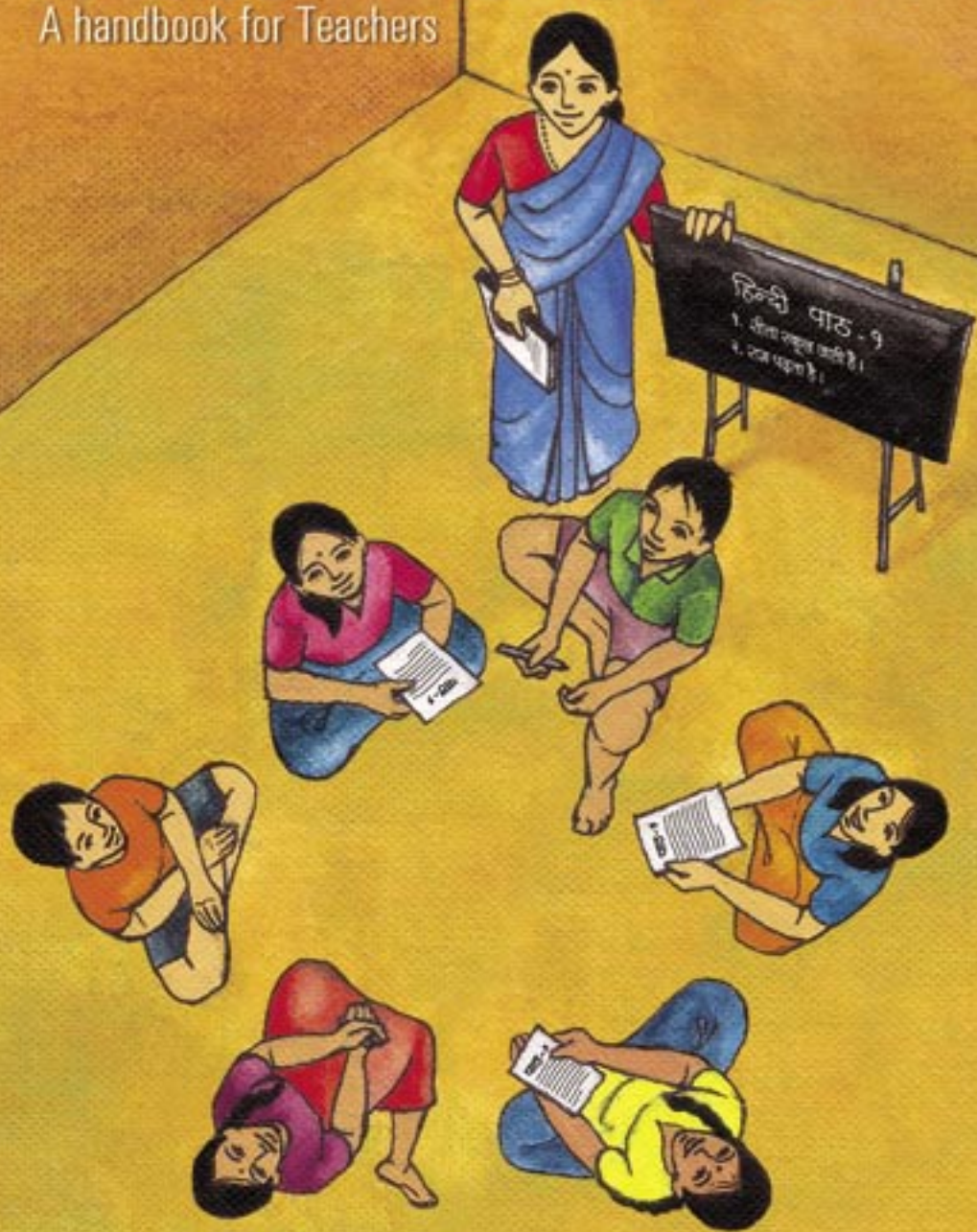


# CHILD PROTECTION

A handbook for Teachers



Ministry of Women  
and Child Development

*Developed by:*  
HAQ Centre for Child Rights  
208, Shahpur Jat  
New Delhi-110 049.  
Tel: 011-2649 0136



सत्यमेव जयते  
रेणुका चौधरी  
*Renuka Chowdhury*

राज्य मंत्री (स्वतंत्र प्रभार)  
महिला एवं बाल विकास मंत्रालय  
भारत सरकार  
नई दिल्ली-110001

MINISTER OF STATE (INDEPENDENT CHARGE)  
MINISTRY OF WOMEN & CHILD DEVELOPMENT  
GOVERNMENT OF INDIA  
NEW DELHI-110001

## FOREWORD

All children have the right to live in safety and dignity in a protective environment that ensures that children are in school, laws are in place to punish those who abuse and exploit children and communities are aware of the risks which children face and the government, elected members, grass root level functionaries and civil society address children's 'protection' issues.

I believe that teachers in particular, in whose hands the destiny of our children is being shaped, and who the community members respect and the children emulate, play a major role in ensuring that all our children live in safety and dignity in a protective and nurturing environment, by bringing about a change in the mindsets of parents and other community members on issues related to the rights of children. It is imperative for every teacher to be aware of the many prevailing social evils which impact adversely on the development of children, such as 'female foeticide', 'child marriages', 'child labour', and 'child abuse' and also of the legal provisions which exist and which can help in safeguarding the interests of the child victims of abuse and exploitation.

This Handbook on Child Protection, which UNICEF and the Ministry of Women and Child Development have jointly prepared, will help teachers to understand the actions they can take to protect children better. The handbook spells out practical ways in which the teachers can endeavour to alleviate the suffering of millions of children in our country.

Let us together make this world a better place for our children to live in.

*Renuka*  
(Renuka Chowdhury)



**REVA NAYYAR**

SECRETARY

Tel.: 23383586, Telefax: 23381495

E-mail: secy.wcd@nic.in

भारत सरकार  
महिला एवं बाल विकास मंत्रालय  
शास्त्री भवन, नई दिल्ली – 110 001

GOVERNMENT OF INDIA  
MINISTRY OF WOMEN & CHILD DEVELOPMENT  
SHASTRI BHAWAN, NEW DELHI-110 001  
Website: <http://www.wcd.nic.in>

## PREFACE

India is home to more than 40 crore children. Though we have made considerable economic and social progress since independence, a large number of children are still living in inhuman and pathetic conditions. They are subject to abuse and exploitation, especially the girl child. They are deprived of basic services and forced to drop from school and work. They are living on streets and mostly get trafficked for sexual and other purposes. Trafficking of girls for commercial sexual exploitation, domestic labour and forced marriage continues to be a serious problem.

Such children need special care and protection. They need to be rescued, rehabilitated, repatriated and reintegrated into the mainstream of life. A protective environment has to be created to ensure their access to education, protection from economic and sexual exploitation and to make them lead their lives with safety and dignity. The community has a major role to play in creating such an environment. Teachers, Panchayat members, Field Functionaries and Social Workers have to work together to reduce the vulnerabilities of such children.

This Handbook on Child Protection for Teachers has been prepared with the objective to help them understand the problems of such vulnerable children and take appropriate and suitable measures in the given circumstances to protect children from all forms of violence, abuse and exploitation.

I am sure together we can make the difference and will be able to provide a better and protective environment for our children.

*Reva Nayyar*  
(Reva Nayyar)



**DR. LOVELEEN KACKER, IAS**  
JOINT SECRETARY  
TEL: 23387683

Fax No.: 23381495  
Fax No.: 23381800  
Fax No.: 23381654  
Telegrams: WOMEN CHILD

भारत सरकार  
महिला एवं बाल विकास मंत्रालय  
GOVERNMENT OF INDIA  
MINISTRY OF WOMEN & CHILD DEVELOPMENT

शास्त्री भवन, नई दिल्ली-110 001

SHASTRI BHAWAN, NEW DELHI-110 001

It is said that progress made by a country can be determined by the health of its citizens, especially that of children. Unfortunately, with increase in incidence of child abuse, exploitation and violence, the well-being of our 400 million children and that of our country is questionable.

A teacher forms an important part of the life of any child. He/she has his/her own favorite teacher to look upon as a role model, a friend and mentor. Thus, the child forms a unique relationship with the teacher.

The teacher too plays a vital role in the growth and development of the child. It is also the responsibility of the teacher to ensure that his/her students study and grow-up in an environment that is free from abuse, exploitation and violence. Teachers can ensure this by taking small steps, like establishing a special bond with their students so that they do not hesitate to discuss their problems and concerns with them, watch out for symptoms in their students which foretell signs of abuse, exploitation and violence and help the child by reducing his/her trauma and by taking necessary steps, and importantly build rapport with parents.

To enhance these skills, the Ministry of Women and Child Development, in collaboration with UNICEF, has brought out this Handbook on "Child Protection for Teachers". This Handbook will enable the teacher to understand the issue of Child Protection and how he/she can build a protective environment in the school.

We also hope that the teacher will use this Handbook as an advocacy tool to build a protective environment in the homes and communities

from where the students come. By doing so, the teacher will not only be contributing to his/her students' lives but also to the health of the country.

A handwritten signature in black ink, appearing to read "Dr. Loveleen Kacker". The signature is written in a cursive style with a horizontal line underneath the name.

(Dr. Loveleen Kacker)

## Dear Teachers,

*You may have heard the famous saying of George Bernard Shaw - "To me the sole hope of human salvation lies in teaching." As a civilization, we in India have always placed teachers in the highest echelons, next to God. And why not?*

*A teacher plays a crucial role in the life of an individual. A good teacher occupies a very significant and pious place in the minds of young students. After parents, it is the teacher who influences a child most, and contributes to the shaping of his or her personality.*

*As you are well aware, children in every society face abuse, violence and exploitation. If you only look around you, you will see it. Little children engaged in labour and deprived of schooling – many of them bonded-parents beating their children, teachers beating children in the classroom or discriminating against them because of their caste or religion, girl children not being allowed to be born or killed soon after birth, or facing discrimination in the family and society because they are girls, early marriage, rape and incest...*

*Yes, this is the reality of many children's lives. Some of them may be in your class or your school.*

*As a teacher what will you do when you see a child being abused and exploited or hear about it?*

### **Will you....**

- *Blame it on destiny?*
- *Argue that all adults have gone through it as a child and so what's wrong with it?*
- *Argue that it is a custom, a practice and therefore nothing can be done about it?*
- *Blame it on poverty?*
- *Blame it on corruption?*
- *Blame the family and not do anything about it?*

- *Why bother if the child is not your student?*
- *Look for evidence to establish that the child really needs protection?*
- *Wait till you find evidence to act?*

### **Or will you.....**

- *Ensure that the child is kept in a safe environment?*
- *Speak to the child?*
- *Talk to her/his family and tell them that every child has a right to safe childhood and that it is the primary responsibility of the parents to take care of their children?*
- *Help the child and the family, if required?*
- *Find out what is threatening the safety of the child?*
- *Act against those who are being cruel to the child or those from whom the child needs to be protected?*
- *Report the matter to the police/child line if there is need for legal protection and legal redressal?*

***How you react will depend on how you see yourself. Do you see yourself simply as a teacher or as a leader, a torchbearer, a mentor and a guide? Because a leader, a torchbearer, a mentor or a guide must also take on the role of a caretaker, a protector and a social change agent.***

### **You teachers are important because...**

- You are part of a child's community and environment and therefore obligated to promote their rights and protect them.
- You are role models. You must set the norms.
- As teachers you are responsible for the growth, development, well-being and protection of your young students.
- You have been vested with authority and responsibility by your position.
- You can be more than a just a teacher who teaches the syllabus and achieves good results - you can be a social change agent.



*This booklet has been specially prepared for you, so that you can help the children and protect them from being abused and exploited. Although we have discussed the law in brief, it is important that you **SEEK LEGAL ADVICE FROM A LAWYER.***



# UNDERSTANDING CHILD RIGHTS

## WHO IS A 'CHILD'?

According to international law, a 'child' means every human being below the age of 18 years. This is a universally accepted definition of a child and comes from the United Nations Convention on the Rights of the Child (UNCRC), an international legal instrument accepted and ratified by most countries.

India has always recognised the category of persons below the age of 18 years as distinct legal entity. That is precisely why people can vote or get a driving license or enter into legal contracts only when they attain the age of 18 years. Marriage of a girl below the age of 18 years and a boy below 21 years is restrained under the Child Marriage Restraint Act 1929. Moreover, after ratifying the UNCRC in 1992, India changed its law on juvenile justice to ensure that every person below the age of 18 years, who is in need of care and protection, is entitled to receive it from the State.

There are, however, other laws that define a child differently and are yet to be brought in conformity with the UNCRC. But, as stated earlier, the legal understanding of the age of maturity is 18 for girls and 21 for boys.

This means all persons in your village/town/city below the age of 18 years have to be treated as children and need your assistance and support.

What makes a person a 'child' is the person's 'age.' Even if a person under the age of 18 years is married and has children of her/his own, she/he is recognised as a child according to international standards.

### **Key points**

- All persons below the age of 18 are children.
- Childhood is a process through which every human being passes.
- Children have different experiences during childhood.
- All children need to be protected from abuse and exploitation.

### **Why do children need special attention?**

- Children are more vulnerable than adults to the conditions under which they live.
- Hence, they are more affected than any other age group by the actions and inaction of governments and society.
- In most societies, including ours, views persist that children are their parents' property, or are adults in the making, or are not yet ready to contribute to society.
- Children are not seen as people who have a mind of their own, a view to express, the capacity to make a choice and an ability to decide.
- Instead of being guided by adults, their life is decided by adults.
- Children have no votes or political influence and little economic power. Too often, their voices are not heard.
- Children are particularly vulnerable to exploitation and abuse.

*Children's rights are human rights!*

## WHAT ARE CHILD RIGHTS?

All people under the age of 18 are entitled to the standards and rights guaranteed by the laws that govern our country and the international legal instruments we have accepted by ratifying them.

### The Indian Constitution

***The Constitution of India guarantees all children certain rights, which have been specially included for them. These include:***

- Right to free and compulsory elementary education for all children in the 6-14 year age group (Article 21 A).
- Right to be protected from any hazardous employment till the age of 14 years (Article 24).
- Right to be protected from being abused and forced by economic necessity to enter occupations unsuited to their age or strength (Article 39(e)).
- Right to equal opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and guaranteed protection of childhood and youth against exploitation and against moral and material abandonment (Article 39 (f)).

***Besides these they also have rights as equal citizens of India, just as any other adult male or female:***

- Right to equality (Article 14).
- Right against discrimination (Article 15).
- Right to personal liberty and due process of law (Article 21).
- Right to being protected from being trafficked and forced into bonded labour (Article 23).
- Right of weaker sections of the people to be protected from social injustice and all forms of exploitation (Article 46).

***The State must:***

- Make special provisions for women and children (Article 15 (3)).

- Protect interest of minorities (Article 29).
- Promote educational interests of weaker sections of the people (Article 46).
- Raise the level of nutrition and standard of living of its people and the improvement of public health (Article 47).

Besides the Constitution, there are several laws that are specifically for children. As responsible teachers and citizens, it is advisable that you are aware of them and their significance. These have been described in different sections of this booklet along with the issues they deal with.

### **United Nations Convention On The Rights Of The Child**

The most significant of all international laws for children is the UN Convention on the Rights of the Child, popularly referred to as the CRC. This, together with our Indian Constitution and Laws, determine what rights all children must have.

### **What is the UN Convention on the Rights of the Child?**

Human rights belong to all people, regardless of their age, including children. However, because of their special status - whereby children need extra protection and guidance from adults - children also have some special rights of their own. These are called children's rights and they are laid out in the UN Convention on the Rights of the Child (CRC).

### **Significant features of the UN Convention on the Rights of the Child (CRC)**

- Applies equally to both **girls and boys up to the age of 18**, even if they are married or already have children of their own.
- The convention is guided by the principles of **'Best Interest of the Child'** and **'Non-discrimination'** and **'Respect for views of the child.'**
- It emphasises the **importance of the family and the need to create an environment that is conducive to the healthy growth and development** of children.

- It obligates the state to respect and ensure that children get a **fair and equitable deal** in society.
- It draws attention to four sets of civil, political, social, economic and cultural rights:
  - **Survival**
  - **Protection**
  - **Development**
  - **Participation**

***Right to Survival includes***

- Right to life.
- The highest attainable standard of health.
- Nutrition.
- Adequate standard of living.
- A name and a nationality.

***Right to Development includes***

- Right to education.
- Support for early childhood care and development.
- Social security.
- Right to leisure, recreation and cultural activities.

***Right to Protection includes freedom from all forms of***

- Exploitation.
- Abuse.
- Inhuman or degrading treatment.
- Neglect.
- Special protection in special circumstances such as situations of emergency and armed conflicts, in case of disability etc.

***Right to Participation includes***

- Respect for the views of the child.
- Freedom of expression.
- Access to appropriate information.
- Freedom of thought, conscience and religion.

***All rights are dependent on each other and are indivisible. However, because of their nature all rights are divided into:***

- **Immediate Rights** (Civil and Political Rights) which include such things as discrimination, punishment, right to a fair hearing in criminal cases and a separate system of juvenile justice, right to life, right to nationality, right to re-unification with the family.

Most protection rights fall within the category of immediate rights and therefore demand immediate attention and intervention.

- **Progressive Rights** (Economic, Social and Cultural Rights), which **include health and education and the rights that are not covered by the first category.**

They are recognised in the CRC under Article 4, which states:

***“With regard to economic, social and cultural rights, State Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.”***

In this booklet we will deal specifically with Right to Protection of children and the role Teachers and Schools can play in ensuring them.

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*Note: Children acquire different capacities and degrees of maturity as they grow older. This does not mean they require no protection if they are 15 or 16 years old. For instance, children in our country are made to marry and work under the age of 18. But they should not receive less protection because the community feels they have matured. They must receive the very best protection, opportunities and help in order to ensure them the best start in life on their journey to adulthood.*



## RIGHT TO PROTECTION

**AS TEACHERS YOU MUST BE ABLE TO ENSURE THAT ALL CHILDREN IN YOUR CONSTITUENCY ARE PROTECTED FROM ALL FORMS OF**

- Exploitation.
- Abuse.
- Inhuman or degrading treatment.
- Neglect.

*While all children need protection, because of their social, economic, or even geographical location, some children are more vulnerable than others and need special attention.*

*These children are:*

- Homeless children (pavement dwellers, displaced/evicted, refugees etc.)
- Migrant children.
- Street and runaway children.
- Orphaned or abandoned children.
- Working children.
- Child beggars.
- Children of prostitutes.
- Child prostitutes.
- Trafficked children.



- Children in jails/prisons.
- Children of prisoners.
- Children affected by conflict.
- Children affected by natural disasters.
- Children affected by HIV/AIDS.
- Children suffering from terminal diseases.
- Disabled children.
- Children belonging to the Scheduled Castes & Scheduled Tribes.

The girl child within all categories is even more vulnerable.

## **FOLLOWING ARE SOME OF THE POPULAR MYTHS RELATED TO ABUSE AND EXPLOITATION OF CHILDREN:**

**MYTH: Children are never abused or exploited. Society loves its children.**

**FACT:** Yes it is true that we love our children, but clearly there is something missing. India has the largest number of child labourers in the world, the largest number of sexually abused children and the lowest ever male to female child ratio in the 0-6 age group, showing that the very survival of the girl child is at stake. Even young infants are not spared when they are sold for adoption or simply killed.

Crimes recorded against children present a sordid tale! Going by the Government's own records, there has been a 11.1 percent increase in crimes against children between 2002 and 2003. There are many more cases that never get reported.

**MYTH: Home is the safest haven.**

**FACT:** The extent of abuse faced by children in their homes clearly belies this belief. Often children are seen as their

parents' private property who can be used (rather abused) any which way.

We witness incidents of fathers selling their daughters to friends or strangers for money every other day. Studies on sexual abuse have shown that incest is the most common form of abuse. There are also many cases of fathers' raping their daughters being reported in the media and proved in the court. Female infanticide i.e. killing of new born girls, child sacrifices resulting from superstition, dedication of girls to gods and goddesses in the name of custom and tradition such as 'jogini' or 'devadasi' in some parts of India, are some forms of home-based violence. Marrying away young children is not out of love for children but a need to pass on the responsibility of care and nurturance, even if that brings ill health and trauma to their own child.

While these are some extreme cases, beating up children ruthlessly is a common practice in almost every household in the country. Neglect too has become a common practice in both poor and rich families, often leading to different forms of behavioural problems, particularly depression, amongst children.

**MYTH: There is no need to worry about a male child. Male children need no protection.**

**FACT:** The boy child is as much a victim of abuse – physical and emotional – as the girl child, although the girl child remains more vulnerable because of her lower status in society as a whole. Boys are victims of corporal punishment at school and at home; many are sent, and often even sold for labour, while many are victims of sexual abuse.

**MYTH: It does not happen in our school/village!**

**FACT:** Each one of us tends to believe that child abuse happens elsewhere - not in our homes, our school, our village or our community. It affects 'other' children, not ours. It occurs only

among the poor, the working class, unemployed or uneducated families. It is not a middle class phenomenon. It occurs in the cities and towns and not in the rural areas. The reality is just the opposite of all this as the abused child is in all these spaces and needs our assistance and help.

**MYTH: The abusers are psychopaths or mentally ill persons.**

**FACT:** The abusers are not mentally sick persons, against popular belief. Abusers are in fact characterised by their normality and diversity. Child sexual abusers, for example, attempt to justify their action in different ways and this is just one of those. Most child traffickers are persons close to the family or known to the family and misuse the trust that the family vests in them as a weapon to take their children away.

### **Child protection issues and what every teacher needs to know**

Child abuse occurs across socio-economic, religious, cultural, racial, and ethnic groups.

Research, documentation and interventions by government and the civil society groups in the past have clearly brought forth some of the following child protection issues and categories of children that deserve special protection:

- Gender Discrimination.
- Caste discrimination.
- Disability.
- Female foeticide.
- Infanticide.
- Domestic violence.
- Child sexual abuse.
- Child marriage.
- Child labour.
- Child prostitution.

- Child trafficking.
- Child sacrifice.
- Corporal Punishment in schools.
- Examination Pressure and Student Suicides.
- Natural disasters.
- War and conflict.
- HIV/AIDS.

## **MYTHS, MYTHS AND MORE MYTHS – IF YOU KNOW YOUR FACTS YOU CAN MAKE A DIFFERENCE!**

### **Gender Discrimination**

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**MYTH:** Beta to Chahiye hi, ham uske liye char-paanch betiyan kyon paida karen? (We want a son, come what may, then why should we risk 4-5 daughters for that?)

Bringing up a girl child is like watering a neighbour's garden. You raise them up, protect them all through and also plan for their marriage and dowry till they are finally gone. Sons are at least there to carry forward the legacy of the family, take care of parents in their old age and perform the last rites.

There is no point educating daughters, giving them freedom to do what they like and holding on to them till they grow up to be married off. All this only adds to the family burden.

**FACT:** These are beliefs that are part of the patriarchal structure of society and need to be challenged. People spend as much on their son's wedding as they spend on their daughter's wedding. Clever as we all are, we give away dowry in a daughter's marriage basically to tell her that she should not claim any rights in the parental property.

Always remember that while giving and receiving 'dowry' is a

crime, excluding daughters from a share in parental property is also illegal.

In any case, we must learn to accept the realities of life. A visit to the old age homes tells us how much our sons take care of their old parents. In fact there are plenty of cases where married daughters have come forward to support their parents in old age.

Girls have as much a right to survival, development, protection and participation as boys.

Denying any of these rights to girls is perpetuating the cycle of gender discrimination and poverty.



For centuries those girls who have come into this world have suffered gender discrimination in every sphere of life – education being one of those. We always forget what Mahatma Gandhi, the father of our nation has said – “Educate one man, you educate one person, but educate a woman and you educate a whole civilisation”.

Once we facilitate our daughters' development in a manner that they are able to understand what is good and bad and take rational decisions on their own, many of our fears about too much freedom will find an automatic solution. Only a conviction that a girl child has same human rights as any other human being can make this happen. If safety and security of girls is a national concern, it is important to remember that to have daughters who are not empowered will only increase their vulnerability.

According to the Human Development Report 2005, "Every year, 12 million girls are born – three million of whom do not survive to see their 15th birthday. About one-third of these deaths occur in the first year of life and it is estimated that every sixth female death is directly due to gender discrimination".

The Census 2001 shows that there are only 933 women in this country for every 1000 men. This is even lesser in case of children and has been on a decline since the 1991 Census. From 945 girls for every 1000 boys in 1991, the child sex-ratio has declined to 927 in 2001. The situation is alarming in states of Punjab (798), Haryana (819), Himachal Pradesh (896). The capital city of Delhi now has fewer than 900 girls per 1,000 boys. Boys from these states are now buying girls from other states as brides.

## Child Marriage

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**MYTH:** Child marriage is part of our culture. Unmarried girls are more susceptible to rape and sexual abuse, so better get them married early. The problem of dowry and finding a good groom also increases as girls grow older.

**FACT:** Culture cannot be a justification for any malpractice or harmful practices. If child marriage is our culture, so were

slavery, casteism, dowry and sati. But we do have laws now to prohibit such harmful practices. These laws have come into existence as and when there has been a demand from within the society. Clearly then, Culture is not static.

Moreover, different people have different cultures even if they reside in the same geographical location. As in India, there are various ethnic, linguistic and religious groups that follow their own culture. The culture of India is therefore a mix of all these and has seen many changes over the years.

If we all agree that children need to be protected, our culture must reflect it. In fact, culturally we must be recognised as a society that not only claims to love its children but one that actually ensures their protection at all times.

Child marriage marks the beginning of a long journey of violation of rights. Early marriage of boys is as much a violation of their rights as it is for girls. It takes away their right of choice and imposes family responsibilities beyond their age and capacity. There is no doubt however that girls are in a worse position.



Child brides often end up as young widows with a number of children to take care of.

### Did you know?

- According to Census reports 2001, nearly 3 lakh girls below the age of 15 years have already given birth to at least one child.
- Girls aged 10 to 14 years are five times more likely to die in pregnancy or childbirth than women between the ages of 20 and 24.
- Early pregnancies are also linked to higher abortion rates.
- Infants born to adolescent mothers have greater likelihood of being born with low birth-weight.
- Infants born to young mothers are more likely to die in the first year of their life.

*Source: The situation of young women (www.un.org/esa/socdev/unyin/documents/ch09.pdf)*

To say that early marriage means safety and protection from abuse is wrong. In fact it actually implies all kinds of violence inflicted by people on the girl from within the family, from people, she is constantly told to trust and obey. Child marriage implies child rape, as children can never be said to have attained the age of maturity for their action or inaction at that age.

Safety from outsiders is in any case never a guarantee for any woman, married or not. All women can be targets of rape and sexual abuse, married or single, young or old, veiled or out of veil. Increasing incidence of crimes against women too proves this.

When veiled and uneducated married women are raped in our villages it is not because they are uneducated, but because they belong to a certain caste or are targets of some group rivalry.

Finally, to think that early marriage can solve the problem of dowry is not correct. In a patriarchal society like ours the groom's family always maintains an edge over the girl's family



## Child Marriage and Trafficking

- Under the legal cover of marriage to old men from within the country and also the Middle East, young girls are often duped into exploitative situations, including prostitution.
- Marriage has emerged as a means to traffic young girls into labour and prostitution.

and expects the girl's family to oblige every time they need something. When dowry is not taken at the time of marriage, all kinds of demands are put on girls after marriage.

## Child Labour

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**MYTH:** There can be no solution to the problem of child labour. Poor parents do not want to send their children to school. They would rather have their children work and bring back some earning into the family income. These children have no choice but to work, otherwise they and their families will starve. Also, if they work they become equipped with some skills for the future.

**FACT:** When we hear such things we must ask ourselves why is it that some poor people send their children to school despite all odds while some others don't. The truth is that poverty is just an excuse given by those who need to ensure continual supply of children for their benefit. Social factors contribute to the phenomenon of child labour. The socially marginalised communities are the victims of social hierarchy characterized by unequal access to resources. We all know that starvation persists even when families and their children are working. This is because starvation is the result of unjust social and economic factors.

All parents want to educate their children, at least give them basic quality education. For uneducated parents the admission procedures are too complex. Documentary evidence of date

of birth, caste certificates are greater barriers in enrolling children into schools. For children, the curriculum is tough to cope with, particularly if they are first generation learners as their parents are not educated to provide the back-up support at home by helping them with the homework. Corporal punishment, caste discrimination, lack of basic facilities such as toilets and drinking water are some other factors that keep children away from school. In case of girls, sibling care often becomes the priority since child-care facilities are lacking in both rural and urban areas and gender biases are deep entrenched in people's psyche.

India accounts for the highest number of child labour in the world. According to the Census of India 2001, 1.25 crore children in the age group of 5-14 years are engaged in different occupations. However, estimates of NGOs put this at much more, because there are many more working in the unorganised sector and in small-scale household units, who never get enumerated as child labour.



Children who work and don't go to a school remain illiterate and unskilled for the rest of their lives. This is because children are usually part of the unskilled labour. Moreover, in some occupations exposure to harmful chemicals and other substances, long hours of work, postures for work are factors that damage children's health, and impair their development.

Children are being trafficked for labour every day. Touts and middlemen come to the villages posing as well wishers and take away children to work in different parts of the country. Children from Bihar and Bengal are brought to work in Karnataka, Delhi or Mumbai in embroidery units; from Tamil Nadu to Uttar Pradesh to work in sweet making units and to Surat to work on gem and diamond polishing etc. Hundreds of them are employed in middle class homes as domestic labour.

Existence of child labour is in direct contradiction to the fundamental right to free and compulsory elementary education for every child in the 6-14 years age group guaranteed by the Constitution of India in Article 21 A.

It should be noted that, every child out of labour means one more job available for adults. India has huge population of unemployed adults who could take the place of the children, leaving the children free to enjoy their right to childhood.

## Child Sexual Abuse

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**MYTH:** Child sexual abuse is very rare in our country. It is all media hype that is doing more harm than good. Children or adolescents have started fantasizing, making up stories and lying about being sexually abused. In any case it only happens to bad girls with loose character.

**FACT:** Children, as young as few months, and even a few days old, are known to be victims of child sexual abuse. While girls

are more vulnerable to being sexually abused, against popular belief, boys too are victims.

Children with mental and physical disabilities are indeed at greater risk of abuse due to their vulnerability.

Child sexual abuse cuts across gender, class, caste or ethnicity and happens to both urban and rural children.

***A child may be abused in any of the following ways:***

- Sexual intercourse through penile penetration i.e. rape, or use of objects or other parts of body.
- Exposing children to pornography and using them for producing pornographic materials.
- Directly or indirectly touching any part of the body of a child with an object or with a part of body for sexual gratification.
- Exposing or flashing genital organs or other parts of the body with sexual intent.
- Deriving voyeuristic pleasure by showing sexual activity or forcing two or more children to have sex with each other.
- Passing sexually coloured remarks or verbally abusing a child using vulgar and obscene language or actions.

COIMBATORE: The headmaster of a primary school near Madukkarai on the city outskirts was arrested on charges of sexually abusing girl students.

Acting on a complaint by an eight-year-old class III student, the police arrested the headmaster and registered a case under various sections, including attempt to sexual abuse. About 100 parents earlier went to Madukkarai police station seeking prompt action against the accused. The Headmaster had threatened the students of dire consequences if they complained against him.

*Source: PTI, 25 March 2005*

***A child may be abused by someone he or she knows or by a stranger.***

The perpetrator, in 90% of the cases, is someone the child knows and trusts. The abuser usually violates a relationship of trust and takes advantage of her/his power and position. In a number of cases the abuser is someone very close to the child – the father, older brother, cousin or uncle or neighbour. When the abuser is a member of the family, it is incest.

The fact that the offender appears caring, gentle and loving to the child can be a very disturbing aspect of the abuse to the child and may leave a strong legacy of self-blame, guilt and mistrust of his/her own self and others.

Sexual abuse has been in society as loneris society has existed. The selling off of girls for prostitution or even the religious and cultural practices such as 'Devadasi; system or the 'Jogini' system are examples of this. However, over the years there has been more awareness and reportage of this violence rather than media hype as people would like to put it. Studies among adult women have shown that as much as 75 per cent of them had experienced abuse in their childhood. Majority were incestuously abused or abused by known people. The myth about media hype only serves to deny an uncomfortable truth.

Men who sexually abuse children do so in addition to, rather than instead of, having sex with their wife/adult partner. They are not mentally sick persons against popular belief. Abusers are in fact characterised by their normality and diversity. Child sexual abusers attempt to justify and defend their action in different ways and this is just one of those.

Few men are careless enough to have a witness around when they abuse a child.

Children are too scared to tell anyone about the sexual abuse or



the discomfort of being forced to watch a sexual act. No matter how old the victim is, the abuser is always more powerful. The victim is no match for the craftiness of the abuser and she/he does not have the resources to stop the abuse from happening or to tell someone about it, especially if the abuser is a close family member. Often mothers, who do know about the abuse, are in no position to prevent it because of their own powerlessness. Fear of breaking up the family or the fact that they may not be believed, pushes them into silence. Parents and adults in the family, indeed society itself, brush their discomfort aside and ignore or deny the fact of sexual abuse of children.

When children do report abuse, often their credibility is called into question, and their trust and confidence is again abused. A child's sense of guilt may be preyed upon to make her or him think that in some way they have caused the abuse by their own behaviour towards the abuser.

*Source: Semantics or Substance?  
Subgroup Against the Sexual Exploitation of Children, NGO Group for the  
Convention on the Rights of the Child, January 2005*

Most disclosures by children about abuse and exploitation faced by them are found to be true. The fantasy theory combined with society's denial of incest/child sexual abuse/child trafficking or any other form of child abuse indeed serve to blame the victim for the abuse rather than address the problem that stares at our faces today.

Children are innocent and vulnerable. They have little knowledge of sex and of adult sexuality and can in no way be held responsible for adult's responses. Even an understanding or knowledge of sex does not in any way justify negative labeling and putting the blame on the child. A prostitute too can be raped or eve-teased and the law will come to her aid. By blaming children in different ways for what they suffer we only shift the responsibility from the abuser to the child.

In the case of a child there is no 'consent'. As per law, any sexual intercourse with a girl below the age of 16 years amounts to rape.

### **Impact of Sexual Abuse on Children**

The impact of abuse may be short term and long term:

- Physical injury in the form of scratches, bites, cuts etc. bleeding in the genitals, or any other form of physical hurt.
- Children often suffer from fear, guilt, depression, anxiety, and sexual dysfunction and show gradual withdrawal from the family.
- Many victims also encounter problems in their adult relationships and in developing adequate sexual relationships.
- Over and above the sexual abuse that a child experiences, there is also an abuse of their trust that leaves them disturbed for a long time, sometimes for the rest of their life and affects their relationships in the long-run, unless treated psychologically.

# VIOLATIONS INSIDE THE EDUCATION SYSTEM

## A. Corporal Punishment

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**MYTH:** Sometimes it becomes necessary to punish children in order to teach them discipline. Parents and teachers have a right to discipline their children.

**FACT:** *Spare the rod and spoil the child is what most adults have grown up believing.*

Adults who were beaten by their parents and teachers always feel it is their right to do so. They often forget the trauma which they had undergone when they were young and were subjected to physical and degrading forms of punishment.

Corporal punishment is often used as a measure to discipline children. Children are at the receiving end from parents, teachers and non-teaching school authorities. Almost all schools inflict corporal punishments on students for various reasons and most parents beat their children.





In the name of discipline, children are known to have had their bones and teeth broken, their hair pulled out and forced into acts of humiliation.

**Corporal punishment is defined as the use of physical force with the intention of causing a child pain, not for the purpose of injury but for correction.**

### **Types of Corporal Punishment-**

#### ***Physical Punishments:***

1. Making the children stand as a wall chair.
2. Keeping the school bags on their heads.
3. Making them stand for the whole day in the sun.
4. Make the children kneel down and do the work.
5. Making them stand on a bench.
6. Making them stand with hands raised.
7. Hold a pencil in their mouth and stand.
8. Holding their ears with hands passed under the legs.
9. Tying the children's hands.
10. Making them do sit-ups.
11. Caning and pinching.
12. Twisting the ears.

#### ***Emotional Punishments:***

1. Slapping by the opposite sex.
2. Scolding, abusing and humiliating.
3. Label the child according to her or his misbehaviour and send her or him around the school.
4. Make them stand at the back of the class and told to complete the work.
5. Suspending them from school for a couple of days.
6. Pinning paper on their back and labeling them "I am a fool", "I am a donkey" etc.
7. Teacher takes the child to every class she goes and humiliates the child.
8. Removing the shirts of the boys.

***Negative Reinforcement:***

1. Detention during the break and lunch.
2. Locking them in a dark room.
3. Call for parents or asking the children to bring explanatory letters from the parents.
4. Sending them home or keeping the children outside the school gate.
5. Making the children sit on the floor in the classroom.
6. Making the child clean the premises.
7. Making the child run around the building or in the playground.
8. Sending the children to the Principal.
9. Making them teach in the class.
10. Making them stand till the teacher comes.
11. Giving oral warnings and letters in the diary or calendar.
12. Threatening to give TC for the child.
13. Asking them to miss games or other activities.
14. Deducting marks.
15. Treating three late comings equal to one day absence from school.
16. Giving excessive imposition.
17. Make the children pay fines.
18. Not allowing them into the class.
19. Sitting on the floor for one period for a day, week or month.
20. Placing black marks on their disciplinary charts.

*Source: Corporal Punishment Violation of Child Rights in Schools -  
Author - Prof\_ Maadabhushi Sridhar\_- Nalsar University Of Law -  
Hyderabad.htm*

Corporal punishment is the most ineffective form of disciplining as it rarely motivates an individual. It does more harm than good to the child.

Punishment may deter a child from repeating the act of indiscipline to some extent, but it cannot improve her/his understanding of the subject or make her/him more intelligent.

In fact it has numerous negative consequences on the child.

### **How does corporal punishment harm a child?**

It has a negative impact on the psyche of young minds as it usually takes the shape of hatred, terror and fear in the nascent minds.

The punishment of such kind leads to creation of anger, resentment and low self-esteem. It contributes to feelings of helplessness and humiliation, robbing a child of her/his self-worth and self-respect, leading a child to withdrawal or aggression.

It teaches children violence and revenge as solutions to problems.

Children might imitate what the adults are doing. Children begin to believe that it is good to use violence and there is nothing wrong with it. Children may even assault their own parents or teachers in retaliation. Victims of corporal punishment during childhood are more likely to hit their children, spouses or friends in adulthood.

Many street and working children have pointed out corporal punishment at school as one of the reasons for running away from school and also from their families and homes.

Right to discipline children cannot be at the cost of children's right to development and participation. In fact children's right to participation alone can set the tone for discipline.

In any case there is no religion or law that allows corporal punishment. Nobody has any legal or moral authority to physically punish children simply because they are unable to control the situation in any other way.

- Discipline can never be taught, it is learnt.
- Discipline is an attitude, character, responsibility or commitment.
- Discipline is basically internal, while the attempt to impose it would be an external process.

## **B. Examination Pressure and Student Suicides**

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**MYTH:** India's education system has made the world curious of the brains we produce. As a result, many Indian scholars, scientists, engineers and other professionals have successfully settled in the West and a number of them are doing very well for themselves in the country too. Strict discipline along with a competitive examination system has been the way to success. All parents want to put their children into schools that produce good results.

**FACT:** There is no doubt that India produces the world's finest brains. But does the credit really go to the present day schooling or the education system or to the sheer will power of some students to do well in life despite family and social pressures? The pressures of cut throat competition, rising expectations from our children and students, good results being the main stake for the reputation of a school or a teacher and inability to help children cope with all this has led to increasing depression amongst students, leading to growing number of student suicides. The brains are dying and if we do not open our eyes to this reality now, we may lose out on a whole generation of bright young people very soon.

### **For some students, there is no life after CBSE exams**

Within five days of the CBSE declaring the Class X and XII results, half a dozen students in the Capital have committed suicide. And while you are reading this, there

could be many others contemplating ending their lives because they have failed to clear the exams.

The rising incidence of suicides among students is a manifestation of a deeper malaise. "Earlier, people did not associate depression with adolescence. There is a nascent realisation that adolescents also suffer from depression and more so", points out Dr. R C Jiloha, Professor and Head, Psychiatry, G B Pant and Maulana Azad Medical College. The problem gets aggravated because at this tender age they neither have the sagacity nor the experience to reconcile with failure.

... Says Ms. Sharma, a tele-counsellor, "It is vital for parents and teachers to recognise the need for counselling. ... Exam results are not the end of the world; there is life after exams, even if you have performed badly. That is what the parents and the teachers need to understand," says Ms Sharma.

*Source: Smriti Kak, The Tribune, Chandigarh, India, Friday, May 31, 2002, <http://www.tribuneindia.com/2002/20020531/ncr1.htm>*



No doubt parents want to send their children to schools that produce good results. But has anyone asked them if this is fine at the cost of the well-being or the very existence of their child? No parent will want to lose her or his child. Indeed it just shows that parents too need to be counselled. But if the pressure from schools continues, if all PTAs are only about how well or badly the child is doing in her/his class and if teachers continue to compare one child with another and neglect the emotional and psychological needs of their students, nothing can ever help change the situation. The schools will have to make the first move and also perhaps start counselling the parents along with children.

### **Street and Runaway Children**

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**MYTH:** Only children from poor families run away to become street children. Children living on streets are bad children.

**FACT:** Any child could runaway if she/he is not taken good care of. Every child has a right to live with dignity and any parent/ family/school/village that denies this right may have to lose out on their child(ren).



A large section of street children comprises runaway children, who leave their home in search of better life opportunity or, for the glamour of metros or, succumb to peer pressure or, run away from the rigours of the education system that their parents force them to be in or, escape domestic violence and enter cities where they live in most pathetic conditions.

### **Children runaway from their homes for many reasons**

- Better life opportunities.
- Glamour of metros.
- Peer pressure.
- Unhealthy family relations.
- Abandoned by their parents.
- Fear of being beaten up by parents or teachers.
- Sexual abuse.
- Caste discrimination.
- Gender discrimination.
- Disability.
- Discrimination due to HIV/AIDS.

Street children are never bad. It is the situation in which they are living that is bad.

These children are often unable to find even two square meals a day for themselves and are most vulnerable to abuse. Once on the streets, they enter the vicious cycle of exploitation and related problems. On coming in contact with older children the new and younger ones soon engage in rag picking or other forms of work easily available or in illegal activities like pick-pocketing, begging, drug peddling etc.

A study, 'Sexual Abuse of Street Children Brought to an Observation Home' by Deepti Pagare, G.S. Meena, R.C. Jiloha and M.M. Singh, Indian Paediatrics, Department of Community Medicine and Psychiatry, Maulana

Azad College, conducted in 2003-2004, to assess the magnitude and pattern of sexual abuse among male inmates of an observation home in Delhi, revealed that majority of boys were runaways and 38.1% had suffered sexual abuse. On clinical examination, 61.1% showed physical signs and 40.2% showed behavioral signs of sexual abuse. Forcible sex was reported by 44.4% of victims and 25% had signs suggestive of sexually transmitted diseases. Strangers were the most common perpetrators of sexual abuse.

By and large, if there is not enough time lapse since a child leaves her/his home, the chances of children being restored to their families are greater and such children often do not run away again.

## HIV/AIDS

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**MYTH: HIV/AIDS is an adult issue. Children have nothing to do with it and therefore need not know what it is all about. By informing them about HIV/AIDS, reproductive health, sexuality and such issues we will only corrupt their minds. It is only when children come from families with some history of HIV/AIDS that one has to be careful and keep them away as far as possible in order to avoid the spread of HIV/AIDS.**

**FACT: HIV/AIDS does not discriminate on the basis of age, skin, colour, caste, class, religion, geographical location, moral turpitude, good or bad deeds. All humans can become infected with HIV.**

In Asia, India has the largest number of people with HIV/AIDS, followed by China. According to UNAIDS, 0.16 million children in the 0-14 years age group are infected with HIV in India.



HIV i.e. human immunodeficiency virus that causes AIDS is transmitted through contact with an HIV positive person's infected body fluids, such as semen, pre-ejaculate fluid, vaginal fluids, blood, or breast milk. HIV can also be transmitted through needles contaminated with HIV-infected blood, including needles used for injecting drugs, tattooing or body piercing.

Millions of children are today either infected or affected with HIV/AIDS. Children are becoming orphans and are deprived of parental care and protection due to untimely deaths of their parents.

While mother-to-child transmission of HIV/AIDS is the most common way of infection among children, with increasing number of cases of child sexual abuse and incest, many more children are likely to fall prey to the disease. Drug abuse among children and young people also poses a threat. In such a situation it is not fair to withhold HIV/AIDS related information from children and deny them their right to know how they can protect themselves.



According to news reports, six year old Babita Raj, whose father died of AIDS, was barred from attending a government-aided primary school in Parappanangadi, Kerala, after the parent-teacher association and school authorities protested, ... Officials reportedly refused to readmit her even after the intervention of social workers and local government authorities, who obtained a medical certificate stating that she was HIV negative. The local government school also refused to allow her to attend.

*Source: Future Forsaken, Human Rights Watch, pg. 73, 2004*

It is true that children's right to information and participation is based on the principles of 'best interest of the child' and therefore, age-specificities need to be borne in mind while discussing sexuality, reproductive health or HIV/AIDS with children. The fact is that we are not prepared in our own minds to deal with questions our children might have and therefore find excuses to avoid any discussion. It is important to prepare ourselves rather than negate the importance of life-skill education, which indeed includes sex education.

Instead of educating people about HIV/AIDS, in the past many schools have thrown out children simply because they came from families with some history of HIV/AIDS or because there was some apprehension of a family member being HIV positive. Denying them access to basic services and human rights on grounds of HIV/AIDS, amounts to discrimination. The Constitution of India guarantees right to equality and non-discrimination and those who promote inequality or discrimination on any grounds are liable to punishment.

Knowledge about a person being HIV-positive should be used to seek early treatment that can help the person stay healthy longer and enable her/him not to pass on the virus to someone

else. In fact if children who seem to be at real risk are thrown out of schools there is no way to monitor their health and provide them assistance, and this way the risk to others may be even more. Discrimination will not put an end to this growing menace.

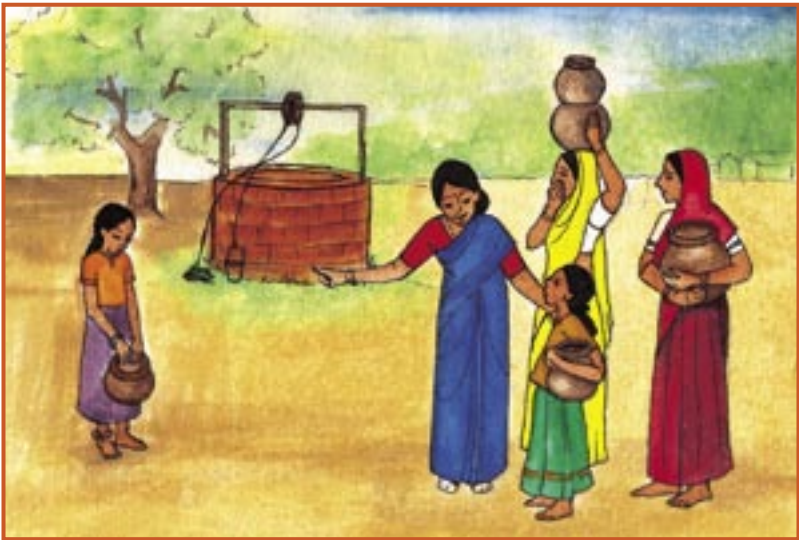
We need to understand that HIV cannot be transmitted by touching an infected kid or by sitting next to the child or by hugging and kissing or playing with an infected person.

### Caste Discrimination

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**MYTH:** Untouchability and caste discrimination are history now. In any case *Dalit* or Scheduled Caste/Scheduled Tribe students never face any caste discrimination with reservations making their life easy.

**FACT:** This is not true. A person's first encounter of caste discrimination is at a very early age. She/he faces discrimination



in school, on the playground, in the hospital and the list can be endless. We can address the practice of discrimination against the poor and underprivileged sections of the society such as the scheduled castes/tribes by ensuring them their economic, social and cultural rights, particularly in terms of access to education, health care and social security services; programmes for child labourers, and the ending of degrading practices such as manual scavenging.

## Disability

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**MYTH: DISABILITY is a curse. A disabled child has no worth. Such children are a burden on the family, they are economically unproductive and education is of no use to them. In fact most disabilities have no cure.**

**FACT:** Disability has nothing to do with doings of the past. It is a deformity caused either during pregnancy due to lack of proper care or sometimes the child genetically inherits it. Lack of proper medical care when needed, lack of proper immunization, accident or injury are other causes that cannot be ignored.

- According to Census 2001, 1.67 percent of the total population aged 0-19 years is disabled.
- The Tenth Five-Year Plan document of the Planning Commission mentions that 0.5 to 1.0 percent of all children have mental retardation.

A mentally or physically handicapped person is usually a subject of sympathy. We forget that as an individual a disabled person too has rights and more than sympathy, what she/he requires is empathy.

Often we associate disability with stigma. A family having a mentally ill person is ostracized and looked down upon by the community.



Education is important for each and every child irrespective of the child's disability as it helps in the overall development of the child.

Disabled children have special needs and we need to address these needs. If given opportunity they can also learn life-supporting skills. Disability becomes a tragedy only if we fail to provide the things which one needs to lead one's life.

### **Barriers faced by a disabled child in the education system**

- Lack of special schools for both physically and mentally challenged children.
- Disabled children are usually slow learners. Schools do not have special teachers who can take care of the needs of such children.
- Insensitive attitude of the peer group. Usually the physically and mentally challenged children are a subject of mockery as they are either slow learners or have physical deformity.
- Absence of disabled-friendly infrastructure, including ramps, special chairs and toilet facilities.

Through appropriate training a disabled child can be taught some skills which can provide her/him an opportunity to earn a decent living.

Moreover, if detected and diagnosed early, most disabilities can be cured or can be prevented from becoming incurable. These include mental disorders which can be treated and prevented with timely intervention.

### Conflict and man-made disasters

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Every school and every teacher will have to take special care in situations of conflict, political strife, war or natural disaster. Children living in such situations need special care and protection, which is possible only if the community realizes this.



## CHILD PROTECTION AND THE LAW

Children have the right to be protected from all exploitative and vulnerable situations that have been discussed. As teachers you must learn to deal with these issues. But that is possible only if you make yourself aware of the real problems and risks that children face and of the remedies that are available in law and policy to change the situation in the best interest of children.

A child may need legal help and protection. Resisting legal action when a child needs it the most is a common mistake all of us often tend to make.

**Ask yourself – Should fear of disapproval or reprimand by family/community/society/the powerful lobby become more important than social justice?**

In 2003, five girls from a village in District Karnal managed to stop sale of two minors into marriage. Once they had made up their mind to stop the marriage and the implicit sale their school teacher helped them take necessary steps for legal action. There was immense resistance from the families of the prospective bride and the groom, from the village elders, the entire community. The girls also received

threats and their own families tried to stop them from taking such a step. Initially the police too did not come forward to help and book the erring persons. When everything else failed, the school teacher sought help from the local media to write about it. Finally the police was forced to stop the marriage and book the culprits. These five girls received the National Bravery Award for their exemplary courage and fight against all odds. The role of the school teacher was very critical in this case as without his help it would not have been possible for the girls to take the community to task. In fact, the teacher had risked not only his career but also his life in the process. But the quest for justice and commitment to child protection guided his action.

**You can perhaps facilitate the process of legal action by taking some of the following steps:**

- Inform the police or the child line.
- Ensure that the child line provides counseling and legal services to the child.
- Mobilise community support.
- Report to the Press only as your last resort.
- Know your law.

It is important to know the basic law and understand the rights they protect. Only if you understand rights and legal protection available will you be able to convince a child or her/his parent(s)/guardian(s) or the community for legal action. Sometimes the police/administration can also turn out to be difficult. Knowing your law can empower you to deal with them better.

**SEX – SELECTIVE ABORTION, FEMALE FOETICIDE AND INFANTICIDE**

The main law for prosecuting persons who are engaging in sex selective abortion is the Pre-Natal Diagnostic Techniques (Regulation And Prevention Of Misuse) Act, 1994.



- It prohibits misuse and advertisement of pre-natal diagnostic techniques for determination of sex of foetus, leading to female foeticide.
- It permits and regulates the use of pre-natal diagnostic techniques for detection of specific genetic abnormalities or disorders and use of such techniques only under certain conditions and only by the registered institutions.
- It gives punishment for violation of the provisions given in the act.
- The complaint made by any person should be first given to the appropriate authority with the notice of not less than thirty days for proper action and with the intention to make a complaint to the court.

**Apart from this law, the following sections from the Indian Penal Code, 1860 are also important.**

- When death is caused by a person (Section 299 and Section 300).
- Voluntarily cause a pregnant woman to miscarry the unborn baby (Section 312).
- Act done with intent to prevent a child being born alive or to cause it to die after birth (Section 315).
- Causing death of an unborn child (Section 316).
- Exposing and abandoning of a child below 12 years (Section 317).
- Concealing the birth of a child by secretly disposing her/his body (Section 318).

The punishment for these offences extends from two years up to life imprisonment, or fine or both.

## **CHILD MARRIAGE**

**The Child Marriage Restraint Act, 1929** defines a child as a male below 21 years of age and a female below 18 years of age (Section 2(a)).

Under this Act several persons can be punished for allowing,

### Can a child marriage be stopped?

Under the Child Marriage Restraint Act, 1929 a child marriage can be stopped if someone makes a complaint to the Police that such a marriage has been arranged or is about to be performed. The police will then make an inquiry and take the matter to the Magistrate. A Magistrate can issue what is called an injunction. This is an order to stop the marriage, and if anyone disobeys the Court order they can be punished with imprisonment for 3 months or fine Rs.1000 or with both.

A child marriage must be stopped before it is solemnised because any marriage conducted in violation of the age requirements provided in the law, does not automatically become invalid or null or void.

contracting, performing or being involved in a child marriage. They are as follows:

- A male who contracts child marriage if he is over 18 years and below 21 years of age shall be punished with simple imprisonment which may extend up to 15 days or with fine which may extend up to Rs. 1000 or both (Section 3).
- A male who contracts child marriage if he is over 21 years of age shall be punished with imprisonment which may extend up to 3 months and with fine (Section 4).
- A person who performs or conducts the child marriage, unless he can prove he had no reason to believe it was a child marriage, shall be punished with imprisonment which may extend up to 3 months and with fine (Section 5).
- The parent or guardian of the child who permits, negligently fails, or does any act to, promote such child marriage can be punished (Section 6).

## CHILD LABOUR

**Children (Pledging of Labour) Act, 1933** declares any agreement by a parent or guardian to pledge the labour of a child below

15 years of age for payment or benefit other than reasonable wages, illegal and void. It also provides punishment for such parent or guardian as well as those who employ a child whose labour is pledged.

**The Bonded Labour System (Abolition) Act, 1976** prohibits forcing a person into bonded labour for debt repayment. The act extinguishes all debt agreements and obligations. It prohibits creation of any new bondage agreement and discharges bonded labourers from all debts for which they were bonded. Compelling a person to render bonded labour is punishable under the law. This includes punishment for parents who pledge their child or other family members to work as a bonded labourer.

**Child Labour (Prohibition and Regulation) Act, 1986** prohibits employment of children below 14 years in certain hazardous processes and regulates it in certain other non-hazardous processes.

**Juvenile Justice (Care and Protection of Children) Act, 2000** Section 24 of this Act provides punishment for those who procure or employ a child in any hazardous employment, keep her/him in bondage and withhold the child's earning for their own purposes.

List of other labour laws that prohibit child labour and/or regulate working conditions for child labourers and can be used to book the employers is as follows:

- The Factories Act, 1948.
- The Plantation Labour Act, 1951.
- The Mines Act, 1952.
- The Merchant Shipping Act, 1958.
- The Apprentices Act, 1961.
- The Motor Transport Workers Act, 1961.
- The Beedi and Cigar Workers (Conditions of Employment) Act, 1966.
- The W.B. Shops & Establishment Act, 1963.

## CHILD LABOUR AND TRAFFICKING

- **Relevant provisions under IPC that can be used to book a case:**
  - buying or disposing of any person as a slave (Section 370).
  - habitual dealing in slaves (Section 371).
  - unlawful compulsory labour (Section 374).
- **Relevant provisions under the Juvenile Justice Act of 2000**  
Section 26 of the Juvenile Justice (Care and Protection of Children) Act, 2000 penalises procurement of a child for the purpose of any hazardous employment, keeping such child in bondage and withholding the child's earnings for one's own use.

## CHILD SEXUAL ABUSE

Sexual abuse is any kind of sexual behaviour, which is unwanted or forced. It includes rape, sodomy, harassment and eve teasing. The law only recognises certain kinds of sexual abuse as an offence and there is no special offence for sexual abuse of a child by his or her relative.

### The Indian Penal Code

The forms of child sexual abuse recognised by the Indian Penal Code are:

- Outraging the Modesty of a woman or a girl (Section 354).
- Rape (Section 376).
- Sodomy or Unnatural Offences (Section 377).

**Rape as defined in the IPC** is when a man has sexual intercourse with a woman

- Against her will or without her consent.
- With or without her consent if she is under 16 years of age.
- When she is his wife and is under fifteen years of age.
- 'Sexual intercourse' is penetration of the vagina by the penis - it does not include oral sex or penetration with some other object.

The maximum punishment for rape is 7 years imprisonment but when the girl is under 12 or where the rapist is a person in authority (in a hospital, children's home, a police station etc.), the punishment is greater.

Although forcible sex with a boy is an act of rape, the rape law of the country under IPC does not cover it. There is no special legislation to cover sexual molestation and other forms of abuse of boys, but Section 377 of IPC deals with it as 'unnatural offences'.

## **CHILD TRAFFICKING**

The legal framework available for dealing with a case against child trafficking is as follows:

### **The Indian Penal Code 1860**

- The IPC punishes cheating, fraud, kidnapping, wrongful confinement, criminal intimidation, procurement of minors, buying and selling of minors for immoral purposes.

### **Juvenile Justice (Care and Protection of Children) Act, 2000**

- This law helps to ensure care and protection of trafficked children and their restoration and reintegration with their family and community.

### ***Special and Local Laws that can be used to book particular forms and purposes of trafficking include:***

- Andhra Pradesh Devadasi's (Prohibition of Dedication) Act, 1988 or Karnataka Devadasi (Prohibition of Dedication) Act, 1982
- Bombay Prevention of Begging Act, 1959.
- Bonded Labour System (Abolition) Act, 1976.
- Child Labour Prohibition & Regulation Act, 1986.
- Child Marriage Restraint Act, 1929.
- Guardianship and Wards Act, 1890.
- Hindu Adoption and Maintenance Act, 1956.
- Immoral Traffic (Prevention) Act, 1986.
- Information Technology Act, 2000.

- Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988.
- Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989.
- Transplantation of Human Organ Act, 1994.

## HIV/AIDS

While a specific law to protect the rights of HIV positive people is in the process of being formulated, there are certain basic rights that the Constitution of India guarantees to all citizens and stand applicable even if a person is HIV positive. These are:

- Right to Informed Consent.
- Right to Confidentiality.
- Right Against Discrimination.

### Right to Informed Consent

Consent has to be free. It should not be obtained by coercion, mistake, fraud, undue influence or misrepresentation.

Consent also needs to be informed. This is particularly important in a doctor- patient relationship. The doctor knows more and is trusted by the patient. Before any medical procedure, a doctor is supposed to inform the patient of the risks involved and the alternatives available so the person can make an informed decision to undertake the procedure or not.

The implications of HIV are very different from most other illnesses. That's why testing for HIV requires specific and informed consent from the person being tested. Consent to another diagnostic test cannot be taken as implied consent for an HIV test. If informed consent is not taken, the concerned person's rights may have been violated and he/she can seek a remedy in court.

## **Right to Confidentiality**

When a person tells someone in whom she/he places trust something in confidence, it is meant to be confidential. Sharing it with others thus amounts to a breach of confidentiality.

A doctor's primary duty is towards the patient and she/he should maintain the confidentiality of information imparted by the patient. If a person's confidentiality is either likely to be breached or has been breached, the person has the right to go to court and sue for damages.

People living with HIV/AIDS (PLWHAs) are often afraid to go to court to vindicate their rights for fear of their HIV status becoming public knowledge. However, they can use the tool of 'Suppression of Identity' whereby a person can litigate under a pseudonym (not the real name.). This beneficent strategy ensures that PWLAs can seek justice without fear of social ostracism or discrimination.

## **Right Against Discrimination**

The right to equal treatment is a fundamental right. The law provides that a person may not be discriminated against on any grounds of sex, religion, caste, creed, descent or place of birth etc. either socially or professionally by a government-run or government controlled institution.

The right to public health is also a fundamental right - something which the state is supposed to provide to all persons. HIV positive persons seeking medical treatment or admission to a hospital cannot be rejected. If they are denied treatment, they have remedy in law.

Similarly, a person with HIV may not be discriminated against due to her/his positive status in an employment scenario. Termination in such a situation would give that person an opportunity to seek legal redress.

Someone who is HIV positive but otherwise fit to continue the job without posing substantial risk to others cannot be terminated from employment. This has been held by the Bombay High Court in May 1997.

In 1992 the Minister of Health & Family Welfare, Government of India, sent an administrative notification from to all State Governments directing them to ensure non-discriminatory access to treatment and care for PLWHAs in all Central and State Government health care institutions.

*Source: Legal issues in HIV/AIDS <http://www.indiangos.com/issue/hiv/legal/index.htm>*

## CORPORAL PUNISHMENT

There is no Central legislation in India banning corporal punishment in schools. Different States, however, have enacted laws or made policies to ban it.

The Central Government is presently working at a law on child abuse, which includes corporal punishment as an offence against a child. Till this law comes into existence, whatever is available may be brought into use.

States in India that have banned or upheld corporal punishment		
States	Corporal punishment (banned or upheld)	Law/Policy
Tamil Nadu	Banned	Corporal punishment was prohibited in Tamil Nadu in June 2003 through an amendment of Rule 51 of the Tamil Nadu Education Rules prohibiting the infliction of mental and physical pain during "corrective" measures.



Goa	Banned	The Goa Children's Act 2003 bans corporal punishment in Goa.
West Bengal	Banned	In February 2004, the Calcutta High Court ruled that caning in state schools in West Bengal was unlawful A PIL has also been filed by Tapas Bhanja (advocate) in the Calcutta High Court.
Andhra Pradesh (Hyderabad)	Banned	School Education Secretary, I V Subba Rao issued Government order (GO Ms No 16) on February 18, 2002, replacing the provisions on corporal punishments issued earlier in GO Ms No 1188 in 1966. Through the new order of 2002, the Andhra Pradesh government imposed a ban on corporal punishment in all educational institutions by amending Rule 122 of the Education Rules (1966), violations of which should be dealt with under the Penal Code.
Delhi	Banned	Petition filed by Parents Forum For Meaningful Education. The Delhi School Education Act (1973) had provision for corporal punishment that has been stuck down by Delhi High Court. In December 2000, the Delhi High Court ruled that provisions for corporal punishment in the Delhi School Education Act (1973) were inhuman and detrimental to the dignity of children.
Chandigarh	Banned	Corporal punishment was prohibited in Chandigarh in the 1990s.
Himachal Pradesh	Has decided to Ban	The State decided to ban corporal punishment in schools after a report of a child becoming disabled due to corporal punishment.

## DOMESTIC VIOLENCE

There is no law on domestic violence in the country. However, in the year 2000 the **Juvenile Justice (Care and Protection of Children) Act**, recognised cruelty against

children by people who have the charge of such children or control over such children as a special offence. Section 23 of this Act provides for punishment for cruelty to a child, which includes assault, abandonment, exposure or willful neglect that is likely to cause mental or physical suffering to the child.

## CASTE DISCRIMINATION

### The Constitution of India guarantees

- Equality before the law and equal protection of laws to each and every person in the country (Article 14).
- Prohibits discrimination on grounds of race, caste, sex, descent, place of birth or residence (Article 15).
- Prohibits discrimination on grounds of race, caste, sex or place of birth in any public employment (Article 16).
- Abolishes 'Untouchability' and declares practice of 'untouchability' in any manner whatsoever, a punishable offence (Article 17).

The first Indian law that came into force to provide for punishment for the preaching and practice of 'Untouchability' and for any matter connected with it was '**The Protection of Civil Rights Act, 1955**'. Even calling a scheduled caste by her/his caste name e.g. calling a 'chamar' a 'chamar' is a punishable offence under this law.

In 1989, the Government of India enacted '**The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act**', which recognises various kinds of acts of violence and discrimination inflicted upon the Scheduled Castes and the Scheduled Tribes by Non-Scheduled Castes and Non-Scheduled Tribes as punishable offences. It also provides for establishment of Special Courts at district level to try the offences under this Act, appointment of Special Public Prosecutors for the purpose of conducting cases in Special Courts, and imposition of collective fine by the State.

## **STREET AND RUNAWAY CHILDREN**

### **Juvenile Justice (Care and Protection) Act 2000**

The Juvenile Justice (Care and Protection) Act 2000 deals with “juveniles” or “children” (persons who have not completed eighteenth years of age) who are in

- need of care and protection.
- conflict with law.

### ***Children in need of care and protection***

According to 2 (d), a “child in need of care and protection” means a child.

- who is found without home or means of subsistence.
- whose parent or guardian is unable to look after the child.
- who is an orphan or whose parents have abandoned her/him or who is missing, a run away child or whose parents cannot be found after reasonable inquiry.
- who is abused, tortured or exploited for sexual or illegal acts or is vulnerable to such abuse.
- who is vulnerable to drug abuse or trafficking.
- who is abused or vulnerable to abuse.
- who is victim of any armed conflict, civil commotion or natural calamity.

### **Child Welfare Committee**

- According to the law every State Government is supposed to constitute for every district or group of districts, one or more Child Welfare Committees to dispose off cases for the care, protection, treatment, development and rehabilitation of children in need of care and protection as well as to provide for their basic needs and for the protection of their human rights.

### ***Production before the Committee***

Any child in need of care and protection can be produced before the Committee by a special juvenile police unit or a designated police officer; a public servant; childline, a registered voluntary organisation recognised by the State Government, a social worker or a public spirited citizen

authorised by the State Government, the child herself/himself.

The Child Welfare Committee may pass an order to send the child to a children's home and initiate a speedy inquiry by a social worker or a child welfare officer.

After the completion of the inquiry, if the Committee is of the opinion that the said child has no family or ostensible support, it may allow the child to remain in the children's home or shelter home till suitable rehabilitation is found for her/him or till she/he attains the age of eighteen years.

### **Children in conflict with law**

"Juvenile in conflict with law" means a juvenile who is alleged to have committed an offence.

#### ***Juvenile Justice Board***

- The State Government is also supposed to constitute for a district or a group of districts, one or more Juvenile Justice Boards to deal with children in conflict with law and grant bail and dispose off such cases in the best interests of the child.

### **Drugs and Substance abuse**

#### ***The Narcotic Drugs and Psychotropic Substances Act, 1985***

This law declares illegal the production, possession, transportation, purchase and sale of any narcotic drug or psychotropic substance and makes the person, addict/trafficker liable for punishment.

Use or threat of use of violence or arms by the offender, *use of minors for the commission of offence*, commission of the offence in an educational institution or social service facility are some of the grounds for higher punishment.

#### ***The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988***

Under this law, people who use children for drug trafficking can be booked as abettors or conspirators to the act.

### ***Juvenile Justice (Care and Protection of Children) Act, 2000***

Section 2 (d) defines a child vulnerable to or likely to be inducted into drug abuse or drug trafficking as a 'child in need of care and protection.'

### **Child Begging**

**When children are forced into begging or used for it, the following provisions can be used:**

#### ***Juvenile Justice Act of 2000***

Employment of or using a juvenile or child for begging is recognized as a special offence liable to punishment (Section 24).

The juvenile justice law actually recognises children abused, tortured or exploited for illegal acts such as begging as 'children in need of care and protection'.

#### ***The Indian Penal Code***

Kidnapping or maiming a minor for begging is punishable under Section 363A of IPC.

### **Juvenile Delinquency or Children in Conflict with law**

Children who commit crimes have been protected from the rigours of punishments meted out to adults and are recognised as 'children in conflict with law' rather than criminals under the Juvenile Justice (Care and Protection of Children) Act, 2000.

Under this law, every juvenile in conflict with law has a right to bail as granting bail is mandatory, except when it can pose a threat to the life or well-being of the juvenile.

Instead of being sent to a jail, the law takes a reformatory approach and provides for release on probation after advice and admonition or, places them in custody of special homes.



## WHAT TEACHERS CAN DO TO PROTECT CHILDREN?

Children can be subjected to neglect, abuse, violence and exploitation anywhere. There is some abuse that may happen inside the school premises, while a lot of it is what children suffer at home and in non-school environments. A child in your class may be a victim of violence/abuse/exploitation that happens outside the school. You cannot ignore it. Rather you must help the child. This too is possible only if you are able to identify that there is a problem and you spend time to understand it and explore possible solutions.

Always remember that your duty to protect children does not come to an end once you are out of the school premises. The life of a child who is out of the school system can be changed with your positive intervention. You just have to prepare yourself for it and know more about their problems as well as what you can do to help.

Once you are mentally prepared and equipped to tackle the problem you will be able to do many things you have never dreamt you are capable of doing.

## Are you a child-friendly teacher? This is what will make you one.

- Understand children's rights as human rights and create such awareness in the community as well.
- Make children feel it is worthwhile attending your class.
- Be open to learning.
- Be a Friend, Philosopher and Guide to the child.
- Make the classes interesting and informative. Avoid one-way communication and give opportunities to children to come up with their doubts and queries.
- Learn to recognise and identify abuse, neglect, learning disorders and other not so visible disabilities.
- Create a relationship where children can express their views, concerns, anguish, fear etc. Try to engage with children in informal discussions.
- Be a good listener. Share and discuss various issues and problems which children are facing either in school or at home.
- Encourage children's participation in matters that affect their lives.
- Build children's capacities to participate effectively.
- Organise meetings of children with school authorities.
- Discuss child rights issues with the parents in the PTA meetings.
- Say NO to corporal punishment. Use positive reinforcement techniques like dialogue and counseling to discipline children.
- Say NO to discrimination. Take active steps to reach out to children from minority and other discriminated groups.
- Stop negative stereotyping and discrimination against working children, street children, child victims of sexual abuse, trafficking, domestic violence or drug abuse and children in conflict with law, to name a few categories of those who need protection.
- Stop use of child labour in your home and workplace.
- Be democratic but not unstructured.
- Ensure children are protected within the school as well

as in the community, even if it requires calling the police and taking/facilitating legal action.

- Encourage them to put forward their views before the adults and the community.
- Involve children in organising events. Give them responsibilities and at the same time give them the required guidance.
- Take children to nearby places for picnics and pleasure trips.
- Engage children in discussions/debates/quiz and other recreational activities.
- Encourage education and participation of girls through creative measures within the classroom.
- Follow-up on girls who drop out or attend irregularly to ensure it does not continue.
- All teachers can help in creating and strengthening a protective environment around children.
- Your observations are important, as they alone will help you to assess the growth and progress of a child in your class. If you see a problem, your next step should be to explore what could be the possible reason.
- Next question to yourself should be whether the child is under any pressures from family, relatives or friends.
- Spend some time with the child privately, without being imposing, humiliating and creating an embarrassing situation for the child.
- Help the child express her/his problem either through drawing and painting or by writing a story or simply talking to you or the school counsellor/social worker or to a friend in the class.

Creating and strengthening a protective environment for children requires many levels of engagement, which in turn demand dialogue, partnerships, and coordination based on a shared analysis. Many of its components correspond to



traditional development activities and approaches, such as improving basic services, monitoring results, and recognising individuals as actors in their own development.

Teachers must be aware of the government's schemes for children and what they have to offer. Identify children and families that require assistance and could be helped through any of the existing Government schemes. A list of such children and families can be handed over to your Block/Taluka/Mandal Panchayat Member or BDPO directly.

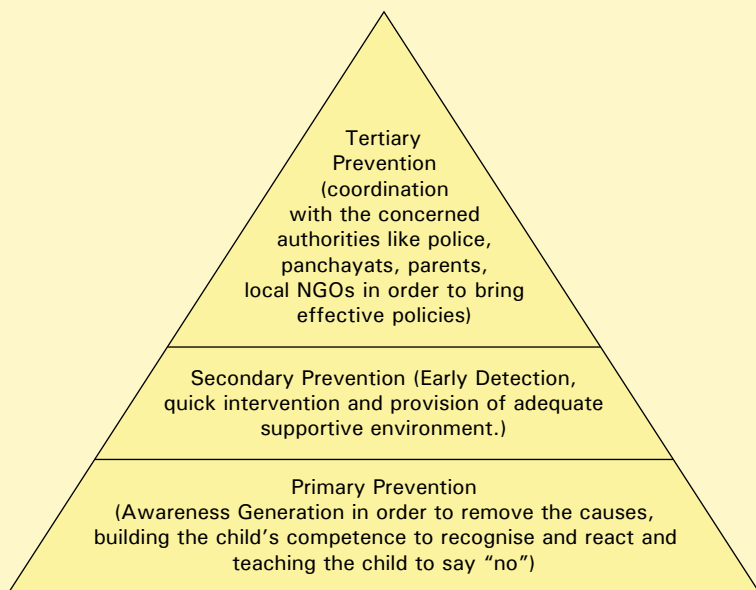
People you must liaise with if you want to protect children include:

- The Police.
- Your Panchayat/Municipal Corporation Head/Member.
- Anganwadi Workers.
- ANMs.
- Block/Taluka/Mandal and Zila Panchayat Members.
- Block Development Officer (BDO) or Block Development and Panchayat Officer (BDPO).
- Community Development Officer (CDO) or Community Development and Panchayat Officer.
- District Magistrate/ District Collector.
- Nearest Child Welfare Committee.
- Child Line Organisations in your area.

**How as a teacher can you ensure that the rights of an HIV infected or affected child are not violated?**

- Impart sex education to children based on their age and level of maturity.
- Inform the children about HIV/AIDS. How it spreads and affects an individual, and how can we prevent it from spreading further?
- Create an enabling environment in the class-room to ensure that infected and affected kids are not stigmatised.

## Prevention Pyramid for any child protection issue



*Note: Adapted from Asha Krishnakumar, Silent victim, Frontline, Volume 20 - Issue 21, 11–24 October, 2003 – the three stages of preventing child sexual abuse*

## Identifying Child Sexual Abuse

### ***Signs of sexual abuse in children and adolescents***

	6-11 Years	12-17 Years
GIRLS	Engages in explicit sexual behaviours with other children.	Sexually exploitative interactions with younger children
	Verbally describes experiences of sexual abuse.	Sexually promiscuous behaviour or total avoidance of sexual involvement
	Excessive concern or preoccupation with private parts.	Eating disturbances
	Sexualised relating to adults.	Efforts to distance from feelings of guilt, shame and humiliation

	Sudden fear or mistrust of males, females or specific places.	Running away from home
	Age inappropriate knowledge of adult sexual behaviour.	
	Sleep disturbances: Nightmares and night terrors	
BOYS	Engages in explicit sexual behaviours with other children	Sexually exploitative or aggressive interactions with younger children
	Sudden fear or mistrust of males, females or specific places	Regressive behaviour
	Sleep disturbances: Night mares and night terrors	Acting out and risk taking behaviour
	Sudden aggressive behaviour or acting out	Efforts to distance from feelings of guilt, shame and humiliation
	Loss of interest in previous interests	
	Regressive behaviour	

**Precautions:** The above mentioned signs or symptoms are to be considered only as rough guidelines to indicate that a child is in trouble and that the cause may be sexual abuse. It is very important, however, not to jump on any individual symptom or behaviour and conclude that abuse has taken place. Rather you must look for groups of symptoms and use your intuition.

*(Source: UNICEF, Teacher's Talking about Learning (<http://www.unicef.org/teachers/> Last revised April, 1999) from: I. Leth, UNICEF Child Protection)*

Children are often taught to obey adults. In the process they forget to say "no" to the adults, even if they do not like the behaviour or attitude of the adults.

Teach children to say "no" in such situations.

## Ten messages about children with disabilities

1. Prevent negative stereotypical attitudes about children with disabilities by avoiding negative words, such as “disabled,” “crippled,” “handicapped,” instead of “a child with a physical or movement disability”; “wheelchair bound” for “a child who uses wheelchair”, “deaf and dumb” instead of “a child with hearing and speech disability”, or “retarded” for “a child with mental disability.”
2. Depict children with disabilities with equal status as those without disabilities. For example, a student with a disability can tutor a younger child without a disability. Children with disabilities should interact with non-disabled children in as many ways as possible.
3. Allow children with disabilities to speak for themselves and express their thoughts and feelings. Involve children with and without disabilities in the same projects and encourage their mutual participation.
4. Observe children and identify disabilities. Early detection of disabilities has become part of early-childhood education. The earlier a disability is detected in a child, the more effective the intervention and the less severe the disability.
5. Refer the child whose disability is identified, for developmental screening and early intervention.
6. Adapt the lessons, learning materials and classroom to the needs of children with disabilities. Use means such as large print, seating the child in the front of the class, and making the classroom accessible for the child with a movement disability. Integrate positive ideas about disabilities into classwork, children’s play and other activities.
7. Sensitise parents, families, and caregivers about the special needs of children with disabilities. Speak to parents in meetings as well as on a one-to-one basis.
8. Teach frustrated parents simple ways to deal with

and manage their child's needs and help them to have patience to prevent abuse of the disabled child.

9. Guide siblings and other family members in lessening the pain and frustration of parents of children with disabilities, by being helpful.
10. Actively involve parents of young children with disabilities as full team members in planning school and after school activities.

Source: UNICEF, *Teacher's Talking about Learning* (<http://www.unicef.org/teachers> Last revised April, 1999)

### **Adopt and Encourage Constructive Disciplinary Practices that Respect the Human Dignity of Children**

- Respect the child's dignity.
- Develop pro-social behavior, self-discipline, and character.
- Maximise the child's active participation.
- Respect the child's developmental needs and quality of life.
- Respect the child's motivational characteristics and life views.
- Assure fairness and transformative justice.
- Promote solidarity.

Source: Eliminating Corporal Punishment: The Way Forward to Constructive Child Discipline - A UNESCO Publication.

## **SURELY, CHANGING THE SCHOOL ENVIRONMENT WILL BE YOUR BIGGEST CHALLENGE.**

**Is your school child-friendly? This is how it can be one:**

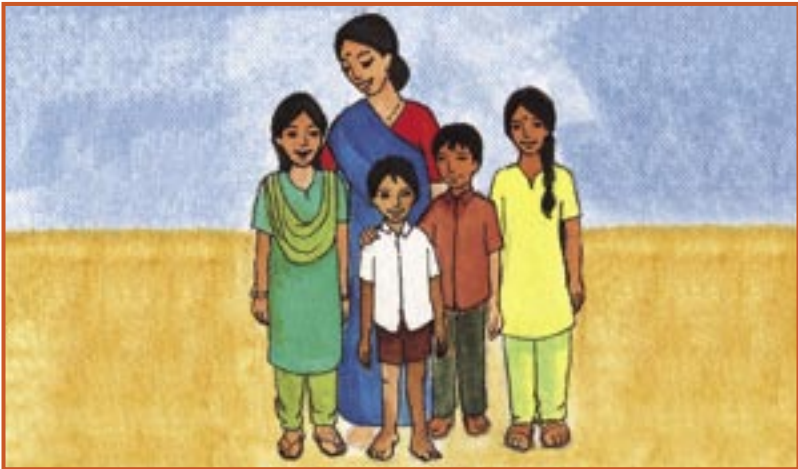
- 'Spare the rod and save childhood' should be the slogan and message for children, their parents and community at large.
- A school must have a trained counselor to help children showing signs of psychological and emotional problems and to provide necessary counseling to both the children and their parents/guardians.

- A school must have a social worker to generate positive peer response, family response and community response.
- Regular and periodic PTAs should become an essential feature. PTAs should provide a platform for dialogue between teachers and parents on the child's overall development and not just progress in class.
- Training and sensitization activities with teachers on child rights must become a regular feature just as teachers are sent for academic trainings by various schools on a regular basis.
- Fora for children's participation in matters affecting them inside the school should be created.
- Sex Education should be made an essential component of life skill education imparted in schools.
- Basic facilities like toilets and drinking water for children must be made available within the school premises. Toilets for boys and girls should be separate.
- For schools that function from a tent or a small room, adequate breaks for toilet and drinking water must form a routine.
- Disabled-friendly infrastructure and teaching-learning materials reflect on a school's sensitivity towards the disabled children. Ensure that you have it all or at least what your resources can best permit. Local resources can be mobilized to fulfill this need.

### **Theme based Recreational Activities in which Children can be involved.**

- Discussions/debates/quiz
- Story telling
- Painting, local art (specific to the region)
- Skits/plays/theatre
- Pottery and other crafts
- Puppet making
- Face painting
- Origami
- Photography
- Picnic and Excursions
- Sports (indoor and outdoor)
- Exhibitions

- There should be no vendors in and around the school premises.
- Schools that strictly discourage employment of children for domestic work by its teachers actually establish a best practice to be followed by all in the community.
- Evolving peer groups to check drug abuse or any other form of abuse taking place within the school premise is a good practice that schools must adopt.
- Guidelines are set up and followed for disciplinary enquiries and action against teachers or other school karamcharis reportedly involved in child sexual abuse within the school premises or outside.
- Guidelines, rules and norms are laid out to deal with discrimination on grounds of gender, disability, caste, religion or HIV/AIDS reported within the school premises.
- Schools should set up a child protection monitoring unit or cell involving children, their parents, and panchayats/ municipal councils. The role of this unit could be to maintain records of children needing care and protection and to report cases of child abuse to the police or other concerned authorities.



**GOOD TEACHERS ARE COSTLY, BUT BAD TEACHERS COST MORE. – BOB TALBERT**

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Government of India  
Ministry of Women and Child Development  
A, Wing, Shastri Bhavan, New Delhi 110 001, India

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