

# SEXUAL VIOLENCE



A Handbook for  
Care Givers & Service Providers

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# Foreword

*Arz along with the law enforcement agencies, parents, teachers, staff of the Department of Women and Child Development, and other departments of the Government of Goa have been working for many years on the issue of Human Trafficking and child sexual abuse.*

*Arz has commonly experienced that there exists a lot of denial about existence of Commercial Sexual Exploitation and Child Sexual Abuse, especially about sexual abuse of boys. There is lack of knowledge about the legal provisions, procedures and skills for handling victims of trafficking and sexual abuse among the Caregivers and Service Providers.*

*In the last few years the central government and various state governments including Goa have paid a lot of attention to the problem of child sexual abuse. Legislations such as POCSO, Goa Children's Act have been passed and IPC and Cr. P. C. have been amended to address sexual abuse of children. The new legislations and amendments may help in prosecution of abuser.*

*But legislation itself is not enough to address the problem of Sexual Violence. There is a need for skill building of different stakeholders to be able to identify the incidence of Commercial Sexual Exploitation (CSE), reporting of CSE, handling victims of sexual abuse in a sensitive manner, and to treat the victims of Child Sexual Abuse in a child friendly manner while being processed through the criminal justice system.*

*I am hopeful that the Handbook on Sexual Violence, prepared by Arz will be handy for Caregivers, such as parents, teachers, police, doctors, prosecutors, and social workers in providing services to the victims of sexual abuse.*

*I dedicate this handbook to the Caregivers who have been sincerely involved in prevention of sexual violence; protection and rehabilitation of the victims of sexual abuse and prosecution of the abuser.*



**Arunendra Pandey**

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## GLOSSARY

**ITPA:** Immoral Traffic Prevention Act, 1956.

**CSE:** Commercial Sexual Exploitation.

**CSA** Child Sexual Abuse.

**POCSO** Protection of Children from Sexual Offenses Act, 2012.

**IPC** Indian Penal Code, 1860.

**Cr.P.C** Criminal Procedure Code,

**GCA** Goa Childrens Act, 2003.



# **HUMAN TRAFFICKING**



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# Situation of Human Trafficking!

Human trafficking, the world's third largest illegal activity after smuggling of drugs and weapons, continues to thrive despite adequate legal provisions. Human trafficking, and in particular, trafficking in women and children is an extreme form of human rights violation as it denies the fundamental rights of mobility, freedom, dignity and integrity of the victims. Human trafficking has a devastating impact on individual victims, who often suffer physical and emotional abuse, rape, threats against self and family, and even death. But the impact of human trafficking goes beyond individual victims; it undermines the health, safety, and security of all the nations it touches. Forms of Human Trafficking include - forced labour, organ harvesting, domestic servitude, marriage, begging, commercial sexual exploitation.

Human trafficking is one of the most heinous crimes imaginable, often described as modern-day slavery. This crime robs its victims of their most basic human rights and is occurring in India and worldwide. The victims, who are mostly women and children, are deprived of their normal lives and compelled to provide their labour or sexual services, through a variety of coercive practices all for the direct profit of their perpetrators.

India is a source, destination, and transit country for men, women, and children subjected to forced labor and sex trafficking. India is one of the most popular trafficking destinations in South Asia. Many Indian women trafficked out of India end up either in Middle East for sexual exploitation or in Europe, the United States, or in the Middle East as domestic or low-skilled labour. India's sex industry includes some 2 million sex workers, 20% of whom are under the age of 16 years.

Goa being a tourist state and due to rapid urbanization, better opportunities for livelihood is, vulnerable as a source and destination for the purpose of trafficking related to commercial sexual exploitation. According, to the National Human Rights Commission Report, Goa has a high level of trafficking from other states of Indian states. As per the National Crime Report Bureau, 2012, Goa is at 3rd in number with regard to rate of crime against children per lakh's population in India.

Over a period of time, Goa has developed as a market where there is demand and supply of children and women for commercial sexual exploitation. In Goa the commercial sexual exploitation has spread to urban as well as interior parts of Goa. The trafficking of the girls and women from outside the state as well as within the state is happening in a very organized manner.

According, to a study conducted by Arz of victims rescued from commercial sexual exploitation, titled, "Trafficking of Women & Children for Commercial Sexual Exploitation in Goa (A Statistical Analysis of situation of CSE in Goa)", in 2014, victims of commercial sexual exploitation include residents of Goa and from Karnataka, Jharkhand, Assam, Mizoram, Nagaland, Delhi, Rajasthan, Uttar Pradesh, Haryana, Kerala, Jammu & Kashmir, Chhattisgarh, Punjab, Sikkim, Madhya Pradesh, Maharashtra, Assam, Manipur, and West Bengal. As per the report, Goa receives victims from foreign countries such as Nepal, Bangladesh, Thailand, Uzbekistan, Kyrgyzstan, Ukraine, Turkmenistan and Russia.

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# What is Human Trafficking for Commercial Sexual Exploitation {CSE}?

Trafficking for CSE is the process of recruiting, contracting, procuring or hiring a person for commercial sexual exploitation.

Trafficking is a process and CSE is the result.

Prostitution becomes an offence when there is commercial exploitation of a person.

CSE is the result of multiple abuse and abuser located and involved in the offence at different place and time.

Demand perpetuates trafficking and has resulted in the market of CSE.

Demand results in the organized network and crime of trafficking.

Demand results in the trafficking of vulnerable persons to the market of CSE.

## Definition:

**Section 370 (1)** whoever, for the purpose of exploitation (a) recruits, (b) transports (c) harbours, (d) transfers, or (e) receives, a person or persons, by-

**First-** using threat, or

**Secondly-** using force, or any other form of coercion, or

**Thirdly-** by abduction, or

**Fourthly-** by practising fraud, or deception, or

**Fifthly-** by abuse of power, or

**Sixthly-** by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received, commits the offence of Trafficking.

**Section 370 A (1)** Whoever, knowingly or having reason to believe that a minor has been trafficked, engages such minor for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than five years, but which may extend to seven years, and shall also be liable to fine.

**Section 370 A (2)** Whoever, knowingly by or having reason to believe that a person has been trafficked, engages such person for sexual exploitation in any manner, shall be punished With rigorous imprisonment 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.

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# Myths and Facts

**MYTH: Prostitution happens when individual women desire to sell their bodies.** **FACT:** Prostitution is the result of trafficking. It involves systematic procurement, sale transfer, solicitation and sexual exploitation of women and girls both, with or without their consent.

**MYTH: Trafficking happens to poor people.** | **FACT:** Poverty is a contributory factor. Many cases of victims from well to do families are reported

**MYTH: Traffickers are strangers.** | **FACT:** Most of the cases reported across the world the trafficker has been a person who is known to the victim. In case the trafficker is a stranger there is some familiarity developed before they traffic the victim.

**MYTH: Prostitution is a “necessary evil”, i.e., without prostitution good women would be raped.** | **FACT:** There is no linkage between the phenomena of rape and prostitution.

**MYTH: Victims are kidnapped.** | **FACT:** Here are many cases of kidnapping for the purpose of trafficking but in recent times the modus operandi that has been used is deception and fraudulent means. Social media and technology is being actively used to traffic persons for CSE.

**MYTH: Trafficking means prostitution.** | **FACT:** Trafficking is a process and prostitution is a purpose. Trafficking also happens for various other purposes such as labour, beggary, organ sale, etc.

**MYTH: Only women and girls get trafficked for CSE.** | **FACT:** Information

*from all over the world shows that significant number of men and boys are trafficked for sex tourism or forced as a transgender.*

**MYTH: Men who buy sex are unmarried or separated from wives. | FACT:** *The profile of men seeking paid sex shows that they could be happily married with normal families.*

**MYTH: Only children are trafficked, adult women take up to prostitution by choice. | FACT:** *A study by Central Social Welfare board revealed that 89% of women who are into prostitution today were inducted as children.*

**MYTH: Women and girls sell their bodies because they want easy money and are addicted to sex. | FACT:** *Women and girls are made to sell their bodies because they become victims of trafficking, perpetrated by procedures, agents, brothel keepers, pimp, and even their own family. The perpetrators make money not the women.*

**MYTH: Women & girls continue in prostitution because they want to continue. | FACT:** *Women and girls continue in prostitution because of lack of proper economic alternatives.*

**MYTH: Action against sex workers would help in controlling prostitution. | FACT:** *Action against sex workers would result in their future exploitation, instead action against the traffickers, clients, pimps and those surviving on the earnings of women in prostitution would help in controlling trafficking.*

**MYTH: Prostitution is the worlds oldest profession ad cannot be stopped. | FACT:** *Prostitution is the oldest form of exploitation of human rights and a result of trafficking. If there is a collective will, trafficking can be controlled and stopped.*

# Persons at risk of being trafficked for CSE?

Uncontrollable children

Illiterate/unskilled persons

Orphan children

Persons Victim of sexual abuse

Children of Single parents

Members of the family having domestic violence

Members of the family where parents are dependent on Alcohol/ drugs, etc

Adults in the family who are supposed to be the bread earner are unemployed

Families which are in debt or affected due to natural calamities

Family is dependent for financial support on the income of women and children who are illiterate and unskilled

Persons belonging to the areas effected due to armed conflict, violence etc

Persons residing in socio – economic poor areas which does not have job opportunities

## **Married Women:**

- Divorcee
- Separated
- Ill-treatment by Husband
- Extra – Marital Relationship

*Above mentioned situation or reasons on its own does not lead to CSE. These may be a contributory factor. The trafficking of a person for CSE happens due to traffickers taking advantage of these situation and poor law enforcement agencies which is unable to protect the vulnerable population from being trafficked by taking action against the traffickers.*

# Legal Provisions

## Immoral Traffic (Prevention) Act, 1956 ITPA

*Offenses under ITPA are specific to the context of CSE. They are listed below:*

Keeping or managing (or assisting in keeping or managing) a brothel or allowing premises to be used as a brothel (including vehicles)  
– **S.3 ITPA**

Living on earning of prostitution (even partly) – **S.4 ITPA**

Procuring, inducing, trafficking or taking persons for the sake of prostitution (**S.5 ITPA**). Even attempt to produce or take would constitute the offence

Detaining a person in any premises (brothel or any other) where prostitution is carried out – **S.6 ITPA**

Seduction of a person in custody (which includes causing or assisting seduction for prostitution of a person in custody) – **S.9 ITPA**

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## Indian Penal Code – IPC

Trafficking of Persons (**Section 370 and 370 A IPC**)

Displaced from her community, which tantamount to kidnapping/abduction (**Section 361, 362, 365, 366 IPC may apply**)

Procured illegally (**S.366 A IPC**)

Sold by somebody (**S.372 IPC**)



Bought by somebody (**S.373 IPC**)

Imported from a foreign country (if she hails from foreign country, or even from J&K State, and is under 21 years of age – **S.366 B IPC**)

Wrongly restrained (**S.339 IPC**)

Wrongly confined (**S 340 IPC**)

Physically tortured/injured (**S.327, 329 IPC**)

Subjected to criminal force (**S. 350 IPC**)

Mentally tortured/harassed/assaulted (**S. 351 IPC**)

Criminally intimidated (**S.506 IPC**)

Outraged for her modesty (**S 354 IPC**)

Raped/gang raped/repeatedly raped (**S 375 IPC**)

Subjected to perverse sexual exploitation ('unnatural offences') (**S.377 IPC**)

Defamed (**S 499 IPC**)

Subjected unlawful compulsory labor (**S.374 IPC**)

Victim of criminal conspiracy (**S 120 B IPC**)

## **Protection of Children from Sexual Offences (POCSO), 2012**

In case the victim is a minor in age and she is commercially sexually exploited then the relevant sections related to sexual assault will apply.

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# Do's and Don'ts

## **Information:**

Be vigilant about things happening in your neighborhood.

Do not give room/flat/house on rent without police verification.

## **Reporting:**

Report any suspicious activity to Police/Sub Divisional Magistrate immediately.

Report either in person or by registered post.

Reporting can be done orally or in writing.

## **Witness:**

Volunteer to act as a Pancha witness when called by police

## **Registration of case:**

Ensure police registers a criminal case against the perpetrator under all relevant sections.

Ensure that no case is booked against the child or women.

## **Recording the statement of the victim:**

Female victims should be interviewed by Women Police Officer. If Women Police Officer is not available involve women NGO's or counselors during interview.

Ensure that accused offenders are nowhere in the vicinity when statement

is recorded.

Listen to the victim carefully and empathically.

Conduct the interview at a place where the victim is comfortable.

Avoid making value judgements, comments and criticisms.

### **Medical examination:**

Consent of the victim for medical examination is important.

All medical examination of female victims should be done by a female doctor.

At the time of medical examination, doctors needs to check if the victim is suffering from any illness or is she/he a victim of substance abuse.

Immediate medical assistance to be provided for illness and/or for addiction.

### **Shelter:**

Shelter of the victim should be located in a safe place.

Proper security arrangements should be made at the shelter home.

Confidentiality about her location should be maintained.

At the shelter home a homely environment should be created.

Proper diet and nutrition as per the liking and interest of the victim should be provided.

Proper arrangements of medical services should be made at shelter home.

Counseling services and therapeutic support, should be provided to the victim at the shelter home.

At the shelter home legal aid, self development, self expression, skill development, etc services should be provided.

### **Reunification of victim with her family:**

Before reunification of the victim with the family ensure that the family members are not involved in the exploitation and are fit to provide care and protection and prevent her re-trafficking.

Help the family by providing counseling and necessary support for accepting the victim and in providing care and protection to the victim.

### **Speedy Repatriation of victim to her home state/country:**

No person of foreign nationality who is a victim of human trafficking and found to be in India without valid documents should be prosecuted under Foreigners Regulation Act.

Efforts should be made to repatriate the victim to his/her country.

Till the victim is repatriated she should be kept in a protective home managed by government or NGO.

### **Economic Rehabilitation:**

Victims of CSE should be connected to employment, income generation, livelihood programmes, etc.

The income earned from the employment should be such that the victim is able to support herself and her dependents.

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**CHILD  
SEXUAL  
ABUSE**



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# What is Child Sexual Abuse?

Child sexual abuse is the assertion of power, through sexual acts, against children before the age of consent – that is, under 18 years of age.

Whether or not a child under the age of 18, consented to sexual activity is immaterial.

## Sexual abuse may include:

**Touching sexual abuse:** fondling of genital / anal, masturbation, oral sex, object/finger penetration of the anus/vagina if it does not have any valid medical purpose, or/and encouraging the child to perform such acts on the abuser.

**Non Touching sexual abuse:** exhibitionism, exposure to sexual activity, pornographic materials or producing visual depictions of such conduct, masturbating in front of a child.

**Sexual Exploitation:** soliciting, engaging a child for prostitution, filming, photographing for pornography.

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# Myths and Facts

**MYTH: Sexual abuse is due to the behavior or the way the child dresses.**

**FACT:** *Child is not to be blamed for the abuse. It is the abuser who needs to be blamed as he/she has misused his/her power, position with the child and broken the trust of the child.*

**MYTH: A known person cannot sexually abuse the child.**

**FACT:** *Abusers are usually known, to the child and the family.*

**MYTH: Children who are sexually abused get HIV.**

**FACT:** *Child sexual abuse is not necessarily penetrative sexual abuse. All penetrative sexual abuse not necessarily leads to HIV.*

**MYTH: Child Sexual Abuse happens only to poor and migrant families.**

**FACT:** *The abuser does not target the child based on class, region or financial status of the child.*

**MYTH: It is best if the child forgets the abuse.**

**FACT:** *Abuse causes emotionally and psychologically disturbances to the child it can be healed with professional service and care.*



# Children at High Risk for Sexual Abuse

Sexual abuse can happen to a child of any age and gender. There is no particular reason for a child to be at risk. Some of the risk factors can be:

Child who is an orphan

Child with single parent

Child with step-parent/s

Child where there is addiction in the family

Child who have emotionally unstable parents

Child lacking love and care.

Child in a dysfunctional family (conflict, misbehavior, neglect)

Child with poor parent child relationship

Unsupervised child

Child without shelter

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# Profile of Child Sex Abuser

**The vast majority of abusers do not get caught, and they have no criminal records.**

Abusers are very friendly with children.

Abuser gives extra attention to a child by treating them differently and giving gifts without reasons.

Abusers usually do not speak the truth.

Abusers use their relationship with the child in a manipulative manner.

Abusers spend most of their time with children or places where there are children (play ground, children park, outside schools)

## **Process adopted by the abuser to abuse the child:**

Abuser identifies a child.

Befriends the child,

Frightens the child,

Threatens the child,

Test / abuses for the first time,

Repeatedly abuses.

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# Identifying Child Sexual Abuse

**Sexual abuse can happen to a child of any age.**

**Child who have been sexually abused for the first time may exhibit the following behavior:**

Silent.

Fear of certain person, place, object.

Lack of interest in things they like.

Change in food habits.

Change in Sleep pattern – excessive sleep or less sleep.

Sudden change in behavior.

Staying aloof.

Loss in thoughts.

Refusal to follow a routine.

**If the abuse is repetitive, the child may exhibit the following behavior:**

Aggression towards others – fights.

Aggression- breaking things.

Violence.

Temper Tantrum and irritability.

Uncontrollable temper.

Sudden change in behavior (withdrawal, disobedience towards adults, fear of being left alone, anxieties).

Frustration with people around.

Difficulties in day to day activities.

Excessive crying.

Night Mare.

Sexualized language, behavior, actions.

Delinquency such as running away, lying, stealing.

Harmful behavior- cutting of wrist, suicidal attempts.

### **Caregivers should be alert for the following signs:**

#### **a) Physical signs**

Child walking in odd manner.

Blood on underwear.

In case of girls - missing periods, pregnancy.

Sharing by child of pain in vaginal and anal area.

Discharge, itching in the genital area.

Injury in the vaginal/anal area.

#### **b) Emotional changes:**

Have negative feelings (rejection, unworthiness).

Confused thoughts about themselves.

Blame oneself for the abuse.

Non acceptances of oneself.

**Any one sign doesn't mean that a child was or is being sexually abused, but if there are several signs present, it is time to be alert and caregiver should consider seeking help.**

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# Disclosure of Abuse

Children sexually abused are told by the abuser not to share about the “secrets” between the abuser and the child.

In case the abuser is a family member, friend, neighbor, teacher then the chances of the child disclosing about the abuse is less.

**When a child discloses or shares about the abuse the response by the caregiver:**

Usual Response by an adult	Response expected by the child
Oh my god!	It's <del>OK</del> I am with you.
Really?	I believe what you say.
I can't <del>believe</del> it!	It's <del>not</del> your fault.
Is it so?	It is ok if you are angry with the abuser.
Are you sure it happened?	Don't <del>worry</del> the abuser will <del>not</del> harm you again.
I hope you are not lying.	If you want, we can see how he does not abuse other children.
What nonsense are you speaking?	Is there anything that you want me to do.
What rubbish! This person can't <del>do</del> it	I am there for you.
You should have told me earlier. Why you are telling me now?	Good you told me.
Now don't <del>spea</del> k about it again.	You can share anything with me without any fear.

# What an adult can do when a child shares about sexual abuse

## **Respond with “CARE” and “URGENCY”:**

If you think a child is trying to tell you about a sexually abusive situation, respond immediately and with care.

## **Handle the situation “calmly”:**

When the abuser is known, adults must handle the situation calmly. Children should not be blamed for the abuse. The abuser should be held responsible for the abuse.

## **Do not make false promises to the child:**

No false promises should be made to the child, such as “will beat the abuser”, “will not disclose to anyone”.

## **Create a safe and protective environment for the child:**

Do what is necessary to protect the child from further harm, both emotionally and physically. If necessary, temporarily shift the child.

## **Get help:**

Get help from professionals who can guide you towards safety and healing.

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# Reporting Child Sexual Abuse

Any person, who has an apprehension that an offence is likely to be committed or has knowledge that an offence has been committed, has a mandatory obligation to report the matter to the police. This includes persons/staff from media, hotel/ lodges, hospitals, clubs, studios, teachers, social workers, photographic facilities, etc.

Failure to report to the police attracts punishment with imprisonment of up to six months or fine or both.

A child or parent or NGO can make a complaint of sexual abuse at any police station. If the complaint is lodged out of jurisdiction, then the FIR can be filed and then transferred to the relevant police station.

It's not up to the police to decide whether or not to accept the case. The complainant has the right to lodge a complaint.

It is mandatory for the police to register an FIR in all cases of child abuse. In case registration of FIR has been refused or not lodged, a complaint can be made to the Superintendent of Police, or one can file a private complaint in a court having jurisdiction.

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# Recording of the statement of the victim

Child who has been sexually abused will have to share about the abuse with the Investigating Officer.

Inform the child that the police will ask many questions and if the child doesn't understand something, he/she can ask the police officer or parent/caregiver for clarification.

The statement of the child should be recorded only when the child is ready and can give a detailed account of the incident.

The statement of the child victim can be recorded at her/his home or at a place of her/his choice in presence of her parents or relatives.

The statement should be preferably recorded by a woman police officer.

The statement of the child is to be recorded by an officer not below the rank of police Sub-Inspector.

The police officer should not to be in uniform while recording the statement of the child.

Before recording the statement of the child, explain to the child that he/she is not a bad person for reporting the abuse.

Police officer should ensure that the child should not in any way come in contact with the accused or exposed to the accused or his/her representative.



The statement of the child is to be recorded as spoken by the child.

Assistance of an interpreter or translator or an expert can be taken as per the need of the child.

In case of a mentally challenged child the assistance of a special educator or any person familiar with the manner of communication of the child should be taken.

Child should not be questioned unnecessarily or pressurized into giving details.

Police and parents should ensure that the child does not have to repeat the incident on multiple occasions.

While recording the statement the child should be given ample breaks.

While recording the statement depending on the age of the child arrangement should be made for toys, colors, chocolates, food, water, etc.

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# Evidence collection in cases of CSA

The evidence in the CSA may include – clothes of the victim, clothes of accused, bed-sheet, mattress, injury marks on the body of the victim and accused, mobile phone, camera, pen drive, video recording device, any written document, statement of witnesses, medical examination reports, etc.

Extra care needs to be taken to ensure that the evidence is not hampered with or destroyed.

The victims should not be given bath or the clothes of the victim should not be washed as it may destroy crucial evidence.

The police should conduct an investigation and gather evidence relevant to the case.

The investigation may include examining the crime scene for evidence and talking to people or witnesses who may be able to give information about the incident.

The police should use gloves while collecting evidence from the crime scene.

The evidence collected from the crime scene should be packed properly to avoid any kind of damage to the evidence.

Clothing containing dry biological stains (blood, semen or saliva) should be packed separately and in such a way that the stains are not broken or rubbed off.

The victim and the accused clothing should be packed separately and should not come in contact with each other.

Strands of hair on garments should not be allowed to come in contact with other garments that may contain hair.

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# Medical Examination of victim of CSA

The medical examination should be done within 24 hrs from the time of receiving the information relating to the sexual abuse.

The examination is to be done in a government hospital.

The medical examination is to be done after taking the consent of the victim or of the person competent to give such consent on his/her behalf.

The examination to be done in the presence of a family member or a social worker with whom the child is comfortable.

The medical examination is to be conducted by a female doctor if the victim is a girl child.

The examination must be done privately in a comfortable and warm room.

The child should be semi-dressed or covered by a blanket/sheet during the medical examination.

The doctor should do a full examination on the child, checking from head to toe for physical injuries, especially in the hidden areas.

Lack of signs of physical injury does not mean that the child was not abused.

During the forensic examination, the doctor should collect any evidence that can be used in court against the abuser.

This examination may be uncomfortable for the child, so the doctor needs to support the child and make him/her comfortable.

Scientific method to be used for medical examination instead of 'two finger' tests.

# Court Proceeding

Child friendly special courts to be setup for child sexual abuse cases.

The Special Court should complete the trial within one year.

The evidence of the child is to be recorded within a period of 30 days to ensure speedy trial.

Child should not to be called repeatedly to testify.

Frequent breaks should be given to the child during trial.

The defence lawyer cannot directly ask questions to the child.

The defence has to give the questions first to the court who will then asks questions to the child.

Court not to permit aggressive questioning or character assassination of the child.

The environment in the court should be child friendly.

The trial should be in camera.

During the child deposition the parents or the family members or social worker whomever the child feels comfortable should be allowed to be present.

The child should not be exposed to the accused while the child is deposing in the court.

At the time of the deposition of the child in the court depending on the age of the child arrangement should be made for toys, colors, chocolates, food, water, etc.

# Handling victim post abuse

Sexual abuse is a traumatic experience that may interrupt the life of the victim and the family at home, at work, at school and in the neighbourhood

Many survivors of sexual abuse feel isolated in the aftermath of the assault.

**In order to reduce those feelings, the caregiver can work towards recovery of the victim in the following manner:**

1. Provide the victim with a “feeling” of safety, a feeling that the abuser will not harm her/him.
  2. Enable her/him to get back to “routine life” at the earliest such as attending school, playing with other children, watching TV, etc
  3. Ensure that the victim is not isolated or feeling a “sense of isolation”
  4. Create an environment to make the victim feel “accepted”
  5. Enable the victim to feel “normal”. The victim should not start feeling that he/she is different from other children.
  6. Do not make the victim feel “guilty” for sharing about the abuse and the legal action being taken against the abuser.
  7. Provide “support and comfort” to the victim and the family.
  8. Connect the child and family to professional services that can keep them safe, provide support and facilitate their recovery from trauma.
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# Legal Provisions

## Goa Children's Act, 2003.

**Section 8: Child abuse and trafficking** - Punishment with imprisonment for a term which may extend to 7yrs and a fine which may extend to Rs. 1,00,000/-.

**Section 9: Commercial sexual exploitation & Dedication** - Punishment with imprisonment for a term which may extend to 7 yrs and a fine which may extend to Rs. 1,00,000/-.

## Indian Penal Code:

**I.P.C. 376: - Rape** - Imprisonment not less than 7 yrs but up to life imprisonment.

**I.P.C. 354: - Outraging the modesty of a woman**- imprisonment of up to 2yrs.

**I.P.C. 377: - Unnatural Offences**- imprisonment not less than 10 yrs but up to life imprisonment.

**I.P.C. 511: - Attempt**- Half of the punishment of the offence.

## The Protection of Children from Sexual Offences Act, 2012

The Act defines a child as any person **below the age of 18 years** and provides protection to all children under the age of 18 years from the offences of sexual assault, sexual harassment and pornography.

This is the first time that an Act has listed aspects of touch as well as non touch behaviour (eg: photographing a child in an obscene manner, the Act even criminalizes watching or collection of pornographic content involving children) under the ambit of sexual offences.

Penetrative and aggravated penetrative sexual assault, sexual and aggravated sexual assault, sexual harassment, and using a child for pornographic purposes are the five offences against children that are covered by this act.

The Act incorporates **child friendly procedures** for reporting, recording of evidence, investigation and trial of offences.

The **attempt to commit an offence** under the Act has also been made liable for punishment for up to half the punishment prescribed for the commission of the offence.

The Act also provides for punishment for **abetment of the offence**, which is the same as for the commission of the offence. This would cover trafficking of children for sexual purposes.

For heinous offences of Penetrative Sexual Assault, Aggravated Penetrative Sexual Assault, Sexual Assault and Aggravated Sexual Assault, the **burden of proof** is shifted on the accused.

The media has been barred from disclosing the identity of the child without the permission of the Special Court.

The rules laid down in this act also had defined a criteria of **awarding the compensations** by the special court that includes loss of educational and employment opportunities along with disability, disease or pregnancy as the consequence of the abuse. This compensation would be awarded at the interim stage as well as after the trial ends.

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

**Section 4:** Penetrative sexual assault- imprisonment not less than seven yrs but up to life imprisonment and fine.

**Section 6:** Aggravated penetrative sexual assault- imprisonment not less than ten yrs but up to life imprisonment and fine.

**Section 8:** Sexual assault- imprisonment not less than three yrs but up to five years and fine.

**Section 10:** Aggravated sexual assault- imprisonment not less than five yrs but up to seven yrs imprisonment and fine.

**Section 12:** Sexual harassment- imprisonment up to three yrs and fine.

**Section 14:**

1. Using child for pornographic purposes- Imprisonment up to five yrs and fine (first time), imprisonment not less than 10 yrs but up to life imprisonment and fine. (Second time or subsequent conviction)
2. Participating in pornographic acts and involving in penetrative sexual act with the child - imprisonment not less than 10 yrs but up to life imprisonment and fine.
3. Participating in pornographic acts and involving in aggravated penetrative sexual act with the child – rigorous imprisonment for life and fine.
4. Participating in pornographic acts and sexual assault on the child - imprisonment not less than six yrs but up to eight yrs and fine.
5. Participating in pornographic acts and involving in aggravated sexual assault of the child - imprisonment not less than eight yrs but up to ten yrs and fine.



**Section 15:** Person who stores any pornographic material in any form involving a child, for commercial purpose- Imprisonment up to 3 yrs or fine or both.

**Section 17:** Abetment of an offence- if the act abetted is committed in consequence of the abetment, shall be punished with punishment provided for that offence.

**Section 18:** Attempt to commit an offence- punishment for a term one half of the longest term of imprisonment for that offence.

### **Young Persons (Harmful Publications) Act, 1956:**

Obscenity and pornography are dealt under the Young Persons (Harmful Publications) Act, 1956. A young person means a person under the age of 20 years. It is an offence to sell, let, hire, distribute or publicly exhibit harmful publications.

### **Information Technology Act, 2000:**

Under Section 67 of the Information Technology Act, 2000, publication and transmission of pornography through the internet is an offence.

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# ANNEXURE (i)

## Contact Number of Service Providers in Goa:

### 1. Helpline Numbers:

Child Helpline	<b>1098</b>	Police Control Room	<b>100</b>
Women Helpline	<b>1091</b>	Ambulance	<b>108</b>

### 2. Goa Police:

#### North District Police Stations

S.P (North)	2416100 Ext- 201	7875756016
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#### Police Inspector North District:

Police Station	OFFICE	MOBILE
PI Panaji	2428482	7875756022
PI Old Goa	2285301	7875756024
PI Agacaim	2218000	7875756023
PI Mapusa	2262231	7875756026
PI Calangute	2278284	7875756031
PI Saligao	2914052	-
PI Porvorim	2417704	7875756026
PI Anjuna	2273233	7875756027
PI Pernem	2201233/ 2201065	7875756028
PI Bicholim	2362233	7875756033
PI Valpoi	2374255	7875756034
PI Ponda	2313101	7875756036
PI Collem	2600233	7875756037

## South District Police Stations

<b>S.P (South)</b>	2732218	7875756005
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### Police Inspector South District:

Police Station	OFFICE	MOBILE
<b>PI Margao Town</b>	2705095	7875756039
<b>PI Maina Curtorim</b>	2714787	7875756042
<b>PI Colva</b>	2788396	7875756040
<b>PI Cuncolim</b>	2763234	7875756041
<b>PI Quepem</b>	2662253	7875756044
<b>PI Curchorem</b>	2650568	7875756045
<b>PI Sanguem</b>	2604233	7875756046
<b>PI Canacona</b>	2633357	7875756047
<b>PI Vasco</b>	2513273 / 2512304	7875756049
<b>PI Verna</b>	2782325	7875756051
<b>PI Marmugao/Harbour</b>	2520740	7875756050
<b>PSI, Vasco Railway</b>	2512488	7875756052
<b>PSI Konkan Railway Margao</b>	2706048	7875756227

## 3. NGO

### North Goa

Organisation	Location	Contact Number
<b>CRG</b>	Porvorim	2413341 / 2413342 / 9822983336
<b>Childline</b>	Panjim	2422507 / 2422508 / 8275381590 / 8275381591
<b>SCAN</b>	Panjim	2438097 / 9422389926 / 8605670055

### 3. NGO

#### South Goa

Organisation	Location	Contact Number
Arz	Vasco	2501416 / 9422438109 / 9850962390 / 9850962340
Bailancho Ekvott	Margao	2705025 / 9423884669
Jan Ugahi Trust	Margao	2737167 / 9850457636

### 4. Shelter Homes

#### North Goa

Organisation	Location	Contact Number
El Shadai	Assagao	6513386
Ish Kripa	Siolim	2272157 / 9850444674
Gomantak Lok Seva Trust	Anjuna	2912015
Matruchaya Trust	Ponda	2312152 / 2313142
Care & Compassion (Girls Home)	Altinho	2426940 / 9823388747
Care & Compassion (Boys Home)	Santa-Cruz	6519562 / 9823307747
Sr. Adores	Nachnola	2293433
Margaret Bosco Bal Sadan	Bardez	2261200

#### South Goa

Organisation	Location	Contact Number
Stepping Stone	Margao	6571697 / 9503966106
Sr. Adores	Nuven	2790479
Nitya Seva Niketan	Revona	2602225

## 5. Government Shelter Home

Institution	Location	Contact Number
<b>State Protective Home,</b> <i>(Victims of commercial sexual exploitation)</i>	Merces	2446655
<b>Apna Ghar</b> <i>(Children in need of care and Protection and children in conflict of law)</i>	Merces	2445030

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## Schemes & Compensation in Goa for the victims of sexual abuse:

### Victim Compensation:

The Goa Government has notified a scheme titled, “**Goa Victim Compensation Scheme 2012**” under which the Government has constituted a fund, titled, “victim compensation fund”. Under this scheme the victims of rape, human trafficking and acid attacks in the state will be given a compensation of Rs. 10 lakhs. This scheme has been prepared under sec.357-A of Cr.P.C.

**Implementing Department:** Home Department, Goa.

### Rehabilitation scheme:

The Goa government has formulated and notified “**PRABHAT**”, a scheme for the rehabilitation of victims of Commercial sexual exploitation in Goa and sexual abuse. Under this scheme the provisions are made for shelter, education, vocational training, employment, grant for business, honorarium etc.

**Implementing Department:** Department of Women and Child Development, Goa.

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### **a) Video Conferencing:**

#### **State of Maharashtra v. Dr. Praful B Desai, [2003] 4 SCC 601.**

The whole inquiry before a Court being to elicit the truth, it is absolutely necessary that the victim or the witnesses are able to depose about the entire incident in a free atmosphere without any embarrassment. Section 273 Cr.P.C. merely requires the evidence to be taken in the presence of the accused. The Section, however, does not say that the evidence should be recorded in such a manner that the accused should have full view of the victim or the witnesses. Recording of evidence by way of video conferencing vis-a-vis Section 273 Cr.P.C. has been held to be permissible.

### **b) In camera trial:**

#### **In State of Punjab v. Gurmit Singh, [1996] 2 SCC 384**

The Court had highlighted the importance of provisions of Section 327(2) and (3) Cr.P.C. and a direction was issued not to ignore the mandate of the aforesaid provisions and to hold the trial of rape cases in camera. It was also pointed out that such trial in camera would enable the victim of crime to be a little comfortable and answer the questions with greater ease and thereby improve the quality of evidence of a prosecutrix because there she would not be so hesitant or bashful to depose frankly as she may be in an open court, under the gaze of the public. It was further directed that as far as possible trial of such cases may be conducted by lady Judges wherever available so that the prosecutrix can make a statement with greater ease and assist the court to properly discharge their duties, without allowing the truth to be sacrificed at the altar of rigid technicalities.

### **c) Cross examination of victim:**

#### **Sakshi vs Union Of India AIR 2004 SC 3566**

In holding trial of child sex abuse or rape:

- (a) a screen or some such arrangements may be made where the victim or witnesses (who may be equally vulnerable like the victim) do not see the body or face of the accused;
- (ii) the questions put in cross-examination on behalf of the accused, in so far as they relate directly to the incident, should be given in writing to the President Officer of the Court who may put them to the victim or witnesses in a language which is clear and is not embarrassing;
- (iii) the victim of child abuse or rape, while giving testimony in court, should be allowed sufficient breaks as and when required.

### **d) Medical Examination of the victim & Recording of the statement:**

#### **Dilip vs State Of M.P 2013 STPL(Web) 343 SC**

It is an obligation on the part of the State authorities and particularly, the Director General of Police and Home Ministry of the State to issue proper guidelines and instructions to the other authorities as how to deal with such cases and what kind of treatment is to be given to the prosecutrix, as a victim of sexual assault requires a totally different kind of treatment not only from the society but also from the State authorities. Certain care has to be taken by the Doctor who medically examines the victim of rape. The victim of rape should generally be examined by a female doctor. Simultaneously, she should be provided the help of some psychiatric. The medical report should be prepared expeditiously and the Doctor should examine the victim of rape thoroughly and give his/her opinion with all possible angle e.g. opinion regarding the age taking into consideration the number of teeth, secondary sex characters, and radiological test, etc. The Investigating Officer must ensure that the victim of rape should be handled carefully by lady police official/officer, depending upon the availability of such official/officer. The victim should be sent for medical examination at the earliest and her statement should be recorded by the I.O. in the presence of her family members making the victim comfortable except in incest cases. Investigation should be completed at the earliest to avoid the bail to the accused on technicalities as provided under Section 167 Cr.P.C. and final report should be submitted under Section 173 Cr.P.C., at the earliest.



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*by Dr. P.M. Nair*



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