Listen to the children carefully and constantly remind them not to keep secrets and secrets are unsafe. Tell them that they have to follow the strict no touch policy in all places and tell that one should never hide of being touched and ask them to approach you fearlessly. Teach your child that keeping secrets of being touched and being threatened is not at all right and is unsafe.

Handling adolescents – children aged between 13-19:

The adolescent age is the age of deviation. This is when the child comes in contact with a lot of individuals and this is the time, they start exploring sexuality too. Children should be taught sex education. Reacting with shock, anger or disbelief to your child's questions about body or sexuality will only turn them away from you, do not run away from these questions. You need to be empathetic, trusting and capable of seeing the issue from your child's point of view.

As a parent, tell your child to take entire ownership for their whole body. The emphasis should be on personal space and not just on private parts. Always

remember that boundaries must be age appropriate and must change with time and age. Teach them that if someone tries to touch their body in a way that they are not comfortable with or asks them to touch others in an uncomfortable way or wants to take a picture, or violates their personal space – to say “NO” and tell them to run away from the uncomfortable scenario and reach out to a trusted adult about the incident.

When a child tells you about an abuse:

It is quite natural to be taken aback, be in a state of mental shock or being in denial. Do not let these impact your children, when you are broken you are jeopardizing your child’s emotion. Always remember that when your child discloses about abuse, your first reaction is key to your child’s recovery. Listen to your child first, question them politely, ask each and every detail. Appreciate your child for telling you about the incident, this way the child will feel safe. Talk to your child and tell them it is not their fault. Report the incident to the nearest police station. Take your child to a medical practitioner. Never fear about approaching a psychologist or psychiatrist to deal with the situation. Parents should make an effort to learn the laws that protect children and in case of need must seek legal assistance.

Steps to be followed by the parents in case of Child Sexual Abuse

Situation	Dos	Don’ts
As soon as the child complains to you of the offence	Firstly, believe the child. Pay keen attention to the details, name and the act that the child narrates.	Do not blame the child and do not be upset.
The next step is to report the occurrence of the offence to the police.	Mandatorily, report the offence to the police without any delay. Ask them to file an FIR and give you the copy of the same.	Do not dilly-dally in reporting the offence, even if it is committed by known person.
If the offence has come to light immediately after	Take the child immediately to a medical practitioner for	Do not bathe the child or change their clothing.

occurrence.	examination and collection of evidences.	
At the time of recording the statement.	Always be present with the child while recording the statement of the child by police. Also make sure that the recording takes place in a place where the child is comfortable. Ask the police personnel preferably women police officer not below the rank of sub-inspector of police to come in casual clothing.	Do not allow the police officials with uniform near your child. Never take the child with you to the police station at any cost.
During medical examination	Make sure the consent of the child is obtained, if the child is of consenting age or your consent is obtained by the medical practitioner.	Do not force the child to undergo medical examination. Do not allow the medical practitioner to examine the child without consent.
During trial of the case in court	Make a note of the dates on which you have be present in the court with the child. Be with the child while the Court records the statement of the child.	During trial of the case in court do not leave your child alone. Never allow the accused/his family near the child.
When questions are posed by media/media personnel's	Make sure that you are away from media and do not allow them to take your photography or your child's.	Do not reveal the information to media. The child's identity must be safeguarded at all times.

4.2.2. Schools-Teachers

After home, the children spend most of the time at schools. Like parents the schools also have responsibility of taking due care of children and protecting them from all forms of abuse. The schools have to give proper guidance and aid children during hardships, especially during emotional and physical hardships. Schools must have anti- child sexual abuse policies and they must involve in creating awareness about the rampant issue of child sexual abuse (CSA). Every school must have a resident psychological counselor specially trained to handle children in distress. Another important aspect is that of 'Sex Education', it should not be a taboo and adolescent children must know about it. It must be a part of the syllabus for children aged above 12 years.

Teach your students that, they should never feel ashamed if any person abuses them or touches them inappropriately. Tell your students to be vigilant around them and report anything that seems inappropriate. Constantly pay attention your students and if you notice any behavioral changes make efforts to talk to the child in private learn about the issue the child is facing. Often after a child is subjected to sexual abuse, there will be changes in their behavior.

Guidelines for schools to prevent child sexual abuse:

- Mandatorily report instances of child sexual harassment or sexual abuse. Failure to report will make the school liable to punishment, as per POCSO Act.
- Must ensure routine police verification and background check of every staff.
- Conduct periodic training for sensitizing staff on child safety and protection.
- Install CCTV camera in school premises and in classrooms for the safety of students.
- Constantly monitor behaviour of staff in contact with students; look for early warning signs.
- Recruiting student counsellor, and setting up a School Complaints Committee to redress complaints.

Steps to be followed by the schools/teachers in case of Child Sexual Abuse

Situation	Dos	Don'ts
When you see a child is showing deviant behaviour or is dull and inactive or seems unusual.	Enquire the child about the unusual behaviour politely. Tell the child to trust you.	Do not enquire the child in front of other students. Do not ignore deviant behaviour.
As soon as the child complains to you of the offence.	Believe the child. Pay keen attention to the details, name and the act that the child narrates.	Do not blame the child and do not show reaction disbelief or shock.
Report the occurrence of the offence to the police.	Mandatorily, report the offence to the police without any delay. Inform the parents and make sure the police file an FIR and give you the copy of the same.	Do not dilly-dally in reporting the offence, even if it is committed by person known to you or the child.
When questions are posed by media/media personnel.	Make sure that you are away from media and do not allow them to take photography your school or your students.	Do not reveal the information to media. The child's identity must be safeguarded at all times.

History will judge us by the difference we
make in the lives of children

- Nelson Mandela

4.2.3. Police

The police are the first outsiders to come in contact with the victim child/ child survivor. The police must register an FIR as soon as they receive the complaint/information about child sexual abuse. The police after registering FIR should record the statement of the victim child/ child survivor in any place other than the police station where the child feels comfortable. The police while recording the statement or during investigation should not wear the police uniform and must wear casual outfit. The investigating police official must not be below the rank of sub-inspector of police and preferable must be a woman officer. The statement of the child victim/ child survivor should be recorded in the presence of the parents and in the language of the child. As the recording of the statement from the child takes time, the child must be given breaks in between, so that it does not cause stress to the child.

The police officer may take help of a translator or special educator, if the language spoken by the child is not known to the officer. Privacy and confidentiality regarding the incident and the name, age and other personal information must be maintained at all times. As far as possible, the statements must be recorded in audio-visual devices. The police should make sure that they submit relevant documents to Social Welfare Department for Compensation to the child victim/child survivor. Information may also be given to District Legal Services Authority as at most places, the administering authorities in respect of compensation schemes are the DLSAs.

If the police official is convinced that the child is in need of care and protection or is living with the abuser, then the child must be placed with Child Welfare Committee and the official must record their reason in writing. The police must take the child survivor to the nearest government hospital or a private hospital for medical examination within 24 hours on receiving the information about child sexual abuse. The police shall also report such cases to the Child Welfare Committee and the Special Court within 24 hours.

Steps to be followed by the police in case of Child Sexual Abuse

Situation	Dos	Don'ts
When there is a complaint about a child sexual abuse.	Register each and every complaint of child sexual abuse.	Do not refuse to register a complaint of child sexual abuse on any ground.
Immediately after receiving the information of child sexual abuse.	Make earlier arrangements for medical examination of the victim child/child survivor in the nearest hospital.	Do not ignore taking the child to medical examination.
To record the statement of the victim child/ child survivor.	Always record the statement of the child in the place where the child is comfortable.	Do not insist on recording the statement of the child in the premises of the police station.
While going for recording the statement of the victim child/ child survivor.	Go in plain casual cloths for recording the statement of the victim child/ child survivor.	Do not wear the police uniform while recording the statement of the child victim/ child survivor.
While recording the statements of the child.	Be patient and sympathetic with the child.	Do not make offensive comments and do not ask leading questions to the child.
Identification of the accused and identification of the place of occurrence.	Inform the parents and the child about the procedure in advance and ensure that the parents are present with the child during identification.	Do not call the parents and child without prior intimation. Never allow other persons interfere during the process.
When the police officer is convinced that, the victim child/ child survivor needs protection.	Produce the child to the Child Welfare Committee in cases for ensuring adequate care and protection to the child.	Do not produce each and every victim child/ child survivor to the Child Welfare Committee.
Trial in the court.	Make sure to provide safety to the child and always maintain confidentiality.	Do not expose the child to the accused.

4.2.4. Medical Professional

Prior to conducting any medical examination, the medical professionals must ensure that they are well versed with the medical history of the victim child. The medical professionals must tell the parents and the child in detail about the examination which will be conducted to ascertain the incident and must also ensure that the child is consenting for the medical examination. If a child is below 12 years, then the consent of the parents for the medical examination must be obtained. The medical professionals must make sure that, the parent/ guardian or trusted adult be present during the examination. Even if any person comes directly to the hospital without the police requisition, the hospital is bound to provide treatment and conduct a medical examination with consent of the child survivor/parent/guardian.

The medical professionals at all times must maintain confidentiality. Ensure proper labelling, storage, preservation and chain of custody is established for samples and materials being handed over for forensic examination. The samples received for forensic testing are to be sent to the Forensic Laboratory at the earliest. After the medical examination is done, all the evidences collected from the child must be preserved and handed over in a tamper-proof covering to the police. Ensure that the child and the accused do not come in contact during medical examination.

The medical professionals may also suggest for psychological counselling if the child seems to have developed behavioural changes or for coming out of the trauma undergone. The medical professionals should carefully analyse the situation and ask questions to the child in a child friendly manner. Medical professionals should avoid leading questions and must never show shock or disbelief whenever the child is narrating about the incident. An anatomical structure maybe used for the identification of body parts if the child does not know how to convey the occurrence.

Steps to be followed by medical professionals in case of Child Sexual Abuse

Situation	Dos	Don'ts
When a child who is sexually abused comes to you.	Examine the child who comes to you claiming to be sexually abused.	Do not wait for FIR or police intimation.
When preparing for medical examination of the child victim/ child survivor.	Talk to the child politely and ask the child about the incident. Believe the child.	Do not straight away start the examination. Do not show disbelief when the child narrates the incident.
The medical examination.	Make sure that the parent or any trusted adult of the child is present during the medical examination. In case of girl child, a woman medical professional must conduct the examination.	Do not ask the parents or other trusted adults to leave while conducting medical examination.
Obtaining consent.	The medical professionals must obtain the consent of the child before conducting the medical examination. In case of child below 12 years, the consent of the parents must be obtained.	Do not proceed with the medical examination without obtaining the consent of the child/parents.
After conducting medical examination.	Inform the parents and police about the finding on examination and give them the detailed report of the medical examination.	Do not delay and wait until the parents or the police official ask you for the report.

4.2.5. Prosecutor

A Special Public Prosecutor (SPP) shall be appointed for exclusive trial of cases under the provisions of the POCSO Act, 2012. The duty of a public prosecutor is to aid in punishing the culprit. The Special Public Prosecutor plays a crucial role in representing the best interests of the child before the Court. The child needs to be handled with utmost care and sensitivity so as to avoid secondary victimisation and further trauma to the child. The public prosecutor while handling a POCSO case must not allow the defense counsel and the accused to meet the victim child/child survivor as it may cause mental trauma and intimidation to the child. The special public prosecutors must familiarize the victim child/child survivor and the parents of the child about the pre-trial and trial proceedings. The public prosecutor may also aid in getting interim compensation to the victim. The public prosecutor must take due care as the cases relating to children are very sensitive and must be handled with confidentiality.

Steps to be followed by the prosecutor in case of Child Sexual Abuse:

Situation	Dos	Don'ts
When you come to know about the child who is sexually assaulted.	Talk to the child politely. Gain the child's confidence. Tell them what happened with them is not their mistake.	Do not ignore the child. Do not blame the child for what has happened to them.
Before the trial.	Prepare the child for the trial by intimating to the child and their parents all the possible questions that maybe asked by the court.	Do not be a mere spectator.
In the trial process.	Make sure that the case is disposed as soon as possible and the child is not called to the court repeatedly.	Do not delay the case by seeking adjournments and do not bring the child to the court when not required.
Questioning the child	Make sure that all the	Do not jeopardize the

during trial.	questions asked by you and the defense counsel are not derogatory. All the questions should be routed through the Judge of the Special Court.	recovery of victim by blaming the child and asking derogatory questions.
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4.2.6. Defense Counsel

The defense counsel must not intimidate the victim child/child survivor and their family members. The defense counsel must route the question through the judge and cannot directly ask questions to the victim child/child survivor. The child victim/victim survivor shall not be exposed to the accused. The defense counsel must not make negotiations on behalf of the accused. The defense counsel must not indulge in menacing the victim child and their family with dire consequences.

4.2.7. Judge – Special Court

The Special Court is specially empowered to adjudicate the cases under the POCSO legislation. The Court may take cognisance of the offence upon receiving the complaints of the facts even without the accused being committed for trial. The Special Court should ensure that the questions put to the child survivor during examination-in-chief and cross examination are put through the judge and the said questions should not be aggressive or character assassinating which may cause mental trauma to the child. The Special Court shall allow the family of the child or any other trusted adult to be present during the trial. The special judge shall ensure that at all times, during investigation and trial the name and other details of the child are not disclosed. Calling the child repeatedly to the court will have adverse impact on the child and must be avoided by the Special Court. The Special Court must not allow the child to be exposed in way to the accused. Wherever necessary the Special Court may seek the help of translators, interpreters and special educators. It is the duty of the trial Court to conduct the trials of POCSO cases as '*in camera* trials'.

Steps to be followed by the Special Court in case of Child Sexual Abuse:

Situation	Dos	Don'ts
Prior to the commencement of the trial.	The judge heading the special court must ensure that the court is child friendly and doesn't look like the actual court room.	The judge should not allow the trial to take place in a normal court room.
During trial.	The court must ensure that the dignity and decorum of the child is maintained throughout.	The court should not allow questions that assassinate the character of the victim is asked by the counsels.
	Court must ensure that all the questions asked to the child are put to the judge, who in turn frames the question in a child friendly manner asks the child.	Court must not allow the counsels to put questions directly to the child.
	Complete the trial as soon as possible and refrain from calling the child repeatedly to the court.	Do not drag the case. Repeatedly do not ask the child to appear in court.
	Order for interim compensation <i>suo moto</i> .	Do not wait for the special public prosecutor to seek for compensation.
	Conduct in camera proceedings and maintain confidentiality at all times.	Do not reveal any identity pertaining to the child.
When questions are posed by media/media personnel.	Do not comment on the incident to the media. Take action against any media if they reveal any identity of child in a child sexual abuse case.	Do not reveal the information to media. The child's identity must be safeguarded at all times.

4.2.8. Media

As the fourth pillar of democracy, the media has a responsibility to bring the issue of child sexual abuse into the realm of public debate but when this news pop up it not only creates awareness but, also creates a fear in the minds of those watching. When the news about child sexual abuse is telecasted it reaches a large fraction of people and the identity of the child victim/ child survivor is revealed causing psychological stress to the child, who is already suffering from the abuse. The POCSO Act forbids any person from revealing the identity of the child and punishes those who reveals the identity. Media includes the social media networking also. Media should also protect the identity of the child and should not discuss the particulars pertaining to the child.

4.3. Approach of POCSO Judges

A survey was conducted among POCSO judges for understanding their approach in handling the psychology of survivors of child sexual abuse. This questionnaire was circulated to the POCSO judges to necessarily provide insight on various pointers of child sexual abuse, building trust and confidence in the child. The questionnaire envisaged the various stages of a criminal prosecution, rehabilitation of a survivor of child sexual abuse, motivation of the child after conclusion of trial, and also such concerns of conducting cases involving children without instilling fear or confusion in the minds of the survivors. From the survey it was inferred that there is progress towards exercising sensitivity and sensibility in dealing with the child survivor in POCSO cases.

4.4. Judicial Pronouncements Pertaining to Child Psychology and Child Behaviour

1. Aman Lohia v. Kiran Lohia [(2021) 5 SCC 489]

21. As a matter of fact, contends the learned counsel, the most appropriate course would be to follow the joint shared parenting plan, in which the child would interact

with both the parents in equal measure. Further, the paramount interest and welfare of the child is not limited to being connected with father and mother, but even other family members from both sides for her well-being and holistic growth. That is vital in the context of child psychology and upbringing. As a matter of fact, during counselling, the respondent had accepted the fact that because she is a working woman, the child can remain with the grandparents, who were staying only few houses away, during the daytime on working days. The appellant had highlighted several aspects about the unfitness of the respondent to groom the child or devote enough time and attention herself.

2. Alarming Rise in the Number of Reported Child Rape Incidents, In re, [(2020) 7 SCC 130]

Exclusive Public Prosecutors for Pocso (the Protection of Children from Sexual Offences) Courts

The language of the Act leaves no manner of doubt that the Special Public Prosecutor under the Act should not deal with other cases.

8. There is a salutary reason for appointing Public Prosecutors exclusively for Pocso cases. Public Prosecutors must be trained to deal with child victims and child witnesses. They need to understand the psychology of children. They need to empathise with children. They need to know how to bring out the truth from children who are victims of sexual abuse and have to undergo the trauma again while recounting the traumatic experience.

9. The job assigned to the Public Prosecutor for Pocso cases is a very onerous one which must be carried out with great care and sensitivity. Therefore, not only is there a need to have exclusive Public Prosecutors but there is also a need to develop a training programme where these Special Public Prosecutors should be trained to deal with issues which will arise in their courts. These issues may not be confined to legal issues which otherwise Public Prosecutors may be trained to deal with. The issues may be psychological, health and other related issues.

3. Sampurna Behura v. Union of India [(2018) 4 SCC 433]

(vi) Child Care Institutions

85. There is a lot to be said with regard to Child Care Institutions. Many of them are housed in rundown buildings and are hardly conducive to comfortable living even to a minimum degree. The State Governments must appreciate that they are not doing any charity by putting up children in Child Care Institutions—they are merely performing their statutory and constitutional obligations. There is, therefore, an urgent need to make an evaluation and assessment of all the Child Care Institutions in every State to ascertain their condition, the infrastructure requirements and staffing requirements. Children live in these institutions, not because they want to but because they have no other option, since most of them are children in need of care and protection. The obligation of society is to provide solace and comfort to these children and adherence to the minimum standards of care. Model Rules contain details for improved Child Care Institutions and their requirements. The State Governments have merely to adhere to these minimum requirements.

89. It was suggested by the learned counsel that in all Child Care Institutions, there should be a segregation of children in terms of age and wherever applicable segregation based on the nature of the offence allegedly committed so that the possibility of sexual abuse or any other kind of violence is eliminated. Additionally, all such institutions should be advised to provide vocational or continuing education with a view to resettling children in conflict with law and children in need of care and protection by reintegrating and mainstreaming them in society. All these are issues of serious concern and need to be addressed by the State Governments and Scpcrs.

90. It was emphasised that there should be adequate staff available in all Child Care Institutions so that they are able to perform their duties efficiently. It was also suggested that the location of the JJBs and CWCs should be in close proximity of the Child Care Institutions to avoid children having to travel long distances for their

appearance before these statutory bodies. All these suggestions and recommendations made by the learned counsel are issues of concern and must be dutifully addressed by the State Governments and the Scpcrs.

4. Rohit Singhal v. Principal, Jawahar N. Vidyalaya [(2003) 1 SCC 687]

6. Children are not only the future citizens but also the future of the earth. Elders in general, and parents and teachers in particular, owe a responsibility for taking care of the well-being and welfare of children. The world shall be a better or worse place to live according to how we treat the children today. Education is an investment made by the nation in its children for harvesting a future crop of responsible adults productive of a well-functioning society. However, children are vulnerable. They need to be valued, nurtured, caressed and protected. Developing an essentially symbiotic relationship between children coming from different cultural backgrounds having different dialect, diet and desires — childlike and innocent — needs thoughtful approach so as to reach the coveted goal of an integrated nation.

5. Ram Sukh v. State of Rajasthan [1989 Supp (2) SCC 189]

“The teacher alone could bring out the skills and intellectual capabilities of students. He is the ‘engine’ of the educational system. He is a principal instrument in awakening the child to cultural values. He needs to be endowed and energised with needed potential to deliver enlightened service expected of him. His quality should be such as would inspire and motivate into action the benefitter.”

7. These observations are equally relevant to primary school teachers with whom we are concerned. The primary school teachers are of utmost importance in developing a child's personality in the formative years. It is not just enough to teach the child alphabets and figures, but much more is required to understand child psychology and aptitudes. They need a different approach altogether. Only trained teachers could lead them properly.

6. State v. Rahul [2013 SCC OnLine Del 1459]

8. In yet another pronouncement reported at (1990) 2 SCR 3, R. v. B.(G)., the Supreme Court of Canada has observed that since children may see the world differently from adults, some details which may appear to be important to adults like time and place may be missing from their recollection. The court suggested that judiciary should take a common-sense approach when dealing with the testimony of young children and not expect the same standards from young children as they expect from adults.

11. In the Mokoena trial the child complainant was allowed to give evidence with the aid of an intermediary. We find emphasis on consideration of the best interests of the child by Courts in the judgment authored by Nacobo, J placing reliance on the UN Guidelines when he wrote thus:

"78. The Economic and Social Council of the United Nations has developed Guidelines on Justice Matters involving Child Victims and Witnesses of Crime (Guidelines). The main objective of these Guidelines is to 'set forth good practice on the consensus of contemporary knowledge and relevant international and regional norms, standards and principles'. These Guidelines provide a useful guide to the understanding of the rights of the child to have his or her best interests given primary consideration in all matters concerning the child. They provide that child complainants and witnesses should receive special protection and assistance that they need in order to prevent hardship and trauma that may arise from their participation in the criminal Justice system. In particular, in the context of the best interests of the child, the Guidelines set forth the following principle:

"(c) While the rights of accused and convicted offenders should be safeguarded, every child has the right to have his or her best interests given primary consideration. This includes the right to protection and to a chance for harmonious development:

(i) Protection. Every child has the right to life and survival and to be shielded from any form of hardship, abuse or neglect, including physical, psychological, mental and emotional abuse and neglect;

(ii) Harmonious development. Every child has the right to a chance for harmonious development and to a standard of living adequate for physical, mental, spiritual, moral and social growth. In the case of a child who has been traumatized, every step should be taken to enable the child to enjoy healthy development..

79. It is apparent from the CRC and the Guidelines that courts are required to apply the principle of best interests by considering how the child's rights and interests are, or will be, affected by their decisions. The best interests of the child demand that children should be shielded from the trauma that may arise from giving evidence in criminal proceedings. Child complainants and witnesses should testify out of sight of the alleged perpetrator and in a child-friendly atmosphere. [Para 30(d) and 31(b) of the Guidelines.] This means that, where necessary, child witnesses should be assisted by professionals in giving their testimony in court. However, each child must be treated as a unique and valuable human being with his or her individual needs, wishes and feelings respected. [Para 11 of the Guidelines.] Children must be treated with dignity and compassion. [Para 10 of the Guidelines.] In my view, these considerations should also inform the principle that the best interests of the child are of paramount importance in all matters concerning the child as envisaged in section 28(2) of the Constitution..

49. It needs no elaboration that Court appearances impact children more drastically than they do adults. The foreboding and austere Court rooms; people in black and white uniforms; the presence of the offender against whom the child has to testify may bring alive the trauma the child has seen (or may have experienced, if a victim). All of this may reduce the child into a state of terrified silence. This is where the judge has to step in to ensure removal of the fear and apprehensions being nursed by the child in the Court.

The following courtroom experiences of child witness recorded by Dr. Judy Cashmore, in (Child Witnesses: The Judicial Role [(2007) 8(2) The Judicial Review 281-294) as to why they could not give a full and proper account of their evidence shed valuable light on the present issue as well:

"There were several reasons children felt they could not give a full and proper account of their evidence. First, they were constrained by the questions and by the directions they were given about how they could answer. Several children were upset that they could not tell the truth, the whole truth, and nothing but the truth., because they were told by either the judge or the lawyer, to "just answer the question that was asked". They also reported being cut off or interrupted by the lawyer.

Second, some felt constrained by admissibility issues and by having to carefully edit their 'stories' to suit. For example, Alice, a 16-year-old, was giving evidence in relation to a series of sexual assaults against her in one trial, and in relation to assaults against several other complainants in two other separate trials. She spoke of her difficulty in trying to answer questions 'out of context' - without referring to the other complainants - and her consequent discomfort at appearing hesitant and unreliable before the jury.

Third, some children had difficulty in understanding the questions, consistent with the findings of numerous other studies on the difficulty of 'legal language'

52. Our attention has been drawn to the Division Bench pronouncement reported at 20 (1981) DLT 55 (DB), *Prem Shankar Sachhan v. State* wherein in para 22, the court observed that the testimony of a child witness can be "*spontaneous and unsparing, once the child is enabled to overcome the initial shock and awe, and ensured protection, security, compassion, and given confidence to come out with what was seen*". It was thereafter held as follows:—

"The merit of evidence has to be judged on the touchstone of its own inherent intrinsic worth. Courts should also while permitting full scope for cross-examination

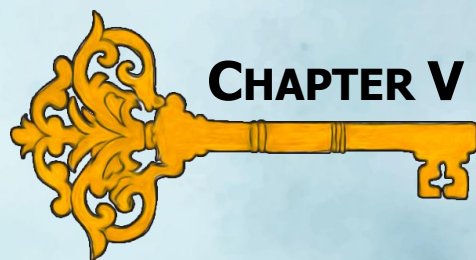
of such witnesses be careful to see that they are not subjected to unnecessary confusion, harassment or unduly made conscious of the awe of formal court atmosphere and the public gaze..

58. The questions which were put to the child witness ought to have been sensitively framed keeping in mind the socio-economic background of the child, education of the child, the age as well as the capacity of the child which the trial judge would evaluate when the child is produced before him.

60. The trial courts would be well advised to pay heed to the several cautions by the experts and carefully evaluate the questions which they put to child witnesses as well as compliance with the guidelines to minimize the secondary traumatising of a child witness by the courtroom experience.

7. Bhiku Tukaram Jadhav Vs. The State of Maharashtra Panchgani Police Station, Tal. Mahabaleshwar, Dist. Satara [2011 SCC OnLine Bom 1715]

19. The child psychology researchers have found that the abuser makes the victim feel that she had caused offender to act inappropriately. In the present case, it is seen from the evidence that the PW 3 was sleeping by the side of the appellant and on the first occasion, it was her hand which had accidentally extended to the undergarments of the appellant. The child abusers also are in the habit of making the child feel that the child is also guilty party and if the child discloses the fact to others, she will be ridiculed in the family or the society. This is one more reason that the child victims of sex abuse do not disclose the abuse for a long time. Once there is a feeling in the mind of victim that she herself is also responsible for the abuse, she cannot resist or oppose the subsequent attempts made by the abuser. This is how the sex abuse continues for a longer time till it is revealed by the victim or is detected by somebody else.



CHAPTER V

REHABILITATION, REFORMATION & RESPONSIBILITY : THREE RS FOR EFFECTIVE IMPLEMENTATION OF POCSO ACT

CHAPTER V – REHABILITATION, REFORMATION & RESPONSIBILITY : THREE RS FOR EFFECTIVE IMPLEMENTATION OF POCSO ACT

This part deals with a child in conflict with law charged with a child sexual abuse case. This area could be categorized into two facets, illustratively,

- Firstly, a 15-year-old boy sexually abusing an 8-year-old girl where force is involved.
- Secondly, a romantic relationship between a girl and a boy between the age group of 16 and 18 years where force is not involved.

5.1. Child Offenders in POCSO Cases

Child sexual abuse involving child offenders is also known as Child-on-Child Sexual Abuse. The child-on-child sexual abuse means that, both the offender and the victim are children. The term child on child sexual abuse (COCSA) is defined as sexual activity between children that occurs without consent, without equality (mentally, physically, or in age), or as a result of physical or emotional coercion. What this means is that a power difference exists between the two children, whether that is in age, size, or ability. While the trauma for the victim is the same as if it had happened by an adult, this type of abuse often goes unreported—either because it's dismissed by adults as "kids being kids" or for the fear of what will happen to one or both of the children to have the abuse known.⁶²

In the cases of child-on-child sexual abuse both the children need help. Firstly, the child who is the victim of the abuse needs help to deal with the physical and mental trauma which is caused to the child as a result of the sexual abuse. The child victim must be given proper counselling which will aid in healing the trauma suffered. Secondly, the child who committed sexual offence on the other child should also be given psychological counselling since the behaviour is not age appropriate.

⁶² 5 Facts About Child on Child Sexual Abuse (COCSA), Defend Innocence (Available at: <https://defendinnocence.org/child-sexual-abuse-risk-reduction/sexual-development-at-all-ages/concerning-behavior/5-facts-child-child-sexual-abuse/>)

5.2. Cases Involving 16–18-year-old Children

In Indian society, the word 'sex' is a taboo word and no person speaks about it. There is lack of proper understanding and there is no guidance given and hence some children want to try this with friends with their consent or try it with other children without their consent. Every adolescent must be given sex education, where they learn about their bodies and how they have to respect others bodies as well and not indulge in sexual activities without the consent of others and until the age of majority. When we talk about convicting the juveniles aged between 16-18 years under POCSO Act, where necessary, the juveniles are treated as adults, they will be tried in accordance with the Juvenile Justice (Care and Protection of Children) Act, 2015. They will be tried as adults in the children's Court after the preliminary assessment is done by the Juvenile Justice Boards.

The issue of adolescents being charged under POCSO is multifaceted one and has numerous implications. Firstly, there are cases where the adolescents due to lack of understanding, knowledge and guidance indulge in sexual activities and their easy targets are other children who maybe of their age or lesser. The children should be given proper guidance and it's the duty of the parents and teachers to educate them about consequences.

Secondly, the cases where adolescents are in mutually consenting sexual and romantic relationships with their peers, the use of POCSO to convict them of an offence reflects that we are in society where adolescent sexual rights are not respected; convicting adolescents who are in mutually consenting sexual relationships to the stench of 'moral policing'.

*Teddy Bear Clinic Vs. Minister of Justice*⁶³

The Constitutional Court of South Africa while dealing with the issue whether it is constitutionally permissible for children to be subjected to criminal sanctions in order to deter early sexual intimacy and combat the risks associated observed that

⁶³ [2013] ZACC 35

"Children enjoy fundamental rights guaranteed to "everyone" under the Constitution.... If any rights should be limited, the limitation ought to be reasonable and justifiable...children reach maturity between the ages of 12 and 16, and during this time their experiences have long lasting impacts on their adult lives... Adolescents engage in sexual exploration including kissing, masturbation, and sexual intercourse which in circumstances where it is consensual is potentially a normal and healthy experience... At this age, they need guidance and support from adults and caregivers to avoid the negative consequences of sexual behaviour... criminalizing such behaviour negatively impacted children, as being charged under the impugned provisions would bring shame, embarrassment, anger, and regret.

It could further drive adolescent sexuality underground and make it difficult for adolescents to seek help, and equally challenging for adults and caregivers to support children on sexual matters...considering on the best interests' principle by subjecting adolescents to harm and risk, for instance by driving adolescent sexual behaviour underground and undermining the guidance they need from adults and caregivers in matters of sexuality..." The Court therefore held Sections 15 and 16 of Criminal Law (Sexual Offences and Related Matters) Amendment Act unconstitutional to the extent that they criminalise the consensual sexual conduct among adolescents between the ages of 12 and 16, and declared them invalid.

Based on this line of thinking, several cases have been decided by various courts in India.

5.3. Facilitating the Child Survivor in Overcoming Trauma

Any analysis of human behaviour will remain incomplete without taking into account the interplay of biological and cultural factors. However, when it comes to children, they are innocent and naïve less prone to the tune in which the system of justice works. Cultures represent meanings and practices which are transmitted from one generation to the other. Cultures do not remain static. They are maintained through the process of socialization. The parents, peers and schools, etc., act as agents of socialization. This takes us to the review the ways for helping the Child survivor to overcome trauma.

A child survivor is traumatized severely from its surroundings. A child survivor isn't capable enough to handle a traumatic situation unlike a normal human. While analyzing various children, we can observe that, some children tend to close themselves down or show indications that they are not happy with their surroundings. This is an impeding factor in their psychological development that a child survivor might carry till the end of their life. As stakeholders of this cause, we can allow a child survivor to be free without the restriction keeping in mind the due process. The responsibility starts from an office assistant or a police constable shouting at the child for its playfulness. We should expressly instruct our lower officials to behave with a child kindly and not behave rudely. Each stakeholder should be mindful of the tone, language and demeanor that they use when interacting with a child survivor. It might be a trivial connotation for a stakeholder but a serious aftershock for a child survivor after a Child Sexual Abuse.

To determine any behaviour as away from normal, seven considerations are used as the distinguishing criteria.

- Firstly, suffering – experiencing distress and discomfort in one's own life.
- Secondly, Maladaptiveness – engaging in behaviour or thought pattern which makes it more difficult to lead one's life.

- Thirdly, irrationality – unable to communicate in a reasonable manner with others.
- Fourthly, Unpredictability – acting in ways which are entirely unexpected.
- Fifthly, Vividness and intensity – experience sensations which are far more vivid and intense than those of other people.
- Sixthly, observer discomfort – acting in ways which others find embarrassing.
- And lastly, violation of moral and ideal standards – habitual breaking of norms.

At the conclusionary phase, we have to keep in mind that, helping a child survivor to overcome their trauma and move on, is utmost important, to serve the purpose of POCSO Act, 2012. As stakeholders who take part in needling out the trauma of the child, we should be vigilant not to add-on to a child survivor's trauma.

Megan's Law:

A federal law in the United States requiring law enforcement authorities to make information available to the public regarding registered sex offenders . Laws were created in response to the murder of 8 year old Megan Kanka.

5.4. Reducing Recidivism through Reformation

"It is far. But there is no journey upon this earth that a man may not make if he sets his heart to it. There is nothing, that he cannot do, there are no mountains he may not climb, there are no deserts he cannot cross; save a mountain and a desert of which you are spared the knowledge, if love leads him and he holds his life in his hand counting it as nothing, ready to keep it or to lose it..." — H. Rider Haggard, King Solomon's Mines

The civilized goal of criminal justice is reformation of the criminal and otherwise means abandonment of this goal for those who suffer from it. There are three justifications traditionally advanced in support of punishment in general, namely, (1) reformation (2) retribution and (3) deterrence. There is no way of accurately predicting or knowing with any degree of moral certainty that a murderer will not be reformed or is incapable of reformation. All we know is that there have been many successes even with the most vicious of cases.

There is divinity in every man and to my mind no one is beyond redemption. It was Ramakrishna Paramhansa, one of the greatest saints of the last century, who said, "Each soul is potentially divine."

Plato wrote, "He who desires to inflict rational punishment does not retaliate for a past wrong which cannot be undone; he has regard to the future, and is desirous that the man who is punished, and he who sees him punished, may be deterred from doing wrong again. He punishes for the sake of prevention..."

The punishment inflicted for grave crimes should adequately reflect the revulsion felt by the great majority of citizens for them. It is a mistake to consider the objects of punishment as being deterrent or reformatory or preventive and nothing else.

Recidivism is an important aspect while discussing child sexual abuse. Criminal behaviour and violence have constantly been regarded as a threat to the development of a civilised society, and have been socially and legally condemned in every historical period. However, every country has a share of individuals who act illegally, challenging the law and disregarding other people's rights and needs.

Describing them is a complex task in so far as the offending population is characterised by heterogeneity.

Continuing offenders are defined as recidivists. Little is known about who these offenders really are, and why they are the way they are. Nonetheless, research evidence shows that there is continuity and relative stability in offending, and within the persisting offending population, it is possible to find some homogeneity in the personal, familial, social and criminal career features, and officially these individuals are likely to report numerous criminal convictions for different offences committed.

Criminal Recidivism intends to fill a gap in the criminological psychology literature by examining the processes underlying persistent criminal careers. A criminal career is defined as a longitudinal sequence of offences. It has a beginning (onset), a continuation or persistence, and an end (desistance). During their careers, offenders commit crimes at a certain rate or frequency, and they commit different types of crimes (leading to specialization, versatility, escalation or de-escalation).

The assumption that criminal behaviour can be predicted with a certain degree of accuracy is at the heart of these principles that suggest that treatment should focus on the higher risk offenders (risk principle), that criminogenic needs should play a predominant role in the design and delivery of treatment (need principle), and that treatment should be provided for offenders in general, and for violent and sexual offenders specifically (responsivity principle) in a manner that responds to the offender's cognitive, emotional and life style.

While studying child psychology and child behavior, and understanding Criminal Recidivism, the role of stakeholders tends to perpetuate from assuring that a child is not sexually abused and as well as that the offenders are reformed to lead a civilised life.

5.5. POCSO Act, 2012 is Gender Neutral

POCSO Act 2012 is a Gender-neutral law. There is no gender for understanding child psychology and child behaviour also. The POCSO Act, 2012 essence to protect the children from offences against sexual offences. Therefore, it is important to keep child psychology and child behaviour alongside while apply the POCSO Act, 2012.

In *Alakh Alok Srivastava Vs. Union of India*⁶⁴, the Supreme Court discussed the gender-neutral nature of the POCSO Act, 2012. The POCSO Act, 2012 has been legislated keeping in view the fundamental concept under Article 15 of the Constitution that empowers the State to make special provisions for children and also Article 39(f) which provides that the State shall in particular direct its policy towards securing that the 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.

The Statement of Objects and Reasons of the POCSO Act, 2012 indicate the focus for reduction of child abuse and protection of children from the offences of sexual assault, sexual harassment and pornography, etc. The relevant part of the Statement of Objects and Reasons of the POCSO Act goes back to the data collected by the National Crime Records Bureau which 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.

The long Preamble of the POCSO Act, 2012 provides that, "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 therewith or incidental thereto." 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

⁶⁴ (2018) 17 SCC 291 (294)

paramount importance at every stage, to ensure the healthy physical, emotional, intellectual and social development of the child. India is a party to the Convention on the Rights of the Child and is 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. Sexual exploitation and sexual abuse of children are heinous crimes and need to be effectively addressed.

In *Eera Vs. State (NCT of Delhi)*⁶⁵, dwelling upon the purpose of the Statement of Objects and Reasons and the Preamble of the POCSO Act, 2012 the Supreme Court observed that, “the very purpose of bringing a legislation of the present nature is to protect the children from the sexual assault, harassment and exploitation, and to secure the best interest of the child. On an avid and diligent discernment of the Preamble, it is manifest that it recognises the necessity of the right to privacy and confidentiality of a child to be protected and respected by every person by all means and through all stages of a judicial process involving the child.”

At the very outset, it has to be stated with authority that the POCSO Act is gender neutral legislation. This Act has been divided into various chapters and parts therein. Chapter II of the Act titled “Sexual Offences against Children” is segregated into five parts. Part A of the said Chapter contains two sections, namely, Section 3 and Section 4. Section 3 defines the offence of “Penetrative Sexual Assault” whereas Section 4 lays down the punishment for the said offence. Part B of the said Chapter titled “Aggravated Penetrative Sexual Assault and Punishment therefor” contains two sections, namely, Section 5 and Section 6. The various sub-sections of Section 5 copiously deal with various situations, circumstances and categories of persons where the offence of penetrative sexual assault would take the character of the offence of aggravated penetrative sexual assault. Section 5(k), in particular, while

⁶⁵ (2017) 15 SCC 133 (157; 20)

laying emphasis on the mental stability of a child stipulates that where an offender commits penetrative sexual assault on a child, by taking advantage of the child's mental or physical disability, it shall amount to an offence of aggravated penetrative sexual assault.

Section 28 in Chapter VII titled "Special Courts" requires for designation of a Court of Session in each district as Special Court specifically, trying offences under the POCSO Act for ensuring a speedy trial which is one of the fundamental objectives of the Act. Section 32 stipulates that State Government shall appoint a Special Public Prosecutor for every Special Court, so designated under Section 28, for conducting cases only under the POCSO Act.

Chapter VIII of the Act deals with the procedure and powers of these Special Courts and the procedure for recording evidence of the child victim. Section 33 falling under Chapter VIII provides for various safeguards at the trial stage and ensures that various manifold interests of the child are protected. Section 35 envisages the period for recording of evidence of child and disposal of case, wherein 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. Furthermore, 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.

The aforesaid provisions make it crystal clear that the legislature has commanded the State to take various steps at many levels so that the child is protected and the trial is appropriately conducted. The Statement of Objects and Reasons provides regard being had to the constitutional mandate, to direct its policy towards ensuring that children are protected against exploitation, are given facilities to develop in a healthy manner and in conditions of freedom and dignity. Ensuring dignity of the child through child-friendly procedures has been laid immense emphasis in the scheme of POCSO Act, 2012.

5.6. Effective implementation of Mandatory Reporting

Effective implementation of mandatory reporting is envisaged in Chapter V OF THE POCSO Act, 2012, vide Sections 19 and 20 and 21. The POCSO Act endorses through its provisions the need for effective implementation of mandatory reporting and the best practices for protecting the vulnerable child survivor of child sexual abuse. The parents, law enforcers, special public prosecutors, and judicial officers ought to know and be diligent about the need for protection of children from sexual abuse.

Section 19 in essence, mandates to report such information. The information may be provided to, Special Juvenile Police Unit, or local police. Where the report is given by a child, the same shall be recorded in a simple language so that the child understands the content. A translator or an interpreter, having such qualifications and experience, shall be provided to the child if they fail to understand the same.

The child against whom an offence has been committed, if in need of care and protection, shall be given, after recording the reasons in writing, making immediate arrangement to give him such care and protection. The Special Juvenile Police Unit or local police shall, without unnecessary delay, report the matter to the Child Welfare Committee and the Special Court or that designated Court of Session. No person shall incur any liability, whether civil or criminal, for giving the information in good faith for reporting information.

Section 20 dictates that, 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 information which is sexually exploitative of the child shall provide such information to the Special Juvenile Police Unit, or to the local police.

Section 21 is a penal provision which envisages that, any person, who fails to report the commission of an offence under Section 19(1) or Section 20(1) or who fails to record such Section 19(2) shall be punished. Any person, being in-charge of any company or an institution who fails to report the commission of an offence under section 19(1) in respect of a subordinate under his control, shall be also punished.

Rule 4 of the POCSO Rules mandates for procedure regarding care and protection of child. Rule 11 in essence talks about, reporting of pornographic material involving a child. Rule 12 provides for monitoring of implementation of the Act, through the National Commission for the Protection of Child Rights or the State Commission for the Protection of Child Rights, as the case may be, shall in addition to the functions assigned to them under the Commissions for Protection of Child Rights Act, 2005 (4 of 2006), perform the following functions for implementation of the provisions of the Act.

The above provisions are effective and promotes for implementation of mandatory reporting of child sexual abuse. Yet another important aspect in mandatory reporting is the importance of understanding child psychology and child behaviour by the parents, law enforcers, special public prosecutors and the judicial officers. The POCSO Act, 2012 elaborately provides for mandatory reporting. The psychological factors motivating the reportage of child sexual abuse is an inter-discipline of law and psychology that needs to be understood by the stakeholders.

Most often, it is found that a child survivor of child sexual abuse is subject to many misconceptions from the side of the stakeholders and this cause the child survivor to vacate from the societal interactions and lead a very difficult life. The society plays a vital role in the making and unmaking of a child survivor. The psychology and behaviour of the vulnerable children could be easily brushed aside. This does not necessarily serve justice and undermines the letter and spirit of the POCSO Act, 2012. Therefore, it is important to read child psychology and child behavior alongside POCSO Act, 2012.

5.6.1. Individual and Social Responsibility of Report

The saying that it takes a village to raise a child rings true till date. As much as it is important for the stakeholders to exercise collective responsibility in securing justice to a survivor of child sexual abuse, the individual and social responsibility cannot be undermined in this regard. There is a peer responsibility cast on the larger public beyond the Stakeholders. The responsibility is to report when situation has come to the knowledge of any person. The key essence of reporting is to build capacity of child protection systems, professionals and all adults to prevent, intervene early, protect and undo the harm.⁶⁶

Social responsibility is multi-dimensional, all pervasive and self-perpetuating. An individual or the society, if there is an apprehension of a child sexual abuse should come forward to report it and should also become protectorate to the child survivor. Individual and Social responsibility can be understood by applying Hohfeld's Analysis of Rights in the idea of social responsibility. Before venturing to discuss each type of right and showing the importance of their relationship in modern jurisprudential thinking and our practices involving rights, it needs to be stated that all of the Hohfeldian rights necessarily represent entitlements against a specific person. Likewise, there are entitlements for a survivor of child sexual abuse that needs to be protected as children are vulnerable. The mandatory reporting provisions under the POCSO Act, 2012 endorses to protect those vulnerable children.

⁶⁶ Promising Programmes To Prevent And Respond To Child Sexual Abuse And Exploitation, Lorraine Radford, with Debra Allnock and Patricia Hynes, Unicef, (2016) Available at <https://www.unicef.org/media/66741/file/Promising-programme-responses.pdf> (Accessed on 6th December 2021)



CHAPTER VI

CONCLUSION



CHAPTER VI - CONCLUSION

முகத்தான் அமர்ந்து இனிதுநோக்கி அகத்தானாம்
இன்சொ லினதே அறம். - குறள் 93

Child sexual abuse is an ever-increasing social evil, for which we all are responsible. As a pragmatic stakeholder, each and every one of us owes a social responsibility to children to protect them from sexual abuse. Understanding that, child psychology and child behavior are sensitive and delicate which has to be dealt with sensibly and sensitively. Much awareness has been created on the inter-discipline of law and child-psychology.

The doctrine of Child's Trust and the doctrine of Fresh Start cannot be proved to fail. A police officer, a doctor, a prosecutor, and a judge should step into the shoes of a father or a mother, while dealing with a survivor of a Child Sexual Abuse. A child survivor of Child Sexual Abuse should be built strong to come up like a phoenix in flying colours to be the future of this country. The future of this country is in each of your hands.

A true *Parens Patriae* ought to make the child-survivor feel at ease. An example of compassion, empathy and sympathy with a child-survivor can only make your peers to set you as an example for behaving with children. Veil of ignorance should be admonished from the criminal justice system. The essence of Protection of Children from Sexual Offences Act, 2012 does promote social, cognitive, emotional and educational development of Children. It is important that each stakeholder behave with children responsibly. Helping a child-survivor to overcome trauma is another limb of the law that cannot be ousted. Trust the child and make the child trust you. Indeed it is a mutual cohesion.

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PROGRAMME SCHEDULE



TAMIL NADU STATE JUDICIAL ACADEMY

In association with

UNICEF



***Sensitizing Stakeholders on
Psychology of Survivors of Child Sexual Abuse (CSA)***
(for Judicial Officers, Special Public Prosecutors, Police Officers and Medical Officers)

On 19.12.2021 at TNSJA Headquarters, Chennai

09.45 a.m. – 09.55 a.m.	Scope and Object of the Programme
09.55 a.m. – 11.00 a.m.	Psychological impact of abuse on Children - Indicators of Child Sexual Abuse - Building trust and confidence to report Child Sexual Abuse
11.00 a.m. – 11.15 a.m.	Tea Break
11.15 a.m. – 12.30 p.m.	Dealing with a survivor of Child Sexual Abuse at various stages of Criminal Prosecution <ol style="list-style-type: none"> 1. Receiving a Complaint 2. Examination of Child Victim <ol style="list-style-type: none"> a. On the Complaint b. During Investigation c. Before Trial d. During Trial
12.30 p.m. – 01.00 p.m.	Rehabilitation of a survivor of Child Sexual Abuse (Motivation after Trial) Sharing of Experience by Participants
01.00 p.m. – 02.00 p.m.	Lunch Break
02.00 p.m. – 04.00 p.m.	Presentation by Group Leaders on Case Studies: <ol style="list-style-type: none"> 1. Investigating Officers 2. Medical Officers 3. Special Public Prosecutors 4. Special Court Judges Open House Discussion
04.00 p.m. – 04.15 p.m.	Tea Break
04.15 p.m. – 05.15 p.m.	How to conduct cases involving Children without instilling fear or confusion in the mind of survivors - A Panel Discussion



PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012

The
Protection of Children from Sexual Offences Act, 2012¹
(Protection of Children from Sexual Offences Act, 2012)

[Act 32 of 2012 as amended upto Act 34 of 2019]

[19th June, 2012]

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THE SCHEDULE

The Protection of Children from Sexual Offences Act, 2012

[Act 32 of 2012 as amended upto Act 25 of 2019]

[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 therewith 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—

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 extant laws. A large number such offences are neither specifically provided for nor are they adequately penalised. 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 offences 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 trial of offences 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 detail the various provisions contained in the Bill.

7. The Bill seeks to achieve the above objectives.

Statement of Objects and Reasons of Amendment Act 22 of 2018.—Recent incidents of rape and gang rape on women under the age of sixteen years and twelve years have shaken the conscience of the entire Nation. Therefore, the offences of rape and gang rape on women under the age of sixteen years and twelve years required effective deterrence through legal provisions of more stringent punishment. Some of the incidents in recent years have been marked by increased brutality and violence perpetrated on minor girls. This has fueled demands from various sections of the society to make the penal provisions more stringent and effective, immediate arrest of the accused and ensure speedy trial in such cases.

2. As the Parliament was not in session and immediate action was required to be taken in this regard to make necessary amendments in the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012, the President promulgated the Criminal Law (Amendment) Ordinance, 2018 on 21st April, 2018.

3. It is, therefore, proposed to introduce the Criminal Law (Amendment) Bill, 2018 to replace the Criminal Law (Amendment) Ordinance, 2018, which, inter alia, provides for—

- (a) punishment for the offence of rape from the minimum imprisonment of seven years to ten years, which is extendable to imprisonment for life;
- (b) punishment for the offence of rape on a woman under sixteen years of age shall be rigorous imprisonment for a term not less than twenty years but may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and shall also be liable to fine;
- (c) punishment for the offence of rape on a woman under twelve years of age shall be rigorous imprisonment for a term not less than twenty years but may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine or with death;

- (d) punishment for the offence of gang rape on a woman under sixteen years of age shall be imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine;
- (e) punishment for the offence of gang rape on a woman under twelve years of age shall be imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life and with fine or with death;
- (f) investigation in relation to all rape cases shall be completed within a period of two months from the date on which the information recorded by the officer-in-charge of the police station;
- (g) completion of inquiry or trial relating to the offence of rape, within a period of two months;
- (h) dispose of an appeal against a conviction or a acquittal in rape cases within a period of six months from the date of filing of the appeal;
- (i) the provisions of anticipatory bail shall not be applicable in cases of rape or gang rape of woman under sixteen and twelve years of age;
- (j) consequential amendments in the Indian Penal Code, Indian Evidence Act, 1872, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012 relating to the cases of rape, gang rape of the woman below the age of sixteen years, twelve years, repeat offenders, to extend the applicability of compulsory registration of FIRs, fine imposed to be paid to victim, facilitate better recording of evidence and protect the dignity of rape survivor and treatment free of cost in hospitals.

Chapter I 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, ²[* * *].
- (3) It shall come into force on such date³ 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;
 - ⁴[(da) "child pornography" means any visual depiction of sexually explicit conduct involving a child which include photograph, video, digital or computer generated image indistinguishable from an actual child, and image created, adapted, or modified, but appear to depict a child;]
 - (e) "domestic relationship" shall have the same meaning as assigned to it in clause (f) of Section 2 of the Protection of Women from Domestic Violence Act, 2005 (43 of 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 (41 of 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 (45 of 1860), the Code of Criminal Procedure, 1973 (2 of 1974), 5 [the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016)] and the Information Technology Act, 2000 (21 of 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. Penetrative 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.—⁶[(1)] Whoever commits penetrative sexual assault shall be punished with imprisonment of either description for a term which shall not be less than ⁷[ten years] but which may extend to imprisonment for life, and shall also be liable to fine.

⁸[(2)] Whoever commits penetrative sexual assault on a child below sixteen years of age shall be punished with imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person, and shall also be liable to fine.

(3) The fine imposed under sub-section (1) shall be just and reasonable and paid to the victim to meet the medical expenses and rehabilitation of such victim.]

B. — Aggravated Penetrative Sexual Assault and Punishment therefor

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 (14 of 1987) or causes impairment of any kind so as to render the child unable to perform regular tasks, temporarily or permanently; ⁹[* * *]

- (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; 10[* * *]
- 11[(iv) causes death of the child; 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 12
[communal or sectarian violence or during any natural calamity or in similar situations]; 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.

13**[6. Punishment for aggravated penetrative sexual assault.—(1)** Whoever commits aggravated penetrative sexual assault shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person, and shall also be liable to fine, or with death.

(2) The fine imposed under sub-section (1) shall be just and reasonable and paid to the victim to meet the medical expenses and rehabilitation of such victim.]

C. — Sexual Assault and Punishment therefor

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 therefor

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 in 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 (1) of Section 2 of the Mental Health Act, 1987 (14 of 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 shared 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 14[communal or sectarian violence or during any natural calamity or in any similar situations]; 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.

15[(v) whoever persuades, induces, entices or coerces a child to get administered or administers or direct anyone to administer, help in getting administered any drug or hormone or any chemical substance, to a child with the intent that such child attains early sexual maturity;]

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 also be liable to fine.

Chapter III

USING CHILD FOR PORNOGRAPHIC PURPOSES AND PUNISHMENT THEREFOR

13. Use of child for pornographic purposes.—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.

16[14. Punishment for using child for pornographic purposes.—(1) Whoever uses a child or children for pornographic purposes shall be punished with imprisonment for a term which shall not be less than five years and shall also be liable to fine, and in the event of second or subsequent conviction with imprisonment for a term which shall not be less than seven years and also be liable to fine.

(2) Whoever using a child or children for pornographic purposes under sub-section (1), commits an offence referred to in Section 3 or Section 5 or Section 7 or Section 9 by directly participating in such pornographic acts, shall be punished for the said offences also under Section 4, Section 6, Section 8 and Section 10, respectively, in addition to the punishment provided

in sub-section (1).]

17[15. Punishment for storage of pornographic material involving child.—(1) Any person, who stores or possesses pornographic material in any form involving a child, but fails to delete or destroy or report the same to the designated authority, as may be prescribed, with an intention to share or transmit child pornography, shall be liable to fine not less than five thousand rupees, and in the event of second or subsequent offence, with fine which shall not be less than ten thousand rupees.

(2) Any person, who stores or possesses pornographic material in any form involving a child for transmitting or propagating or displaying or distributing in any manner at any time except for the purpose of reporting, as may be prescribed, or for use as evidence in court, shall be punished with imprisonment of either description which may extend to three years, or with fine, or with both.

(3) Any person, who stores or possesses pornographic material in any form involving a child for commercial purpose shall be punished on the first conviction with imprisonment of either description which shall not be less than three years which may extend to five years, or with fine, or with both, and in the event of second or subsequent conviction, with imprisonment of either description which shall not be less than five years which may extend to seven years and shall also be liable to fine.]

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 wilful misrepresentation, or by wilful 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 anything in order to facilitate the commission of that act, and thereby 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.—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 term of imprisonment provided for that offence or with fine 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 victimising 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 from any 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 statement 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 Magistrate 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 164-A of the Code of Criminal Procedure, 1973 (2 of 1974).

(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 offences 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 (4 of 2006) 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 (2 of 1974), be charged at the same trial.

(3) The Special Court constituted under this Act, notwithstanding anything in the Information Technology Act, 2000 (21 of 2000), shall have jurisdiction to try offences under Section 67-B of that Act in so far as it relates to publication or transmission of sexually explicit material depicting children in any act, or conduct or 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 Sections 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 (2 of 1974) (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 18[the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016)].

(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 utilising 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

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.

40. Right of child to take assistance of legal practitioner.—Subject to the proviso 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.

¹⁹**[42. Alternate punishment.—**Where an act or omission constitutes an offence punishable under this Act and also under Sections 166-A, 354-A, 354-B, 354-C, 354-D, 370, 370-A, 375, 376, ²⁰[376-A, 376-AB, 376-B, 376-C, 376-D, 376-DA, 376-DB],
²¹[376-E, Section 509 of the Indian Penal Code or Section 67-B of the Information Technology Act, 2000 (21 of 2000)], 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 under this Act or under the Indian Penal Code as provides for punishment which is greater in degree.]

²²**[42-A. 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.—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 (4 of 2006).

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—

23[(a) the manner of deleting or destroying or reporting about pornographic material in any form involving a child to the designated authority under sub-section (1) of Section 15;

(aa) the manner of reporting about pornographic material in any form involving a child under sub-section (2) of Section 15;]

24[(ab)] 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 child or 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 (1) 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).
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1. Received the assent of the President on June 19, 2012 and published in the Gazette of India, Extra., Part II, Section 1, dated 20th June, 2012, pp. 1-14, No. 34.

2. The words "except the State of Jammu and Kashmir" *omitted* by Act 34 of 2019, Ss. 95 & 96 and Sch. V (w.e.f. 31-10-2019).

³. Enforced w.e.f. 14-11-2012 [*Vide* Noti. No. S.O. 2705(E), dated November 9, 2012].

4. *Ins.* by Act 25 of 2019, S. 2(a) (w.e.f. 16-8-2019).

5. *Subs.* for "the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000)" by Act 25 of 2019, S. 2(b) (w.e.f. 16-8-2019).

⁶. *Renumbered* by Act 25 of 2019, S. 3 (w.e.f. 16-8-2019).

7. *Subs.* for "seven years" by Act 25 of 2019, S. 3(a) (w.e.f. 16-8-2019).

8. *Ins.* by Act 25 of 2019, S. 3(b) (w.e.f. 16-8-2019).

⁹. The word "or" *omitted* by Act 25 of 2019, S. 4(I)(A) (w.e.f. 16-8-2019).

10. The word "or" *omitted* by Act 25 of 2019, S. 4(I)(B) (w.e.f. 16-8-2019).

11. *Ins.* by Act 25 of 2019, S. 4(I)(C) (w.e.f. 16-8-2019).

¹². *Subs.* for "communal or sectarian violence" by Act 25 of 2019, S. 4(II) (w.e.f. 16-8-2019).

13. *Subs.* by Act 25 of 2019, S. 5 (w.e.f. 16-8-2019). Prior to substitution it read as:

"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."

¹⁴. *Subs.* for "communal or sectarian violence" by Act 25 of 2019, S. 6(i) (w.e.f. 16-8-2019).

15. *Ins.* by Act 25 of 2019, S. 6(ii) (w.e.f. 16-8-2019).

16. *Subs.* by Act 25 of 2019, S. 7 (w.e.f. 16-8-2019). Prior to substitution it read as:

"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."

17. *Subs.* by Act 25 of 2019, S. 8 (w.e.f. 16-8-2019). Prior to substitution it read as:

"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."

18. *Subs.* for "the Juvenile Justice (Care and Protection of Children) Act, 2000 (56 of 2000)" by Act 25 of 2019, S. 9 (w.e.f. 16-8-2019).

19. *Subs.* by Act 13 of 2013, S. 29 (w.r.e.f. 3-2-2013). Prior to substitution it read as:

"42. *Alternative punishment.*—Where an act or omission constitute an offence punishable under this Act and also under any other law for the time being in force, 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."

20. *Subs.* for "376-A, 376-C, 376-D" by Act 22 of 2018, S. 25 (w.r.e.f. 21-4-2018).

21. *Subs.* for "376-E or Section 509 of the Indian Penal Code (45 of 1860)" by Act 25 of 2019, S. 10 (w.e.f. 16-8-2019).

22. *Ins.* by Act 13 of 2013, S. 29 (w.r.e.f. 3-2-2013).

23. *Ins.* by Act 25 of 2019, S. 11 (w.e.f. 16-8-2019).

24. *Re-lettered* by Act 25 of 2019, S. 11 (w.e.f. 16-8-2019).

The page features decorative floral illustrations in the top and bottom corners. The top corner shows a cluster of flowers, including a large five-petaled flower and a smaller bell-shaped flower. The bottom corner also features a cluster of flowers, including a large five-petaled flower and a smaller bell-shaped flower. The background is a light blue watercolor wash.

PROTECTION OF CHILDREN FROM SEXUAL OFFENCES RULES, 2020

**The
Protection of Children from Sexual
Offences Rules, 2020**
(Protection of Children from Sexual Offences Rules, 2020)
[9th March, 2020]

In exercise of the powers conferred by 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. (1) Short title and commencement.—These rules may be called the **Protection of Children from Sexual Offences Rules, 2020.**

(2) They 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 106 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016);
- (c) “expert” means a person trained in mental health, medicine, child development or other relevant 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 disabilities in a way that addresses the child's individual abilities and needs, which include challenges with learning and communication, emotional and behavioral issues, physical disabilities, and developmental issues.

Explanation.—For the purposes of this clause, the expression “disabilities”, shall carry the same meaning as defined in clause (s) of Section 2 of the Rights of Persons with Disabilities Act, 2016 (49 of 2016);

- (e) “Person familiar with the manner of communication of the child” means a parent or family member of a child or a member of child's 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 the Child Welfare Committee, in accordance with sub-rule (7) 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. Awareness generation and capacity building.—(1) The Central Government, or as the case may be, the State Government shall prepare age-appropriate educational material and curriculum for children, informing them about various aspects of personal safety, including—

- (i) measures to protect their physical, and virtual identity; and to safeguard their emotional and mental wellbeing;
- (ii) prevention and protection from sexual offences;
- (iii) reporting mechanisms, including Child helpline-1098 services;
- (iv) inculcating gender sensitivity, gender equality and gender equity for effective prevention of offences under the Act.

(2) Suitable material and information may be disseminated by the respective Governments in all public places such as panchayatbhavans, community centers, schools and colleges, bus terminals, railway stations, places of congregation, airports, taxi stands, cinema halls and such other prominent places and also be disseminated in suitable form in virtual spaces such as internet and social media.

(3) The Central Government and every State Government shall take all suitable measures to spread awareness about possible risks and vulnerabilities, signs of abuse, information about rights of children under the Act along with access to support and services available for children.

(4) Any institution housing children or coming in regular contact with children including schools, creches, sports academies or any other facility for children must ensure a police verification and background check on periodic basis, of every staff, teaching or non-teaching, regular or contractual, or any other person being an employee of such Institution coming in contact with the child. Such Institution shall also ensure that periodic training is organised for sensitising them on child safety and protection.

(5) The respective Governments shall formulate a child protection policy based on the principle of zero-tolerance to violence against children, which shall be adopted by all institutions, organizations, or any other agency working with, or coming in contact with children.

(6) The Central Government and every State Government shall provide periodic trainings including orientation programmes, sensitization workshops and refresher courses to all persons, whether regular or contractual, coming in contact with the children, to sensitize them about child safety and protection and educate them regarding their responsibility under the Act. Orientation programme and intensive courses may also be organized for police personnel and forensic experts for building their capacities in their respective roles on a regular basis.

4. Procedure regarding care and protection of child.— (1) Where any Special Juvenile Police Unit (hereafter referred to as "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 the report of such information shall forthwith disclose to the person making the report, the following details:—

- (i) his or her name and designation;
- (iii) the name, designation and contact details of the officer who supervises the officer receiving the information.

(2) If any such information regarding the commission of an offence under the provisions of the Act is received by the child helpline-1098, the child helpline shall immediately report such information to SJPU or Local Police.

(3) 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 (2 of 1974), and furnish a copy thereof free of cost to the person making such report, as per sub-section (2) of Section 154 of that 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 6;
- (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 immediately;
- (e) inform the child and child's 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 child's 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.

(4) 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.

(5) 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, 2015 (2 of 2016), 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 child's family or shared household and placed in a children's home or a shelter home.

(6) 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, namely:—

- (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 counseling;
- (ii) the need for the child to remain in the care of parent's, 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.

(7) The child and child's 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.

(8) The CWC, on receiving a report under sub-section (6) of Section 19 of the Act or on the basis of its assessment made under sub-rule (5), and with the consent of the child and child's 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 in all possible manner throughout the process of investigation and trial, and shall immediately inform the SJPU or Local Police about providing a support person to the child.

(9) The support person shall at all times maintain the confidentiality of all information pertaining to the child to which he or she has access and shall keep the child and child's parent or guardian or other person in whom the child has trust and confidence, informed regarding the proceedings of the case, including available assistance, judicial procedures, and potential outcomes. The Support person shall also inform the child of the role the Support person may play in the judicial process and ensure that any concerns that the child may have, regarding child's safety in relation to the accused and the manner in which the Support person would like to provide child's testimony, are conveyed to the relevant authorities.

(10) 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.

(11) The services of the support person may be terminated by the CWC upon request by the child and child's 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.

(12) The CWC shall also Seek monthly reports from support person till

the completion of trial, with respect to condition and care of child, including the family situation focusing on the physical, emotional and mental wellbeing, and progress towards healing from trauma; engage with medical care facilities, in coordination with the support person, to ensure need-based continued medical support to the child, including psychological care and counseling; and shall ensure resumption of education of the child, or continued education of the child, or shifting of the child to a new school, if required.

(13) It shall be the responsibility of the SJPU, or the local police to keep the child and child's 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.

(14) SJPU or the local police shall also inform the child and child's parents or guardian or other person in whom the child has trust and confidence about their entitlements and services available to them under the Act or any other law for the time being applicable as per Form-A. It shall also complete the Preliminary Assessment Report in Form B within 24 hours of the registration of the First Information Report and submit it to the CWC.

(15) The information to be provided by the SJPU, local police, or support person, to the child and child's 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 victim's 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. Interpreters, translators, special educators, experts and support persons.

—(1) In each district, the DCPU shall maintain a register with names, addresses and other contact details of interpreters, translators, experts, special educators and support persons for the purposes of the Act, and this register shall be made available to the SJPU, local police, magistrate or Special Court, as and when required.

(2) The qualifications and experience of the interpreters, translators, special educators, experts and support persons 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 and Rule 4 respectively 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 child's 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 child's 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 recognised University or an institution recognised by the Rehabilitation Council of India.

(6) 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 child's 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.

(7) Payment for the services of an interpreter, translator, special educator, expert or support person 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 105 of the Juvenile Justice Act, 2015 (2 of 2016), or from other funds placed at the disposal of the DCPU.

(8) Any interpreter, translator, special educator, expert or support person engaged for the purpose of assisting a child under this Act, shall be paid a fee which shall be prescribed by the State Government, but which, shall not be less than the amount prescribed for a skilled worker under the Minimum Wages Act, 1948 (11 of 1948).

(9) 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, expert or support person, may be taken into consideration, and where necessary, more than one such person may be engaged in order to facilitate communication with the child.

(10) The interpreter, translator, special educator, expert, support person 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 and 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 (2 of 1974).

(11) 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, support person 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.

(12) Any interpreter, translator, special educator, expert or support person appointed under the Act shall be bound by the rules of confidentiality, as described under Section 127 read with Section 126 of the Indian Evidence Act, 1872 (1 of 1872).

6. Medical aid and 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, such officer, or as the case may be, the local police shall, within 24 hours of receiving such information, arrange to take such child to the nearest hospital or medical care facility center 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 center 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 medical care shall attend to the needs of the child, including:

- (a) treatment for cuts, bruises, and other injuries including genital injuries, if any;
- (b) treatment for exposure to sexually transmitted diseases (STDs) including prophylaxis for identified STDs;
- (c) treatment for exposure to Human Immunodeficiency Virus (HIV), including prophylaxis for HIV after necessary consultation with infectious disease experts;
- (d) 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,
- (e) wherever necessary, a referral or consultation for mental or psychological health needs, or other counseling, or drug de-addiction services and programmes should be made.

(5) The registered medical practitioner shall submit the report on the condition of the child within 24 hrs to the SJPU or Local Police.

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

(7) If the child is found to be pregnant, then the registered medical practitioner shall counsel the child, and her parents or guardians, or support person, regarding the various lawful options available to the child

as per the Medical Termination of Pregnancy Act, 1971 and the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016).

(8) If the child is found to have been administered any drugs or other intoxicating substances, access to drug deaddiction programme shall be ensured.

(9) If the Child is a divyang (person with disability), suitable measure and care shall be taken as per the provisions of The Rights of Persons with Disabilities Act, 2016 (49 of 2016).

7. Legal aid and assistance.—(1) The CWC shall make a recommendation to District Legal Services Authority (hereafter referred to as "DLSA") for legal aid and assistance.

(2) The legal aid and assistance shall be provided to the child in accordance with the provisions of the *Legal Services Authorities Act, 1987* (39 of 1987).

8. Special relief.—(1) For special relief, if any, to be provided for contingencies such as food, clothes, transport and other essential needs, CWC may recommend immediate payment of such amount as it may assess to be required at that stage, to any of the following:—

- (i) the DLSA under Section 357-A; or;
- (ii) the DCPU out of such funds placed at their disposal by state or;
- (iii) funds maintained under Section 105 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016);

(2) Such immediate payment shall be made within a week of receipt of recommendation from the CWC.

9. 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 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 357-A of the Code of Criminal Procedure, 1973 (2 of 1974) 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 child's medical treatment for physical or mental health or on both;
- (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 such child's 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 357-A of the Code of Criminal Procedure, 1973 or any other law 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 child's 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.

10. Procedure for imposition of fine and payment thereof.—(1) The CWC shall coordinate with the DLSCA to ensure that any amount of fine imposed by the Special Court under the Act which is to be paid to the victim, is in fact paid to the child.

(2) The CWC will also facilitate any procedure for opening a bank account, arranging for identity proofs, etc., with the assistance of DCPU and support person.

11. Reporting of pornographic material involving a child.—(1) Any person who has received any pornographic material involving a child or any information regarding such pornographic material being stored, possessed, distributed, circulated, transmitted, facilitated, propagated or displayed, or is likely to be distributed, facilitated or transmitted in any manner shall report the contents to the SJPU or local police, or as the case may be, cyber-crime portal (cybercrime.gov.in) and upon such receipt of the report, the SJPU or local police or the cyber-crime portal take necessary action as per the directions of the Government issued from time to time.

(2) In case the "person" as mentioned in sub-rule (1) is an

“intermediary” as defined in clause (w) of sub-section (1) of Section 2 of the Information Technology Act, 2000, such person shall in addition to reporting, as provided under sub-rule(1), also hand over the necessary material including the source from which such material may have originated to the SJPU or local police, or as the case may be, cyber-crime portal (cybercrime.gov.in) and upon such receipt of the said material, the SJPU or local police or the cyber-crime portal take necessary action as per the directions of the Government issued from time to time.

(3) The report shall include the details of the device in which such pornographic content was noticed and the suspected device from which such content was received including the platform on which the content was displayed.

(4) The Central Government and every State Government shall make all endeavors to create widespread awareness about the procedures of making such reports from time to time.

12. 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 (4 of 2006), perform the following functions for implementation of the provisions of the Act—

- (a) monitor the designation of Special Courts by State Governments;
- (b) monitor the appointment of the Special Public Prosecutors by the State Governments;
- (c) 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) monitor the designing and implementation of modules for training police personnel and other concerned persons, including officers of the Centre and State Governments, for the effective discharge of their functions under the Act;
- (e) 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.
- (f) call for a report on any specific case of child sexual abuse falling within the jurisdiction of a CWC.
- (g) collect information and data on its own or from the relevant agencies regarding reported cases of sexual abuse and their disposal under the processes provided 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;

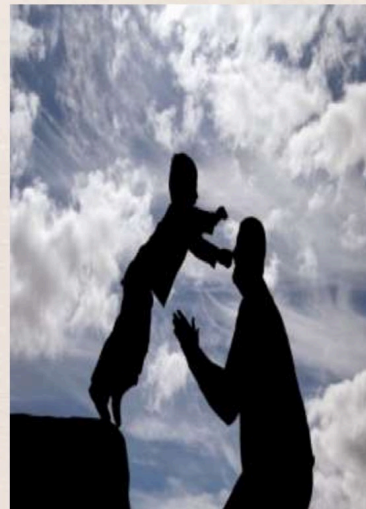
- (iii) details of arrangements for care and protection of victims of offences under this Act, including arrangements for emergency medical care and medical examination; and,
- (iv) details regarding assessment of the need for care and protection of a child by the concerned CWC in any specific case;
- (h) 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.

(2) The concerned authorities mandated to collect data, under the Act, shall share such data with the Central Government and every State Government, NCPCR and SCPCRs.

13. Repeal.—The Protection of Children from Sexual Offences Rules, 2012 are hereby repealed, except as respects things done or omitted to be done before such repeal.

The best thing to say
to a child who
discloses abuse is :

"I believe you"



FORM-A

Entitlement of children who have suffered sexual abuse to receive information

and services

1. To receive a copy of the FIR.
2. To receive adequate security and protection by Police.
3. To receive immediate and free medical examination by civil hospital/PHC etc.
4. To receive Counseling and consultation for mental and psychological well being
5. For Recording of statement of child by woman police officer at child's home or any other place convenient to child
6. To be moved to a Child Care Institution where offence was at home or in a shared household, to the custody of a person whom child reposes faith.
7. For Immediate aid and assistance on the recommendation of CWC.
8. For being kept away from accused at all times, during trial and otherwise.
9. To have an interpreter or translator, where needed.
10. To have special educator for the child or other specialized person where child is disabled.
11. For Free Legal Aid.
12. For Support Person to be appointed by Child Welfare Committee.
13. To continue with education.
14. To privacy and confidentiality.
15. For list of Important Contact No.'s including that of the District Magistrate and the Superintendent of Police.

Duty

Date:

**I have received a copy of
'Form-A'
(Signature of
Victim/Parent/Guardian)
(Note :The form may be
converted in local and simple
Child friendly language)**

**Officer (Name & Designation to be
mentioned)**

FORM-B

PRELIMINARY ASSESSMENT REPORT

PARAMETERS	COMMENT
1. Age of the victim	
2. Relationship of child to the offender	
3. Type of abuse and gravity of the offence	
4. Available details and severity of mental and physical harm/injury suffered by the child	
5. Whether the child is disabled (physical, mental or intellectual)	
6. Details regarding economic status of victim's parents, total number of child's family members, occupation of child's parents and monthly family income.	
7. Whether the victim has undergone or is undergoing any medical treatment due to incident of the present case or needs medical treatment on account of offence.	
8. Whether there has been 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 or other reason?	
9. Whether the abuse was a single isolated incident or whether the abuse took place over a period of time?	
10. Whether the parents of victim are undergoing any treatment or have any health issues?	
11. Aadhar No. of the child, if available.	

Date:

Station House Officer

—

1. Vide Noti. No. G.S.R. 165(E), Extra., Part II, Section 3(i), dated 9-3-2020, published in the Gazette of India, No. 141, dated 9-3-2020

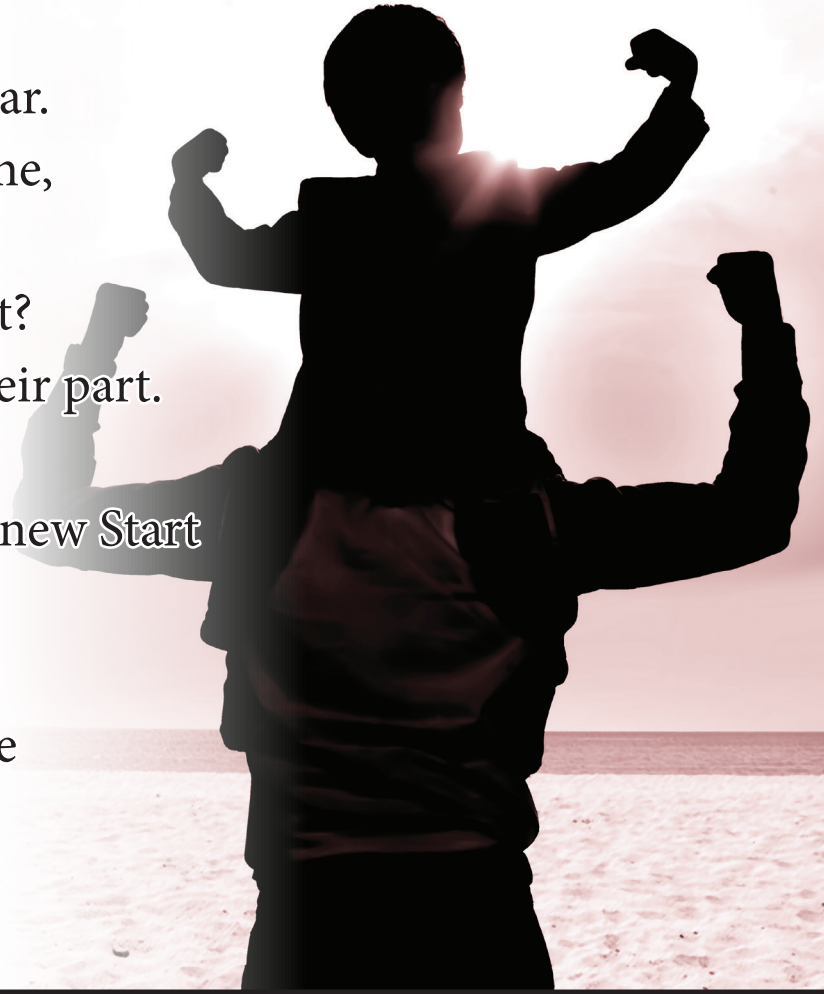
KEEP NO SECRET

Every day and night I wept,
'cause the dirty Secret I kept.
They told me, it's just a game,
Then I hung my head in shame.

Lost all my light and hope,
Long had to fight that rope,
Confined in darkness,
Always thought it was my madness.

Got away from near and dear,
'cause of the overwhelming fear.
It was then the Guard asked me,
Why should you have
All their feelings in your heart?
All along you were playing their part.

It struck me and that was the new Start
I Chinned up and opened up!
Now that the role is reversed,
It's their turn to fight that rope
It's really hard I hope.



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