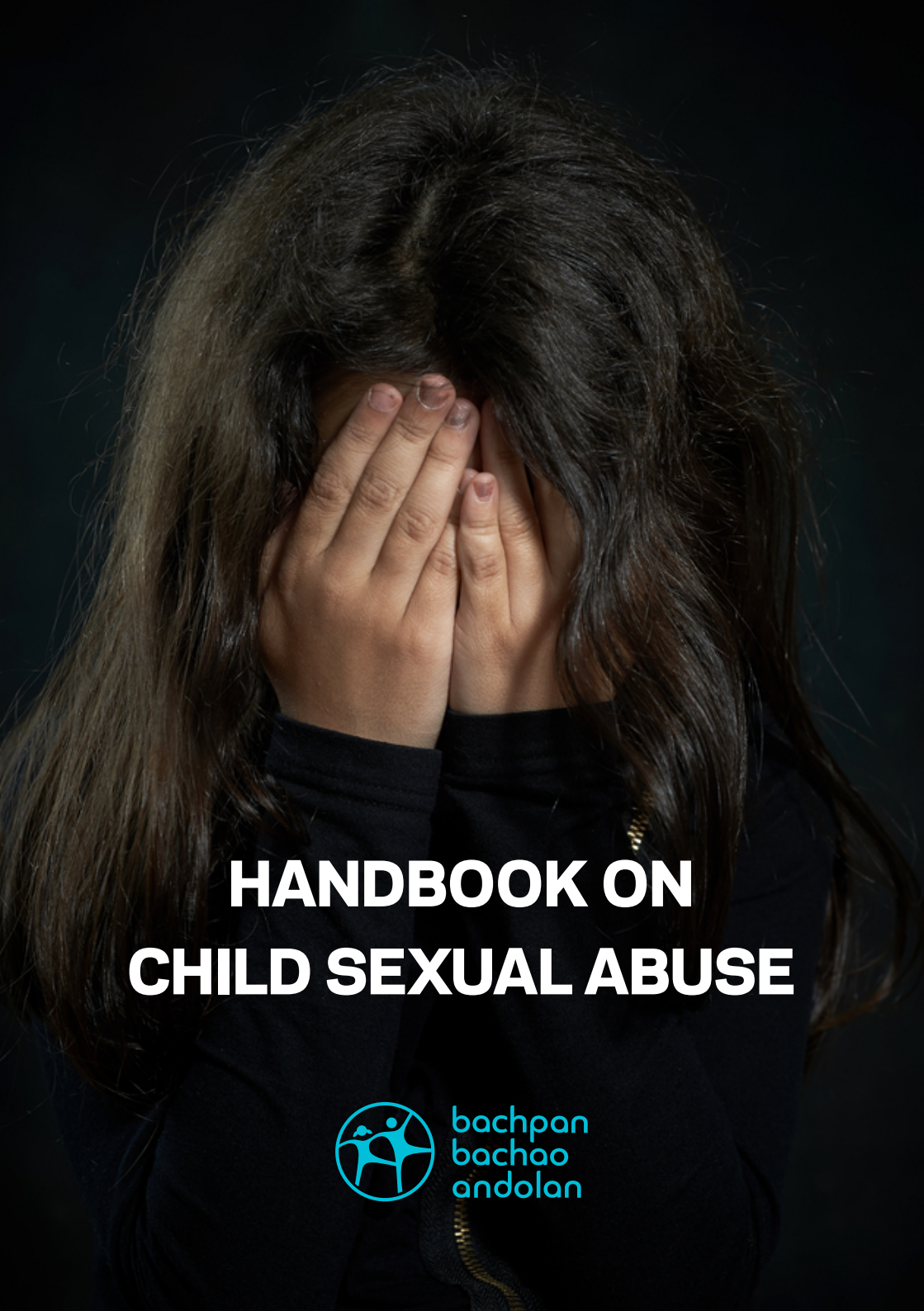

HANDBOOK ON CHILD SEXUAL ABUSE

bachpan bachao andolan

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Child Sexual Abuse is a Punishable Offense

Introduction

The State shall direct its policy to ensure that children are not abused and are given opportunities and facilities to develop in a healthy manner in conditions of freedom and dignity

-Article 39 of the Directive Principles of State Policy-

Child sexual abuse has emerged as a major problem that is being faced in our country and many other countries of the world as well. Child Abuse in also one of the most recent issue which has been addressed by many organizations and institutions in the world. But what makes child sexual abuse even more lethal in India is the social taboo of "not telling anyone, not speaking about it'". The society is very much traditional society where it has its social systems under which the issue of child sexual abuse has never been addressed or talked. Child abuse and neglect – particularly sexual abuse – are among the world's most serious concerns, with millions of cases reported to various children's protective service organizations each year. The society as well as the kin of the victim and even the victim themselves do not want to talk about such crimes. Due to this a majority of cases go unreported, this has made the perpetrator stronger and gives them the courage to repeat the crime. This social taboo also makes the victim even more vulnerable. Child sexual abuse has to be dealt at different levels viz. Social, emotional, medical and legal.

Child sexual abuse has several negative effects which are both long term as well as short term on the victim, and his/her family members, which adversely affects the growth of the abused child both physically as well as emotionally.

I. What is child abuse?

Any form of violence, abuse or neglect used against a child is called child abuse. Child abuse is a gross violation of basic human rights of a child and includes:

- Physical abuse
- Sexual abuse
- Emotional abuse
- Neglect

According to WHO "child abuse or maltreatment constitutes all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power."

II. What is child sexual abuse?

- Exposing a sexual part of the body to a child.
- Touching a child's private parts (vagina, anus and penis, breasts, buttocks in a way that makes him or her feel uncomfortable or frightened)
- Touching a child in a sexual manner.
- Penetrating the child's vagina or anus by penis, finger or any other object.
- Showing pornographic materials (pictures, films, magazines) of naked people or people having sex or photographs to a child.
- Having a child pose or perform in a sexual manner.
- Forcing a child to watch a sexual act.
- Engaging a child in prostitution.

III. Understanding child sexual abuse:

- The child does not have the understanding of child sexual abuse. S/He doesn't have the knowledge related to such issues.
- Consent of the child is immaterial. The child cannot give his/her consent to such activities. At the age of the child is considered as an age in which s/he is unable to understand the situation.
- Violates the laws and social norms. It affects both the law system as well as the social norms. In any society such harmful relation with a child is not at all appreciated.

IV. Ill effects of child sexual abuse

- Fear- The perpetrator may force the child to keep this as a secret, and threaten the child with dire consequences. If he/she informs it to anyone. As a result, the child lives in constant fear from the perpetrator.
- Helplessness- Victims of child sexual abuse often feel that they have no power or freedom, they might also think that their lives are being controlled by someone else and they do not have the ability to change the situation. In extreme cases the child can even hurt himself or herself to get away from the abusive situation.
- Guilt and Shame- The child victim is not mature enough to understand the situation and feels that he is himself responsible for the abuse. In most of the cases of child sexual abuse the victim is lured by the perpetrator for small gains and once the act is committed, the perpetrator makes the victim feel guilty about it. The child thinks it is his mistake and often feels ashamed and guilty about it.
- Isolation– Children who are victims of sexual abuse often cut themselves from friends and do not mix up well with others. In extreme cases the child feels isolated from his /her own family including parents and siblings.
- Betrayal- A child is dependent on adults for fulfillment of his/her needs and protection. When an incident of sexual abuse happens with the child he/she may think that they have been betrayed by the adults in his safe circle, as they were not able to protect the child from such abuse.
- Anger- This is the most common emotion expressed by child victims. They angry about the act done to them by the perpetrator, and they feel even angrier by assuming that they are not able to do anything about it.
- Sadness- Children who have encountered sexual abuse may turn silent, feel sad and a sense of grief may engulf them many times. This is usually opposite to their usual self. This happens in cases where the perpetrator was a person of trust to the child or the child felt really close to the perpetrator.

- Flashbacks- These can occur anytime while the child is asleep or even when he is awake. They can be very traumatic for the child as they can give him a re-experience of the whole act of sexual abuse or assault.

V. Myths & facts about child sexual abuse:

In order to understand the reality of child sexual abuse, it is important to understand the myths that exist. Below are the most widespread myths about this crime:

Myth 1 - Parents are at fault for the sexual assault. They should protect their child.

FACT- Parents are often accused of not protecting their child. However, this attitude shifts blame and enables offenders to avoid responsibility for the actions. The offender is always the person who is responsible for a child sexual assault.

Myth 2 -Child sex offenders are mostly strangers.

FACT- It is estimated that in 70-90% of cases the offender is someone who is known to the child.

Myth 3 -People who sexually abuse their own children are not a danger to other children.

FACT- Child sex offenders rarely engage in a single offence. A person who offends against their own children may offend against other children too.

Myth 4- Children 'invite' sexual abuse by acting seductively.

FACT- No child wants to be sexually assaulted. Adults have power over children, and they must not manipulate this power.

Myth 5- Sexual abuse of children only occurs in poor families.

FACT- It can occur in all kinds of families, rich or poor, large or small, well-educated or not well-educated.

Myth 6- The child did not say no, or try to stop the sexual assault, so it is the fault of the child as well.

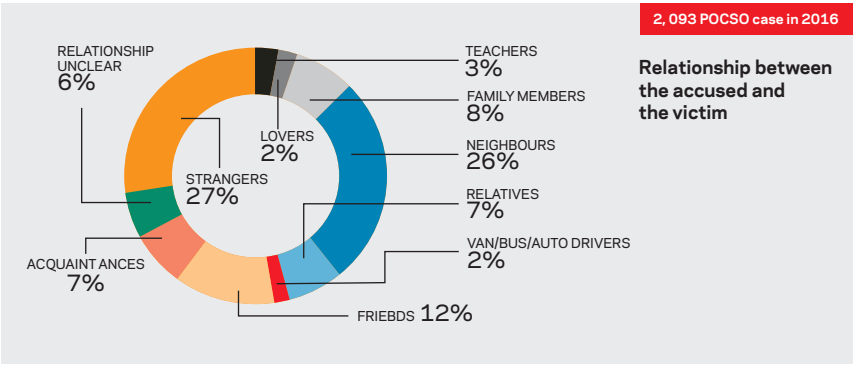
FACT- A common stress response is to freeze, and this may prevent a child from responding or saying 'no.' Adult offenders are always to blame, as children are unable to consent.

Myth 7- Children are immature and they misinterpret and wrongly accuse an adult of sexual abuse.

FACT- Children often disclose long after their abuse began. The offender often uses behaviours such as 'accidental touching' or tickling to defend their behaviour and blame the child. A child's disclosure should always be acknowledged and taken seriously.

Myth 8- Boys cannot be sexually exploited

FACT- Boys share a greater percentage amongst the total number of children who are sexually abused.



VI. What is POCSO?

POCSO is the acronym for the Protection of Children from Sexual Offences Act, 2012. The objective of the Act is to protect children from adult abusers. The Act has been amended on 6th August'2019 with effect from 16th August'2019. Some of the key features of the act include:

- Covers all children below the age of 18 years.
- Covers both boys and girls and is thus gender neutral.
- Provides child friendly processes for reporting, recording and trial keeping the best interest of child as top priority.
- Burden of proof on the accused which means in case of sexual assault the accused is assumed to have committed the crime & he has to prove otherwise.
- Makes reporting is mandatory.

VII. Why do we need POCSO?

- Article 15 (3) of the Constitution calls for positive discrimination in favor of children by stating that "Nothing in this article shall prevent the State from making any special provision for women and children."
- Children are vulnerable and require greater protection
- Statistics show that sexual crimes against children are increasing
- Study on Child Abuse: INDIA 2007" conducted by MWCD covering nearly 13,000 children in 13 States revealed that more than 53% of children interviewed reported having faced one or more forms of sexual abuse
- There was no law to cover sexual abuse of boys as IPC sections related to rape covered only girls.

Figure 1- Facebook satyarthi.org

VIII. What is punishable under POCSO?

THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012		
Section	**Provision**	**Punishment**
4	Punishment for penetrative sexual assault- if any person inserts or penetrates any private body part or any object in child's body or makes the child to do so with him/her, then it is called as penetrative sexual assault.	Shall be punished with an imprisonment of minimum ten years which may extend upto imprisonment for life, and shall also be liable to fine. If penetrative sexual assault is done on child below 16 years than the punishment will be minimum 20 years and can extend to life imprisonment and shall also be liable to fine. (Section 6, sub section 1)
6	Punishment for aggravated penetrative sexual assault- any police officer, teacher, hospital staff or any other person, under whose care and protection the child is or on whom the child trusts, if that person commits penetrative sexual assault with the child or two or more people commit the act, then it is called as aggravated penetrative sexual assault.	minimum 20 years and can be also life imprisonment or death penalty and shall also be liable to fine. The fine imposed will be reasonable and paid to the victim to meet the medical expenses and rehabilitation of the victim. (Section 6, sub section 2) The fine paid will be used to meet medical and rehabilitation expenses of victim.

8	Punishment for sexual assault- If any person touches with sexual intent any private part of child's body or make the child touch his/her private body part, then it is called as sexual assault.	Shall be punished with an imprisonment of minimum three years which may extend upto five and shall also be liable to fine
10	Punishment for aggravated sexual assault- any police officer, teacher, hospital staff or any other person, under whose care and protection the child is or on whom the child trusts, if that person commits sexual assault or two or more people commits sexual assault using a weapon, then it is called as aggravated sexual assault.	Shall be punished with an imprisonment of minimum five years which may extend upto seven years, and shall also be liable to fine
12	Punishment for sexual harassment- if any person with malice commits any act which can be considered sexual in front of a child or makes the child exhibit his/her body, shows any form of media or pornographic content, then it is called as sexual harassment.	Shall be punished with an imprisonment of upto three years, and shall also be liable to fine

14	Punishment for using child for pornographic purposes- if any person uses a child for pornographic (obscene media, movies or picture) purposes (which includes T.V. channels or advertisements or internet or any other electronic form or printed form, whether or not such programme or advertisement is used for personal purpose or distribution or not), it is a serious offence	Using a child for pornographic purposes is punishable with imprisonment for a period not less than 5 years and is also liable to fine, and in case of repeated offence, punishment will be not less than 7 years of imprisonment and is also liable to fine. (Section 14, 1).
15	Punishment for storage of pornographic material involving child- any person, who stores, for commercial purposes any pornographic material in any form which includes a child, is punishable.	Any person who stores any pornographic material involving a child and fails to report or destroy it is punishable with a fine of not less than five thousand rupees., and repeat offence will be punishable with fine of not less than ten thousand rupees. If the material is stored for further transmitting or propagating, then along with fine, it is punishable with upto three years of imprisonment. For storing child pornographic material for commercial purpose is punishable with three to five years of imprisonment, and in subsequent conviction, upto seven years of imprisonment. (Section 15)

17	Punishment for abetment- to abet or instigate for aforementioned offences is also an offence. If any offence is committed in consequence of abetment, then it is punishable.	Shall be punished with imprisonment of any description provided for the offence
18	Punishment for attempt to commit an offence- whoever attempts to commit any offence punishable under this act or helps in committing the act and does an act in the commission of such act, then it is punishable.	Shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the punishment had the act been actually committed or with fine or both
21	Not reporting any offence committed under the provisions of this act.	Shall be punished with an imprisonment of upto six months and/or with fine

22	Any person, who reports a wrong complaint of offences committed under Section 3 (penetrative sexual assault), Section 5(aggravated penetrative sexual assault), Section 7(sexual assault), Section 9 (aggravated sexual assault) with an intention of insulting, intimidating or for defamation lies about it or gives wrong information. 1. If the person filing false complaint is a child, then no punishment shall be imposed on such child. 2. If the false complaint has been filed by a person, not being a child, against a child, knowingly gives the false information or information which he/she has ground to believe is false, thereby victimizing such child in any offence under this act, is punishable.	Shall be punished with an imprisonment of upto six months or with fine or both Such person shall be punished with an imprisonment of upto one year or with fine or both

23	Any person, who makes any report or present comments on any child in any form of media without any authentic information, which can lower the reputation or infringe the privacy of child. Or Through any report of media publishes child's identity, like name, address, photograph, family details, school, neighbourhood or any other particulars.	Shall be punished with an imprisonment of six months which may extend to a term of one year or with fine or both.

IX. What makes an offence "Aggravated"?

An offence is aggravated when it:

- Is committed by a person in position of trust or authority – for example a police officer , member of armed forces or security forces, public servant , management or staff of jail, remand home, protection home, observation home or any other child care institution, staff of hospital , educational or religious institution.
- Is gang assault- by more than one person. In such cases each person who was the part of the gang at the time of commission of the offence will be treated as they have done the assault alone.
- Is committed by using deadly weapons.
- Causes grievous hurt/ harm or injury to sexual organs of the child.
- Physically incapacitates the child or the child becomes mentally ill.
- Inflicts HIV or other life threatening diseases to the child.

- Is committed taking advantage of child's mental or physical disability.
- Is committed more than once or repeatedly.
- The child is below 16 years of age.
- Is committed by a relative of the child through blood / adoption/ marriage/ guardianship or foster care.
- Is committed on a pregnant child or results in the pregnancy of a child.
- An attempt is also made to murder the child.
- Is committed during communal violence.
- When offence is committed and child is made to strip and/or parade naked in public.

X. What is meant by abetment of and attempt to commit an offence?

- Instigates any person to conduct the offecse.
- Engages with one or more person in the conspiracy.
- Intentionally aids in committing the offence.
- Abetment treated with the same gravity as commission of that offence (Section 16)
- Trafficking of children for sexual purposes covered under abetment (Section 16 Explanation III)
- Attempt to commit an offense penalized, for up to half the punishment prescribed for that offence.

XI. Where to Report?

- Childline - 1098
  - Childline is a 24/7 emergency phone outreach service for children in crisis which links them to emergency and long term care and rehabilitation services.
  - The service can be accessed by any child in crisis or any adult on behalf of the child by dialing 1098

- 1098 is an easy to remember and it is a toll free number.

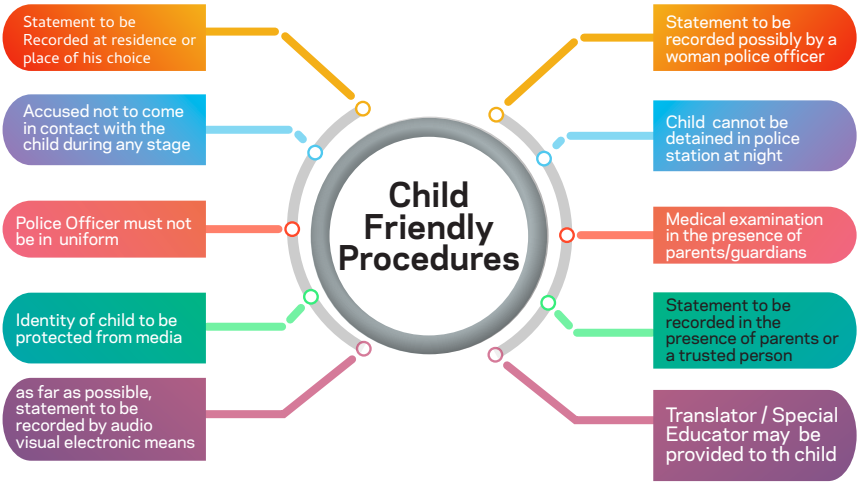
- Police – 100
  - The case can be reported in the local police station or to the Special Juvenile Police Unit (SJPU), if available in the district
  - The police must record the statement in writing , give an entry number of the report to the complainant/ informant , read over the report to the complainant /informant for verification.
  - An FIR must be registered and its copy must be handed to the informant free of charge.

XII. Who can report?

Any person (including the child) who has the knowledge about an offence committed or likelihood of an offence under POCSO can report the matter.

- Obligation has been vested upon media personnel, staffs of hotels , lodges, hospitals, clubs, studios or photographic facilities to report a case if they come across any material or object that is sexually exploitative of children.
- Failure to report is punishable with imprisonment of up to six months or fine or both.
- This penalty is not applicable to a child

XIII. Child friendly procedures



XIV. Child friendly procedures for the special court

- Frequent breaks for the child during trial
- Child not to be called repeatedly to testify
- Create child friendly atmosphere by allowing family members/ parent/ friend to be present

- No aggressive questioning or character assassination of the child
- In-camera trial of cases
- Evidence of the child to be recorded within 30 days
- Ensure that the dignity of the child is not disclosed
- Court in addition to punishment can also direct payment of compensation to the child
- Trial to be completed, as far as possible, within a period of one year

XV. Prevention:

The very first step towards prevention is building an atmosphere of trust confidentiality and openness for discussing sexual issues.

- School based prevention programs that teaches the children and adolescents to be safe by organizing more awareness programmes on child sexual issues.
- Teaching children and adolescents about safe and unsafe touch, how to recognize it and what to do in case if it happens to them or someone else in their knowledge.
- Teaching children and adolescents about the procedure of reporting sexual abuse cases so that the perpetrators are nabbed and they do not target more children.
- Creating awareness in the society regarding the myths and facts about child sexual abuse.
- Sensitizing parents for building a rapport with their children in discussing about issues of sexual abuse.
- Training parents in recognizing child sexual abuse and dealing with it.

XVI. What can we do?

i) Parents & Children-

Teach Children Body Safety Rules

Rule 1- Clothing Rules

I keep my private parts covered in front of others. Though we don't cover our mouth, it is private too.

Rule 2- Touching Rules
I don't uncover my private parts in front of others.

Rule 3- Talking Rules
I talk about private parts with safe adults only like a mother. I ask questions and discuss concerns regarding these parts with them.

Rule 4- Phone & Computer Rules (for older children)
All the above three rules apply online as well as offline

- When a child is using a phone or a computer connected to internet, tell the child that some people on the internet pretend to be someone else to trouble children. They tell lies about themselves and give false information or photos.
- Do not talk or befriend strangers
- Do not go meet a person you know only online, even if he/she likes you or promises great things
- It is important to be safe and respectful on the internet. Do not give your name, address, school name, password to anyone on internet.

ii) Community Social Worker

- The CSW must have a good understanding of child sexual abuse and POCSO Act.
- Can sensitize members of community specially children & women and facilitate them in spreading awareness about the issue.
- Can build village level campaigns in support with the panchayat to raise awareness levels of the community about the issue of child sexual abuse.
- Can support a distressed family or child in reporting a case of child sexual abuse.
- Can help the distressed child and family in settling down in the community.
- Can take a follow up of the affected child's physical and emotional health, schedule follow- up medical examinations and counseling /therapy sessions for the child and the family.

NOTES

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TO COMPLAINT ABOUT CHILD ABUSE, PLEASE CALL US ON:

1800-102-7222 (Toll-Free)