



*Indrapuram*  
**Public School  
GIRLS**

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**POLICIES & STANDARD  
OPERATING PROCEDURES  
(SOPs) FOR CHILD WELFARE  
COMMITTEE (CWC)**

*Radiant International Schools &  
Indrapuram Public Schools*

## OBJECTIVES

The purpose of the given procedures is to provide a clear roadmap to the Child Welfare Committee (CWC) and school personnel in implementing Child Protection programs within the school setting. The procedures contain essential and important elements which are intended to ensure effective and uniform implementation at school level. The school is committed to bring a consistency of approach in relation to each school's oversight and responsiveness towards safeguarding children. The advisory gives guidance to school CWC and personnel on mandated procedures when dealing with incidents of child abuse and neglect. In all cases, the most key principle to be taken into account is the protection of children and their best interest. The school policy is primarily based on the following two documents:

1. The protection of Children from Sexual Offences Act, 2012 [No. 32 of 2012]  
*Attached as Annexure 'A'*
2. Manual on Safety and Security of Children in Schools by NCPCR  
*Attached as Annexure 'B'*

The core objectives of the POCSO Act, 2012, which are as follows:

1. To protect children from the offences of–
  - ♣ Sexual assault;
  - ♣ Sexual harassment; and
  - ♣ Pornography.
2. To establish Special Courts for speedy trial of such offences.

Standard Operating Procedures (SOPs) have been framed keeping above in mind. The staff of the school is often the first contact point for the child who has been rescued and placed in institutional care for rescue and rehabilitation.

### **Standard Operating Procedures (SOPs)**

Step 1: Anyone having apprehension or information that the offence is likely to happen or information that it has happened will report to the any of the members of the Child Welfare Committee of the School. (Reporting can be done by anyone in contact with the child, for e.g. parent, guardian, neighbour, teacher, NGO worker, friend or even the Children themselves).

Step 2: The member of the Child Welfare Committee who got such information will immediately inform the same to the Office In-charge of the CWC who will call an urgent meeting of the Child Welfare

Committee to investigate the case with no delay at all. In the event of any of the members involved in this activity must not be informed about this investigation.

Step 3: Alternatively, the same will be reported to the Vice – Principal/HM/In-charge of the school to further present the same to the Head of the Institution, after taking necessary medical care, if required, however, in the event of a Principal/Vice – Principal/HM/In-charge who is/are himself/themselves involved in that abuse should not be informed about this ongoing investigation.

Step 4: The CWC & the Head of the Institution will understand the need of the emergency medical care and will take necessary action accordingly.

Step 5: The Head of the Institution will inform the parent/guardian of the child about this abuse whether telephonically or by calling them personally in the school, as per the need.

Step 6: The CWC will present a detailed report of the Investigation done by them before the Head of the Institution at earliest (not more than a day or two).

Step 7: The Head of the Institution shall take a call to go ahead as per the POCSO Act, 2012 whether the case to be reported further in consultation with the Parent/Guardian of the Child.

The CWC/Investigating officer/person should follow the given DO'S & DON'TS while interviewing the child and/or investigating the case:

<b>DO'S</b>	<b>DON'TS</b>
Ensure all emergency care is met with	Don't ignore child's pressing needs like food, water and medical care.
Assure confidentiality and privacy to the child	Don't force the child to share if he/she is not comfortable. Reassure the same.
Listen to the child with empathy.	Do not interrupt and ask to repeat or press for details
Reassure the child that it is not his/her fault	Don't question the child & give suggestions on what the child could have done in the situation
Believe the Child's Version. Convey the same	Don't question the child on the truthfulness of the allegation
Explain the process to child from here on and introduce the team	Do not leave the child unattended or pass on the care without keeping child in loop
Take help of experts in the field, School counsellors, special educators, as needed etc.	Do not assume information.

### **Further some principles for interviewing the child may be followed:**

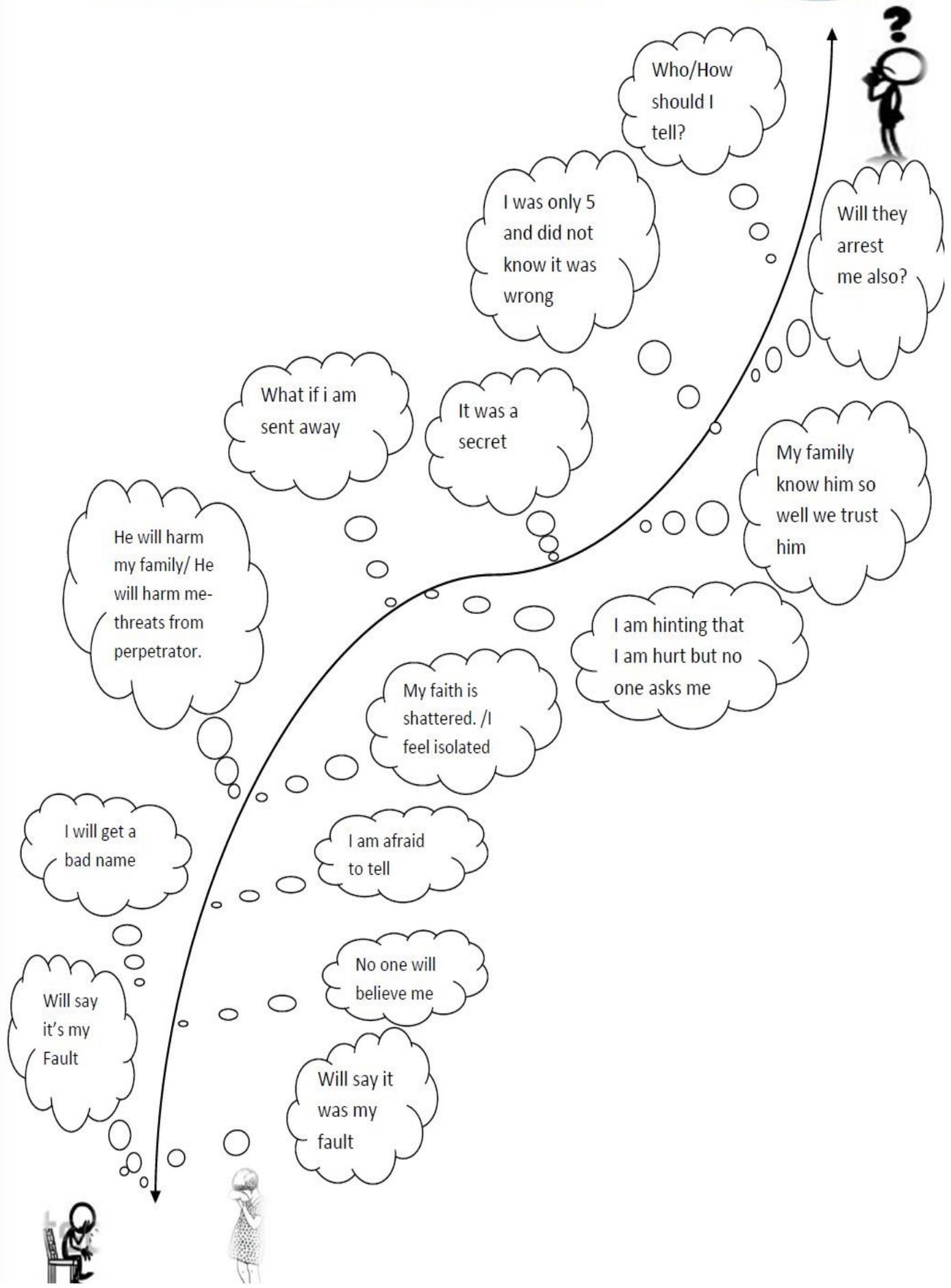
1. Minimum persons, preferably only one counsellor and CWO should be assigned the case in the beginning and repeated interviews should be avoided.
2. The case documents should be studied before meeting the child.
3. The child to be met in a child friendly room, in a comfortable setting and assuring all aspects of privacy of child.
4. I am here to help you from here on with the case and you can discuss anything with me and I will keep the information to myself.
5. Only the required information may be asked through open ended questions like “Is there anything you would like to share? Would you like to tell me how you feeling right now?”
6. The first meeting can be brief and the purpose is to familiarize oneself with the child.
7. The child to be told the purpose of the meeting with assured of confidentiality and privacy
8. Documents the exact words the child says when disclosing information

### **Care should be taken to avoid certain things like:**

- a. The child should not be spoken to in a public setting.
- b. Even in absence of documents/adequate information, the child should not be forced to narrate the incident at any point.
- c. The child should not be subjected to repetitive questioning at any point.
- d. The child should be not be subjected to judgemental statements like “Did you know X before? Why did you not tell someone before? Why have you stopped going to school? Don’t you love your family / parents?” Don’t use ambiguous or minimizing language.

# COMMON FACTORS WHICH/DELAY PREVENT DISCLOSURE

DISCLOSURE





# भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 1

PART II—Section 1

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No. 34] NEW DELHI, WEDNESDAY, JUNE 20, 2012/ JYAISTHA 30, 1934 (SAKA)

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## MINISTRY OF LAW AND JUSTICE

### (Legislative Department)

*New Delhi, the 20th June, 2012/Jyaistha 30, 1934 (Saka)*

The following Act of Parliament received the assent of the President on the 19th June, 2012, and is hereby published for general information:—

### THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES

ACT, 2012

[No. 32 OF 2012]

[19th June, 2012]

An Act to protect children from offences of sexual assault, sexual harassment and pornography and provide for establishment of Special Courts for trial of such offences and for matters connected 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:—

## CHAPTER I

### PRELIMINARY

Short title,  
 extent and  
 commencement.

1. (1) This Act may be called the Protection of Children from Sexual Offences Act, 2012.  
 (2) It extends to the whole of India, except the State of Jammu and Kashmir.  
 (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. (1) In this Act, unless the context otherwise requires, —
- (a) "aggravated penetrative sexual assault" has the same meaning as assigned to it in section 5;
- (b) "aggravated sexual assault" has the same meaning as assigned to it in section 9;
- (c) "armed forces or security forces" means armed forces of the Union or security forces or police forces, as specified in the Schedule;
- (d) "child" means any person below the age of eighteen years;
- (e) "domestic relationship" shall have the same meaning as assigned to it in clause (f) of section 2 of the Protection of Women from Domestic Violence Act, 2005;
- (f) "penetrative sexual assault" has the same meaning as assigned to it in section 3;
- (g) "prescribed" means prescribed by rules made under this Act;
- (h) "religious institution" shall have the same meaning as assigned to it in the Religious Institutions (Prevention of Misuse) Act, 1988;
- (i) "sexual assault" has the same meaning as assigned to it in section 7;
- (j) "sexual harassment" has the same meaning as assigned to it in section 11;
- (k) "shared household" means a household where the person charged with the offence lives or has lived at any time in a domestic relationship with the child;
- (l) "Special Court" means a court designated as such under section 28;
- (m) "Special Public Prosecutor" means a Public Prosecutor appointed under section 32.

43 of 2005.

41 of 1988.

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

45 of 1860.  
 2 of 1974.  
 56 of 2000.  
 21 of 2000.

## CHAPTER II

### SEXUAL OFFENCES AGAINST CHILDREN

#### A.—PENETRATIVE SEXUAL ASSAULT AND PUNISHMENT THEREFOR

Penetrative  
 sexual assault.

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

Punishment  
for  
penetrative  
sexual assault.

B.—AGGRAVATED PENETRATIVE SEXUAL ASSAULT AND PUNISHMENT THEREFOR

5. (a) Whoever, being a police officer, commits penetrative sexual assault on a child —

Aggravated  
penetrative  
sexual assault.

(i) within the limits of the police station or premises at which he is appointed; or

(ii) in the premises of any station house, whether or not situated in the police station, to which he is appointed; or

(iii) in the course of his duties or otherwise; or

(iv) where he is known as, or identified as, a police officer; or

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

(i) within the limits of the area to which the person is deployed; or

(ii) in any areas under the command of the forces or armed forces; or

(iii) in the course of his duties or otherwise; or

(iv) where the said person is known or identified as a member of the security or armed forces; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(u) whoever commits penetrative sexual assault on a child and makes the child to strip or parade naked in public,

is said to commit aggravated penetrative sexual assault.

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

#### C.—SEXUAL ASSAULT AND PUNISHMENT THEREFOR

7. 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.

Punishment  
for aggravated  
penetrative  
sexual assault.

Sexual assault.

8. 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. Punishment for sexual assault.

D.—AGGRAVATED SEXUAL ASSAULT AND PUNISHMENT THEREFOR

9. (a) Whoever, being a police officer, commits sexual assault on a child— Aggravated sexual assault.
- (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 (f) of section 2 of the Mental Health Act, 1987 or causes impairment of any kind so as to render the child unable to perform regular tasks, temporarily or permanently; or
  - (ii) inflicts the child with Human Immunodeficiency Virus or any other life threatening disease or infection which may either temporarily or permanently impair the child by rendering him physically incapacitated, or mentally ill to perform regular tasks; or

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

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

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

(n) whoever, being a relative of the child through blood or adoption or marriage or guardianship or in foster care, or having domestic relationship with a parent of the child, or who is living in the same or 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 communal or sectarian violence; or

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

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

is said to commit aggravated sexual assault.

Punishment  
for aggravated  
sexual assault.

10. 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

Sexual  
harassment.

11. 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.

Punishment  
for sexual  
harassment.

12. 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

Use of child for  
pornographic  
purposes.

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

(a) representation of the sexual organs of a child;

(b) usage of a child engaged in real or simulated sexual acts (with or without penetration);

(c) the indecent or obscene representation of a child,

shall be guilty of the offence of using a child for pornographic purposes.

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

14. (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.

Punishment for using child for pornographic purposes.

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

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

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

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

15. 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.

Punishment for storage of pornographic material involving child.

#### CHAPTER IV

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

16. 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.

Abetment of an 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. 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.

Punishment for abetment.

*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. 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

Punishment for attempt to commit an offence.

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

Reporting of offences.

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

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

(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).

Obligation of media, studio and photographic facilities to report cases.

20. 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.

Punishment for failure to report or record a case.

21. (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.

Punishment for false complaint or false information.

22. (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. (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. Procedure for media.

(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. (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. Recording of statement of a child.

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

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. (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. Additional provisions regarding statement to be recorded.

(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.

Medical examination of a child.

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

2 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

Designation of Special Courts.

28. (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 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.

4 of 2006.

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

2 of 1974.

(3) The Special Court constituted under this Act, notwithstanding anything in the Information Technology Act, 2000, shall have jurisdiction to try offences under section 67B of that Act in so far as it relates to publication or transmission of sexually explicit material depicting children in any act, or conduct or manner or facilitates abuse of children online.

21 of 2000.

Presumption as to certain offences.

29. 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.

Presumption of culpable mental state.

30. (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.

Application of Code of Criminal Procedure, 1973 to proceedings before a Special Court.

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

2 of 1974.

32. (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.

Special Public Prosecutors.

(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 and provision of that Code shall have effect accordingly.

2 of 1974.

#### CHAPTER VIII

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

33. (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.

Procedure and powers of Special Court.

(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 for trial before a Court of Session.

2 of 1974.

34. (1) Where any offence under this Act is committed by a child, such child shall be dealt with under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000.

56 of 2000.

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

Procedure in case of commission of offence by child and determination of age by Special Court.

(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.

Period for recording of evidence of child and disposal of case.

35. (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.

Child not to see accused at the time of testifying.

36. (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.

Trials to be conducted *in camera*.

37. 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.

Assistance of an interpreter or expert while recording evidence of child.

38. (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

Guidelines for child to take assistance of experts, etc.

39. 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.

Right of child to take assistance of legal practitioner.

40. Subject to the proviso to section 301 of the Code of Criminal Procedure, 1973 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:

2 of 1974.

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.

Provisions of sections 3 to 13 not to apply in certain cases.

41. 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.

Alternative punishment.

42. 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.

43. The Central Government and every State Government, shall take all measures to ensure that—

Public awareness about Act.

(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. (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, 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.

Monitoring of implementation of Act.

4 of 2006.

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

Power to make rules.

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

(a) the qualifications and experience of, and the fees payable to, a translator or an interpreter, a special educator or any person familiar with the manner of communication of the 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. (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:

Power to remove difficulties.

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).

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

## **Section III**

# **PSYCHO SOCIAL ASPECTS**

In order to ensure physical safety of children in schools, settings must be *free from violence* and unsafe health conditions that directly impact children's physical health and survival. Safety issues include freedom from exposure to environmental hazards, infectious agents, and both unintentional and intentional injuries. Just as physical safety of children in schools is important, so is psychological safety. Children that are victims of violence, as well as those who witness violence, show continuing symptoms of Posttraumatic Stress Disorder (PTSD). These symptoms include depression, dissociative reactions, and feelings of helplessness, emotional deregulation, aggression, intrusive thoughts, and flashbacks.

A chronic pattern of psycho-social maltreatment destroys a child's sense of self and personal safety. Corporal punishment amounts to abuse and militates against the freedom and dignity of a child. It also interferes with a child's right to education because fear of corporal punishment makes children more likely to avoid school or to drop out altogether. Hence, corporal punishment is violative of the right to life with dignity.<sup>1</sup> Same is the case of violence among peers and groups of children that inflict physical as well as psychological fears and scars in children.

The School shall provide the right ambience and climate to the students to develop and enrich talents to facilitate total development of personality. To develop a creative human being in a fearless environment schools should encourage teachers to adopt alternative strategies to corporal punishment.<sup>2</sup>

## **1. Corporal Punishment**

As per the provisions of RTE Act 2009, the **corporal punishment** may be identified as physical punishment, mental harassment or discrimination. *Corporal punishment will also include all forms of sexual offences as per the Protection of Children from Sexual Offences Act, 2012.*

“**Physical punishment**” is any action that may causes pain, injury and discomfort to a child including causing **physical harm** to a child with hand or cane/ stick, making children assume an uncomfortable position e.g. standing on bench or holding ears through legs, detention in the classroom, library or any closed space in the school etc.<sup>1</sup>

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<sup>1</sup> Guidelines for Eliminating Corporal Punishment in Schools- NCPCR

“**Mental harassment**” is any **non-physical treatment** that is detrimental to the psychological wellbeing of a child e.g. sarcasm that hurts or lower the child’s dignity, calling names and scolding using humiliating adjectives, intimidation, using derogatory remarks on the child, ridiculing the child on background or status or parental occupation, belittling a child in classroom due to his/her inability to meet the teacher’s expectations of academic achievement etc.<sup>2</sup>

“**Discrimination**” is understood as prejudiced views and behaviour towards any child because of her/his caste/gender, occupation or region and non-payment of fees or for being a student admitted under the 25% reservation to disadvantaged groups or weaker sections of society under the RTE, 2009. It can be latent; manifest; open or subtle. It includes but is not restricted to the following:

- I. Bringing social attitudes and prejudices of the community into the school by using belittling remarks against a specific social group or gender or ability/disability;
- II. Assigning different duties and seating in schools based on caste, community or gender prejudices (for example, cleaning of toilets assigned by caste; task of making tea assigned by gender); admission through 25% reserved seats under the RTE; or non-payment of any prescribed fees;
- III. Commenting on academic ability based on caste or community prejudices;
- IV. Denying mid-day meal or library books or uniforms or sports facilities to a child or group of children based on caste, community, religion or gender;
- V. Deliberate/wanton neglect.

Further section 8 and 9 of the RTE Act casts a duty on all concerned to ensure that any child belonging to weaker section or to disadvantaged group is not discriminated. Against and prevented from pursuing and completing elementary education on any ground. **Ministry of HRD, Department of School Education and Literacy have issued detailed guidelines for implementation of section 8 and 9 of the RTE Act which inter alia provide that-**

- VI. The school shall prohibit all persons and authorities of the school from harassing or victimizing any child belong to weaker section and disadvantaged group
  - a) By announcing, verbally or otherwise in the class, the names of the community or castes or tribes of the students.

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<sup>2</sup>[http://www.ncpcr.gov.in/view\\_file.php?fid=108](http://www.ncpcr.gov.in/view_file.php?fid=108)

- b) By labeling such students as reserved category in the class.
- c) By passing derogatory remarks indicating social, economic or other background as reason of under performance in the class;
- d) By allotting differential time to such students to meet teacher as compared to other students;
- e) By allotting differential time to such students to meet teacher as compared to other students.
- f) By treating them separately in utilizing the sports and other facilities.

## **2. Bullying, Intimidation and Isolation<sup>3</sup>**

Bullying can be directly from the bully to the victim (e.g., through physical intimidation or attacks, verbal abuse, unwanted attention and advances, damaging property), or it can be indirect (e.g., through spreading malicious rumours). It can also include cyber-bullying (e.g., sending unpleasant SMS messages, photographs or emails, to the victim or to others). Bullying has severe detrimental effects on those who are bullied. The effects can be immediate. They can also be long-term and can cause lifelong damage. In every bullying situation, there are typically three key parties: the victim, the bully or bullies, and those who stand by (by-standers), who are aware of the bullying. Each of these three parties is affected negatively by bullying. The responsibility of preventing any undesirable aspect of bullying and ragging rests jointly and also individually on all stakeholders, which includes the head of the institution teacher, non-teaching staff, students, parents and local community. A systematic response to the bullying problem is needed within the schools.

Some indicative interventions which schools might consider are outlined below: <sup>4</sup>

- I. The message that “Bullying is strictly prohibited inside the school premises and no such act will go unnoticed or unpunished” may be clearly stated in the school prospectus and other guidelines circulated by the school.
- II. Schools must create an amiable environment and positive school climate where learning can take place peacefully. They must build a trusting, respectful relationship among students, school administration and families. They should provide a confidential way for students to report about any incident which is of concern to them. Structures and

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<sup>3</sup> Guidelines for prevention of Bullying and Ragging in Schools, Reg: (D.O. No. 12-19/2012-RMSA-I)CBSE

<sup>4</sup> Guidelines for prevention of Bullying and Ragging in Schools, Reg: (D.O. No. 12-19/2012-RMSA-I)CBSE

procedures must be established to provide accessible, confidential, secure and effective means of reporting incidents of bullying, for victims and for bystanders who are aware of it taking place and to identify and manage incidents of bullying, including appropriate counselling and sanctions/ punishments on those engaged in bullying.

III. An Anti- Bullying Committee may be constituted in school, comprising of Vice-Principal, a Senior teacher, School Doctor, Counsellor, PTA representative, School Management representative, Legal representative, Peer Educators etc whose roles and responsibilities would include:

- a. development and review of School Bullying Prevention Plan,
- b. development and implementing bullying prevention programmes,
- c. developing training programmes for staff, students, and parents,
- d. creating awareness through various programmes
- e. being vigilant and observing signs of bullying and responding quickly and sensitively
- f. names and contact numbers of members of the committee should be clearly displayed everywhere in the school premises, etc.

IV. Arrangements for a Counsellor for Primary, and Middle, and for Secondary and Senior Secondary school may be made where possible, occurrence of acts of bullying and ragging has more probability in case of residential schools due to the amount of time spent together by students, making it essential that Counsellors and Wardens in boarding and residential schools need to be sensitized to the changing dynamics of student interaction. They should be empathetic and approachable so that students can confide in them. The school management may appoint “Sentinels/ Monitors/Peer Educators”. These sentinels may be from the prefectorial/ school council board of the schools, Life Skills trained Peer Educators or those who had been victims of bullying. Sentinels should be keen observers and thoroughly trained for ‘risky situations’. They must report cases of bullying in a non-threatening/polite manner.

- V. The right attitude is formed only during the formative period of schooling. Thus it is<sup>5</sup> necessary that students are sensitized about human rights, democratic values, respect for diversity and equality, and respect for privacy and dignity of others. Schools must take initiative to conduct activities to educate and develop the understanding of students, staff and parents about the problem and effects of bullying. It is essential that schools take initiatives to provide Adolescence Education, Values Education, Human Rights, Gender Sensitivity and Awareness. Life Skills education including- building of positive Self-Esteem, Empathy, Interpersonal Communication skills, coping with stress and emotions, dealing with anger, and resisting peer pressure need to be conscientiously taken up in the activity periods. These can take the form of role-plays, street- theatre (nukkad-natak), group-discussions, debates, special assemblies in schools, poster competitions, etc. Anti-bullying campaigns and training programmes may also be organized.
- VI. The family background and values play a very crucial role in emotional and psychological well being of a child. The role of parents must be reinforced in Parent Teacher Meetings and representation in various other school Committees. There is a need for orientation and sensitization of the community and thus parents should also be oriented. Parents must be motivated to support the school in bullying-prevention efforts. They must be sensitized to report in confidence about any act of bullying which is brought to their notice by their child. Orientation programmes may be conducted for the school staff and teachers on regular basis.
- VII. The methods of intervention are as important as methods of prevention. It is recommended that there be a graded response system to address the cases of bullying and a clearcut process needs to be followed by schools as there might be cases which deserve utmost attention and stringent action. The responsibility and authority of school administration must be defined. The implications of neglect must also be clearly defined. School's decision, taken after following process of fair investigation, should not be ordinarily challengeable.
- VIII. Comprehensive guidelines may be developed for School Management which includes the various actions and penalties which may be taken by the School Management as per observation and understanding the gravity of the misconduct.

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<sup>5</sup> Guidelines for prevention of Bullying and Ragging in Schools, Reg: (D.O. No. 12-19/2012-RMSA-I)CBSE

Some of the recommended actions include:

- a. Oral/written warning.<sup>6</sup>
  - b. Suspension from attending classes/school for a specified period.
  - c. Withholding or cancelling the results.
  - d. Imposition of fine upto a specified amount.
  - e. Expulsion/rustication from school in rarest of rare cases.
  - f. The option of transferring a student from one school to another school may also be looked into.
- IX. It is the responsibility of the school that the post-bullying atmosphere is calmed down. The school must be cautious that the victim/bully is not branded and he/she might be given opportunities for change.
- X. It is very critical to promote an atmosphere of confidence and trust among every student and to provide a platform to students where they can raise their concerns. A confident reporting system may be established that allows students to report victimization. Schools should keep a complaint /suggestion box and regularly monitor the feedback received. The necessary issues may be discussed and appropriately addressed. If there are any good suggestions received from the students, these should be announced in assemblies and be articulated in school functions. Strategies may be developed to reward students for positive behaviour. For younger children, age appropriate communication strategies should be developed and teachers should engage in dialogue with them to identify any problem. The role of class teacher, counsellor, school nurse/doctor may be enriched and children should be motivated and made aware with whom they can discuss such matters with confidentiality.
- XI. Engage all students, teaching and non-teaching staff and parents in the effort against bullying on a continual basis, as part of the moral and administrative fabric of the school.

### **3. Abuse**

*The World Health Organization(WHO) defines child abuse and child maltreatment as "all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health,*

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<sup>6</sup> Guidelines for prevention of Bullying and Ragging in Schools, Reg: (D.O. No. 12-19/2012-RMSA-I)CBSE

*survival, development or dignity in the context of a relationship of responsibility, trust or power*

Child abuse includes among other things:

- I. Physical abuse/ Violence
- II. Emotional abuse
- III. Neglect/ Ill-treatment,
- IV. Sexual abuse

### **A. Abuse in the context of schools**

Children need a healthy and supportive environment to grow and develop. All children have a right to live in dignity and have access to education that is safe, protective and conducive to growth and development. Further, the school environment is associated with overall growth and development, cognitive behavior as well as safety and security of a child. Therefore, while efforts are being made towards the enrollment of children in schools; the same needs to be supported by interventions tackling the concerns of abuse/maltreatment/neglect of children in schools

### **B. Recognizing child abuse**

Every form of maltreatment (e.g., physical abuse, neglect, sexual abuse, and emotional maltreatment) may be inflicted on school-age children.

Indicators of possible maltreatment can be picked up by observing children's behavior at school, recognizing physical signs and noticing family dynamics during routine interactions with parents.

Physical signs of maltreatment are those that are readily observable. They may be mild or severe, such as numerous, deep bruises or broken bones, or more subtle, such as malnutrition or the wearing of inappropriate clothing (e.g., a lack of warm clothing in winter). Behavioral indicators may exist independently or may accompany physical indicators.

There might be sexual behaviors in young children indicating sexual knowledge not ordinarily possessed by young children. Being victimized by abuse also may result in inappropriate behavior, such as sexual or physical aggression toward younger children.

Teachers are in an excellent position to notice behavioral indicators.

### **1. Physical Abuse/Violence**

**Physical abuse** of children includes any non accidental physical injury caused by the child's caretaker. It may include injuries sustained from burning, beating, kicking, punching, and so on. Physical abuse may result from extreme disciplinary actions or from punishment that is inappropriate to the child's age or condition or from peer violence or bullying.

Some children are more susceptible to being maltreated than others and require a great deal of care (e.g., disabled or developmentally delayed children), and others may be difficult to raise (e.g., hyperactive children, children with behavioral problems).

### **2. Neglect**

Neglect often leaves no visible scars; it is more likely to go undetected. Neglect is the most common type of maltreatment that children experience and has consequences that are just as serious as physical abuse.

The school should ensure that no instance of neglect or mal-treatment of children happen in the school.

### **3. Sexual Abuse**

Sexual abuse is defined as *inappropriate sexual behavior with a child*.

In some cases, there will be clear physical contact between the offender and the child such as fondling a child's genitals, making the child fondle the adult's genitals, intercourse, incest, rape, sodomy, exhibitionism, sexual exploitation, or exposure to pornography. Sexual abuse also may be committed by a person under the age of 18 when that person is either significantly older than the victim or when the perpetrator is in a position of power or control over the child.

Child Sexual Abuse can also occur without any contact between the offender and the child such as showing pornographic videos or pictures to the child, using the child in pornographic material, verbal abuse, making lewd gestures to the child, playing sexualized games, following the child or chatting with sexual intent with the child over the Internet etc.

It should be ensured by the school that there is zero tolerance observed on any matter related to sexual abuse of a child. Stringent action shall be taken against the perpetrator as per the law.

#### **4. Salient features of POCSO Act, 2012<sup>7</sup>**

With a view to ensure the healthy physical, emotional and social development of the child and to protect children from offences of sexual assaults and sexual harassment and for matters connected therewith, Government of India has notified the Protection of Children from Sexual Offences Act, 2012 (32 of 2012) along with Rules framed there under which have come into force w.e.f. 14th November, 2012.

- I. Sections 5, 6, 9 and 10 of the Act define various sexual offences against children and the penalties prescribed for such offences.
- II. Sexual offences committed by persons who are in the management or staff of educational institutions and persons in position of trust and authority over children are liable for higher penalties as per provisions of this Act. Further Sections 19(1) and 21(2) of the Act cast a duty on the teachers and management of the educational system to report instances of child sexual abuse along with the penalties for failure in reporting such offences.
- III. The Protection of Children from Sexual Offences Act, 2012 has defined sexual offences against children.
- IV. These offences include penetrative sexual assault and sexual assault (Section 3 and 7), aggravated penetrative sexual assault and aggravated sexual assault (Section 5 and 9), sexual harassment (Section 11) and pornography (Section 13).
- V. The aforesaid may include:
  - a. making sexual comments about the child's appearance;
  - b. forcible physical touch, looking or staring at body;
  - c. objectionable letters, telephone calls, SMS, MMSS, e-mails, etc;
  - d. sexual jokes or innuendo or taunts causing or likely to cause embarrassment to the child;
  - e. gender-based insults or sexist remarks;
  - f. actual or attempted penetrative sexual intercourse with a child;
  - g. non-penetrative sexual activity, e.g. rubbing the penis between the child's thighs or genitals;
  - h. touching, pinching, or fondling a child's sexual parts, i.e. genitals breasts or buttocks;
  - i. brushing against any part of the body;
  - j. oral sex with a child, i.e. mouth or sexual parts;

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<sup>7</sup> Guidelines- Safety and Security of Students- Navodaya vidyalaya Samiti

- k. masturbation between adult and child;
- l. the abuser showing his or her private parts to the child;
- m. the exploitative use of a child in prostitution or any other unlawful sexual practice;
- n. the exploitative use of a child in pornography;
- o. showing pictures of a sexual nature to the child that he or she does not want to see;
- p. letting the child watch or hear an act of sexual intercourse;
- q. forcing a child into marriage; and Unwelcome sexually determined behavior in the form of verbal- non-verbal and physical
- r. Eve-teasing
- s. Displaying pornographic or other offensive or derogatory pictures, cartoons, pamphlets or saying.
- t. Any other act which violates or is likely to violate the child's privacy or cause mental or physical disturbance to the child due to its sexual nature or content.

## **A. Measures for Protection from Child Sexual Abuse (CSA)**

### **1. Selection of employees**

- I. School should ensure Police verification of the school employees and connected staff in schools to prevent any kind of abuse against the school children.
- II. No candidate with a criminal record of sexual and or physical violence against children should be recruited for any position within an educational institution.
- III. All newly selected candidates must also provide a signed affidavit to the educational institution that they have not been accused of offence under the POCSO Act, 2012 and JJ Act, 2015.
- IV. Persons employed on an ad-hoc or contractual basis to teaching as well as nonteaching positions must be made to adhere to the aforementioned.
- V. It must be ensured that at least half of the total number of teaching staff is female (as mentioned under SSA) , in order to ensure that girl students are provided adequate care and protection.

## **2. Policy regarding employees in respect of Child Sexual Abuse (CSA)**

- I. Employees should respect the dignity and privacy of the child, and not commit any act that may be construed as one amounting to sexual abuse of the child.
- II. A grievance committee for child sexual abuse (CSA) to address cases of child sexual abuse should be formed by the school. The constitution, roles and responsibilities of the committee should be as follows;
  - (a) Schools must constitute a CSA committee within one month of academic year every year.
  - (b) The CSA committee should constitute of 25% students and 50% representatives of management and teachers and 25% SMC Members/PTA. The representatives of the committee should be 50% females.
  - (c) The term of CSA committee will be one year. Every year new committee will be constituted by giving representation to students in rotation. Every year at-least 2/3<sup>rd</sup> of the representatives of children should be replaced with new members.
  - (d) Meeting of CSA committee should be conducted every month and proceedings of meetings be recorded.
  - (e) The main functions of the committee shall be responsible for creation of awareness regarding CSA in schools, good touch Vs bad touch, complaint box, report any all instances of CSA to the authorities.
  - (f) To encourage students to report any fear or apprehension of sexual abuse to any person in whom the student has trust and confidence, so that appropriate measure can be taken.
- III. Courteous and polite behaviour to students so as to assure a safe environment.
- IV. Zero Tolerance Policy towards sexual abuse of students by employees
- V. Vigilant outlook by teachers and other employees' w.r.t. CSA and reporting of the same either to the authorities or Police.
- VI. To provide adequate support and guidance to all students and provide a forum to present their concerns.
- VII. All children must be escorted during travel for school outings. Where any girl student is present in such group of students, a female teacher must also accompany the group. The escorting employee must travel along with the students in the same coach/ compartment / vehicle.

VIII. Permission must be obtained from each child's parent / family member for the child to participate in certain activities, such as field trips, late-night activities, and overnight trips.

IX. Parents must be provided a platform to raise any concerns relating to their children.

### **3. Conduct**

- I. Prevent contact between the child and the offender until an investigation has taken place. Explain to the child that he / she should tell them immediately if the offender attempts to touch or bother them again in any way.
- II. Do not talk to the offender in front of the child.
- III. Continue to believe the child and do not blame him / her for what happened. Give the child support and reassurance that he / she is okay and safe.
- IV. Respond to concerns or feelings the child expresses about sexual abuse calmly. Listen to the child but do not ask a lot of questions.
- V. Respect the child's privacy by not telling a lot of people, and make sure that other people who know, don't bring the subject up to the child.
- VI. Make sure that all children are given enough information on personal safety so as to be able to protect themselves from the offender without discussing the details of the incident.
- VII. As per the provision of the POCSO Act, 2012 the identity of any child who has been victim of sexual abuse shall be strictly maintain with confidentiality and the same should not be made public.

### **B. Sensitization and awareness of staff towards prevention, identification, and reporting of child sexual abuse and sexual violence:**

Staff members should be taught to understand the basic characteristics of a sexual abuse, the process used by an abuser to choose and prepare a child for abuse (grooming), and key indicators of sexual abuse, and be prepared to respond immediately to inappropriate or harmful behavior, potential risk situations, and potential boundary violations. These are to include:

- I. Gender sensitive learning material
- II. In-house induction sessions for all teachers and staff
- III. Provision for guidance and counseling

## C. Additional Safeguards

- I. Complaints/Grievance redressal system
- II. Presence of CCTV cameras
- III. Well lit and accessible bathrooms/toilets
- IV. Monitoring of student behavior and performance

## Grievance redressal System with regard to matters of Sexual Offences against Children at NCPCR- POCSO-E-BOX

POCSO e-box is a major initiative by NCPCR to help children seek help and report such crimes directly to the Commission.

### FILING COMPLAINT THROUGH POCSO E-BOX

It is incorporated prominently in the home page of NCPCR website where the user has to simply press a button named, POCSO e-box which will navigate to a page with the window having a short animation movie telling children/complainant that it's not their fault and they need not have to feel bad.



User has to simply select at least one complaint category, fill this form and click on submit button to register the complaint.

### NCPCR POCSO e-button

Details are available at- [www.ncpcr.gov.in](http://www.ncpcr.gov.in)

E-mail id: [pocsoebox-ncpcr@gov.in](mailto:pocsoebox-ncpcr@gov.in)



#### **4. Guidelines for positive engagement with children<sup>8</sup>**

In addition to the major legislations and regulations, schools can adopt methods to inculcate positive attitude and behavior in children. Punishment is often justified as a ‘last’ resort in extreme situations for instance – bullying, causing physical harm, destruction of property, vandalism, sexual harassment, infringement of rules such as playing truant, carrying objects which are against school rules into the classroom, provocative/ challenging behaviours etc. However, two children with the same problems may come from different backgrounds – one an indulgent family, which believes that a little exuberance is all right, and another where the family is also at its wits’ end. The contexts in which a child’s behaviour takes place and how it comes to notice, lend themselves to child/classroom/school management.

NCPCR’s guidelines for eliminating Corporal Punishments suggests some important steps, as following.,

- I. A protocol of response based on first versus repeated problems founded on a set of rules the school develops with children’s inputs would go a long way to democratize response dispositions. To this, an added component of preventive interventions, such as life-skills programme, increases overall effectiveness.
- II. A difficult situation can also be resolved by a process of triangulation between the student/family, the teacher/school administration and a student council. A more difficult situation then may not be so much a discipline issue but a psychological one that needs professional attention and care.
- III. The following guidelines are based on therapeutic strategies based in turn on the principles discussed above that are commonly employed by mental health professionals in clinical settings for families with children with behaviour disorders. Though simple, these are effective strategies when implemented consistently:
  - a. Arriving at a consensus with children about expected behaviour and consequences;
  - b. Framing rules and guidelines in consensus with children;
  - c. Focusing on every child’s positives and appreciating good behaviour;
  - d. Using different strategies to encourage and promote positive behaviours;
    - a. Never comparing one child’s performance with another;

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<sup>8</sup>Guidelines for Eliminating Corporal Punishment in Schools- NCPCR

- e. Setting limits and developing clarity on boundaries;
- f. Providing children an opportunity to explain before any other response;
- g. Giving a warning or chance before any response;
- h. Actively listening, remaining calm and ensuring the safety of other children while handling troublesome or offensive behaviour;
- i. Addressing perceived 'severe or problematic behaviour' through consultation with parents, child and counsellor/psychiatrist;
- j. Discussing (with children) and adopting time-out strategy as the last resort with children.

## **5. Counselling in Schools<sup>9</sup>**

Schools were advised by CBSE to create a conducive climate that is free from fear, anxiety and stress so that children learn joyfully and learn to work together harmoniously. The following points were reiterated in this regard with an instruction to schools to implement an effective programme of counselling for students:

- I. At secondary and senior secondary stages, at least twenty sessions of psychological counselling must be provided to every student in an academic session. Parents and teachers may also be involved in such sessions.
- II. Awareness about human rights, respect for diversity and equality may be discreetly grafted into the lessons and exercises right from the primary classes. Education in Life Skills can be given greater thrust in classes VI-VIII to inculcate the desirable value system.
- III. Mentioning the status of the student in terms of his/her behaviour pattern in the school leaving and character certificates is mandatory.

## **6. School environment<sup>10</sup>**

- I. The School environment should be such each child should be feeling that help would be available to her if she approached them. The SMC members may facilitate this process by regularly visiting the schools and interacting with students. Children may

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<sup>9</sup> CBSE vide circular No. HOD (EDUSAT)/08 dated 10<sup>th</sup> March, 2008.

<sup>10</sup>MHRD guideline for safety and security of children in Schools vide D.O No-10-11/2014-EE-4 dated 9<sup>th</sup> October, 2014

find it easier to report incidents at the initial stage itself if the school environment is conducive. Other methodologies, like help desk in schools supported by Mahila Samakhya in Kerala, toll free numbers of Odisha, formation of child cabinets/kishorimanch/balsabha, open house with parents etc may also be adopted depending on the local circumstances.

- II. Training of teachers to ensure safety and security of children itself will cover a wide spectrum from drills for safety, first aid, gender sensitization, principles of no corporal punishment. While training on physical aspects of safety may be staggered to cover a specified number of teachers every year, till coverage is complete, however training on gender and other mindset issues will have to cover all teachers every year.
- III. As far as possible, every school must have at least one female teacher.
- IV. The norms for teacher deployment and hours of access to staff/others must be laid down clearly and carefully in the case of residential school and hostels.