



The Essentials of Child Protection

a handbook for beginners

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1/5 Of Us.



Introduction

Dear reader,

With one- fifth of the world's children, India is home to the second largest child population in the world. Accounting for the largest number of children in work, sexually abused children and the second largest number of children affected by HIV, India can arguably be seen as having the highest number of children facing exploitation and neglect. There are massive violations of the child's right to protection every single day that are under-recognized, and under-reported.

We realize that children are more vulnerable than adults, to conditions under which they live. Hence, they are more affected than any other age group by the actions and inactions of governments and society. There are national and international policies and legislation in abundance for the protection of children's rights. The Indian Constitution has provisions which guarantee that the State meets the basic requirements of the child and protect their human rights. India is a signatory to the United Nations Convention on the Rights of the Child (UNCRC). Yet, loopholes in the law coupled with the lack of effective implementation, cultural tolerance of certain practices, and general public apathy of the serious levels of harm faced by millions of children leave a lot to be done.

We believe there is a strong need to strengthen civil society's commitment to ensuring that child protection is understood and practiced by all of us who are stakeholders in ensuring the rights of children. This handbook would help in building capacities of stakeholders - organizations, individuals, families and communities and help us work towards proactively addressing issues of child protection, and realizing child protection rights of children.

The child laborer we see in our local grocery store, the domestic worker in our neighborhood, little children begging at traffic lights, the many cases of sexual assault on children we read about in the papers, and the hundreds of assaults that go unreported lead us to believe that urban or rural, rich or poor, gross child protection violations glare at us every where.

CHILDLINE 1098 is India's only 24-hour emergency phone outreach helpline service for children in need of care and protection. Available in 83 cities and towns, having responded to over 13 million calls for assistance since its inception in 1996, CHILDLINE 1098 is the only helpline service offering a comprehensive package of child protection services to children in India.

The CHILDLINE experience (engaging with non government organizations, government, and civil society across the country) tells us that child protection issues are not accorded adequate priority or investment. With this in the background CHILDLINE India Foundation entered into a strategic partnership with



Plan International (India) to strengthen child protection research and advocacy. At the time, Plan International globally articulated its commitment as an organization to child protection by framing a global child protection policy for implementation by each Plan unit around the world, and its partners. A key aspect of CIF's partnership with Plan that evolved from this was CIF providing technical support to Plan International (India) to strengthen its own understanding of child protection internally, and that of its partners.

This handbook is a ready reckoner of sorts specifically for any individual who would take on the role of facilitator or child protection champion in his / her space (organization / community). Hence, this handbook design incorporates some sections that are theoretical and informative,

while some sections are interactive, enabling the facilitator to create small orientation programs/ workshops for colleagues.

A lot of information in this manual has been compiled from various different sources which have been acknowledged in the section on "sources of information" at the end of this manual.

The exercise led CIF into a series of interactions with more civil society organizations across the country. A gap we found was that while many organizations have a child protection policy in place, there is very little material available that facilitated an understanding of child protection issues and provided simple guidelines for acting on child rights violations.

Hence, this handbook is designed for any organization in the civil society space working directly or indirectly, formally or informally with children, in communities, in educational institutions and recreational spaces. It aims to:

- Provide basic knowledge and understanding on the concepts of child rights and child protection violations.
- Create consciousness of the urgency for child protection to be accorded priority in society.
- Provide a framework for locating and acting on instances of child protection violations at the individual organization and community.
- Facilitate simple decisions on how to act on child protection violations at the individual, organizational and community level.
- Provide simple action points to prevent and address child protection violations.
- Empower the reader with information on the law relevant to child protection issues.



This handbook is organized into five chapters. These are outlined below :

1. An understanding of child rights
2. An understanding of child protection
3. Identification of child protection violations
4. Acting on child protection violations
5. Child protection and the law.

The information and tools presented in this handbook would help the user address problems through information sharing and training aimed at strengthening child protection policies and programs at various levels, depending on the scope and nature of their work. It would also be a useful resource for gaining a better understanding on the subject of child protection including ways of identifying violations of childrens' rights and addressing them in our day to day personal, social and professional lives. Tips on methods of presenting the content are given to the facilitator but these are not meant to limit creative presentation. The facilitator needs to plan the training based on the audiences' level of knowledge and experience.

This mainly aims at strengthening child rights in society by creating awareness, understanding and commitment among decision makers, opinion formers and everyone who has day to day contact with children. This handbook will help in responding to the need felt by organizations and individuals working with children in the civil society space. Although there are existing policies for child protection in a lot of organizations, there is a need for a 'how to', a basic resource on Child Protection, that will guide and support development of a child protection mandate across civil society organizations and the community at large.







1 The essentials of
CHILD RIGHTS



Introduction

This chapter aims to provide users of the handbook a basic understanding of what child rights are. We take you through a series of questions and reflection to define child rights. This understanding is critical to facilitate a rights based approach for programs and interventions with children. It introduces users to the United Nations Convention on the Rights of the Child (CRC). We spell out provisions in the Indian Constitution that articulate human rights entitlements which are also applicable to the children of India.

Objective

- To introduce a rights based framework while working with children.
- To Introduce the United Nations Convention on the Rights of the Child.
- To highlight provisions for child development enshrined in the Constitution of India.

To enable us to understand what child rights are it may be helpful to reflect on the following:

- What do children need?
Sample answers, add on to these: they need to be alive, nutritious food, good health, to be protected from harm and abuse, education, they need to play, express their opinions and be informed of developments that affect them.
- Are all children entitled to the same things?
Think of different types of children, gender, age groups, different cultures, different communities.
- Who is a child?
According to the law and according to you
- List some needs of children.
Try and classify them under survival, protection, participation, and development
- Who is responsible to provide these needs?
Sample answers: Parents, family, community, Non Government Organizations, local administration, Government
- Are all needs being met?
Examine your community. Where are the children? What are their needs? Are their needs being provided for?
- Which of these needs are non-negotiable entitlements that should be provided to every child?
Sample answers: food, clothing, shelter, love, family, education. List these out and engage in a discussion. Allow for the group to decide what the non-negotiable needs are. If there is an important need that is left out, then the facilitator should ask a provoking question to lead the group towards identifying the need.

We can thus define Child Rights as...

Child Rights represent basic entitlements that every child in the world should be able to do or to have. All children have the same rights. All rights are connected to each other and are equally important. These rights are enumerated in the United Nation's Convention on the Rights of the Child (CRC).

Note to the facilitator:

Rights are entitlements every child deserves to have. Those who are responsible to provide them are duty bound to do so. Rights reflect the most basic needs of children and are common to every child. If they are not fulfilled the child suffers, does not have the chance to develop or may not even survive. To make the exercise more experiential you could take participants through an exercise where they have to imagine they are children and list out three things each that made them happy, scared, and sad. Have a sharing discussion. Cluster these in four boxes as under



SURVIVAL



PROTECTION



PARTICIPATION



DEVELOPMENT

These are the four broad heads under which all child rights are clustered in the CRC.

The United Nations Convention On The Rights Of The Child (CRC)

Did you know?

- That the UN Convention on The Rights Of The Child took 10 years to be drafted? The first Declaration of the Rights of the Child was a 5 point declaration, drafted by Eglantyne Jebb (Founder, Save the children) in 1923. A revised version was adopted by the United Nations in 1959 but remained a statement of principles rather than a binding document. In 1978, a new and binding convention on the rights of the child was called for. By the end of the cold war – the first international legal instrument, The UN Convention on the Rights of the Child, (CRC), adopted by consensus entered into force as international law on September 2, 1990.
- That the CRC is a legally binding international instrument? It incorporates the full range of human rights—civil, cultural, economic, political and social rights.
- That the CRC is the only international Child Rights instrument that talks of children's participation? There is no universally accepted definition of child participation. Roger Hart describes participation as the process of sharing decisions which affects once life and the life of the community in which one lives. It is the means by which democracies are built and it a standard against which the democracies are measured.
- That the Convention sets out these rights in 54 articles and two Optional Protocols? It spells out the basic human rights that children everywhere have: the right to survival; To develop to the fullest; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life.
- That over the years Children's protection rights are steadily gaining ground? Issues of child abuse, child labour, trafficking are also gaining in profile along with basic developmental rights of education, health, social welfare and nutrition.
- That the four core principles of the Convention are non-discrimination; devotion to the best interests of the child; the right to life, survival and development; and respect for the views of the child? Every right spelled out in the Convention is inherent to the human dignity and harmonious development of every child. The Convention protects children's rights by setting standards in health care; education; and legal, civil and social services.
- That the CRC , adopted by the UN general Assembly was the most rapidly ratified international convention ever?: it was ratified within eight years by the UN's 189 member countries. Only two countries which have not ratified the convention are the USA and Somalia.
- That the CRC though extremely comprehensive and exhaustive and moving many leaps forward in providing a framework for addressing Children's Rights, does not talk about responsibility of the child? The only international instrument that talks about responsibility of the child is the African Charter for the Welfare Of The Child 1990.
- That by agreeing to undertake the obligations of the Convention (by ratifying or acceding to it), national governments have committed themselves to protecting and ensuring children's rights? And that they have agreed to hold themselves accountable for this commitment before the international community. States parties to the Convention are obliged to develop and undertake all actions and policies in the light of the best interests of the child.
- That compliance with the CRC is monitored by the Committee on the Rights of the Child, which is an independent international body? The committee has the responsibility to scrutinize governmental action to implement the Convention. 5 year progress reports on the state of children's rights are submitted by the government, and alternate or complimentary reports submitted by the NGOS.
- That India acceded to the CRC in 1992. We have submitted 2 periodic reports to the Committee on the Rights Of The Child. Our next 3rd and 4th periodic report is due in July 2008. The nodal Ministry for the child is the Ministry of Women and Child Development. India has also ratified the two optional protocols on Sale and Trafficking of Children and Child Pornography and the Use of Children in Armed Conflict.



The CRC Made Easy

Article 1

Everyone under 18 has these rights.

Article 2

All children have these rights, no matter who they are, where they live, what their parents do, what language they speak, what their religion is, whether they are a boy or girl, what their culture is, whether they have a disability, whether they are rich or poor. No child should be treated unfairly on any basis.

Article 3

All adults should do what is best for children. When adults make decisions, they should think about how their decisions will affect children.

Article 4

The government has the responsibility to make sure Children's rights are protected. They must help families protect children's rights and create an environment where children can grow and reach their potential.

Article 5

Family has the responsibility to help children learn to exercise their rights, and to ensure that their rights are protected.

Article 6

Children have the right to live.

Article 7

Children have the right to a name, and this should be officially recognized by the government. Children have the right to a nationality (to belong to a country).

Article 8

Children have the right to an identity – an official record of who they are. No one should take this away from them.

Article 9

Children have the right to live with their parent(s), unless it is bad for them. Children have the right to live with a family who cares for them.

Article 10

If a child lives in a different country than his/her parents do, they have the right to be together in the same place.

Article 11

Children have the right to be protected from kidnapping.

Article 12

Children have the right to give their opinion, and for adults to listen and take it seriously.

Article 13

Children have the right to find out things and share what they think with others, by talking, drawing, writing, or in any other way unless it harms or offends other people.

Article 14

Children have the right to choose their own religion and beliefs. Parents should help decide what is right and wrong, and what is best for the child.

Article 15

Children have the right to choose their own friends and join or set up groups, as long as it isn't harmful to others.

Article 16

Children have the right to privacy.

Article 17

Children have the right to get information that is important to their well-being, from radio, newspaper, books, computers and other sources. Adults should make sure that the information children are getting is not harmful, and help children find and understand the information they need.

Article 18

Children have the right to be raised by their parents if possible

Article 19

Children have the right to be protected from being hurt and mistreated, in body or mind.

Article 20

Children have the right to special care and help if they cannot live with their parents

Article 21

Children have the right to care and protection if they are adopted or in foster care.

Article 22

Children have the right to special protection and help if they are refugees, as well as all the rights in this CRC.

Article 23

Children with disabilities have the right to special education and care, as well as all the rights in the CRC, to enable them live a full life.

Article 24

Children have the right to the best health care possible, safe water to drink, nutritious food, a clean and safe environment, and information to help them stay healthy.

Article 25

Children in institutional care or in other situations away from home, have the right to have the rights above.

Article 26

Children have the right to help from the government if poor or in need.

Article 27

Children have the right to food, clothing, a safe place to live and to have all basic needs met.

Article 28

Children have the right to a good quality education. They should be encouraged to go to school and be educated to the highest level possible.

Article 29

Education should be relevant and should facilitate development of talent and abilities of children. It should also help children to live peacefully, protect the environment and respect other people.

Article 30

Children have the right to choose and practice their own culture, religion and speak their own language. Any minority and indigenous groups need special protection of this right.

Article 31

Children have the right to play and rest.

Article 32

Children have the right to protection from work that harms them, and is bad for their health and education. If they work, they have the right to be safe and paid fairly.

Article 33

Children have the right to protection from harmful drugs and from the drug trade.

Article 34

Children have the right to be free from sexual abuse.

Article 35

No one is allowed to kidnap or sell children.

Article 36

Children have the right to protection from any kind of exploitation (being taken advantage of).

Article 37

No one is allowed to punish children in a cruel or harmful way.

Article 38

Children have the right to protection and freedom from war. Children under 15 cannot be forced to go into the army or take part in war.

Article 39

Children have the right to help if they have been hurt, neglected or badly treated.

Article 40

Children have the right to legal help and fair treatment in the justice system that respects their rights.

Article 41

If the laws of the child's country provide better protection of rights than the articles in the CRC those laws should apply.

Article 42

Every child has the right to know their rights! Adults should know about these rights and help children learn about them, too.

Articles 43 to 54

These articles explain how governments and international organizations like UNICEF will work to ensure children are protected with their rights.

Note to the facilitator:

The CRC made easy has been adapted from Save the Children. The following websites will provide more information on the CRC:

www.crin.org

www.unicef.org



The Constitution Of India And Children

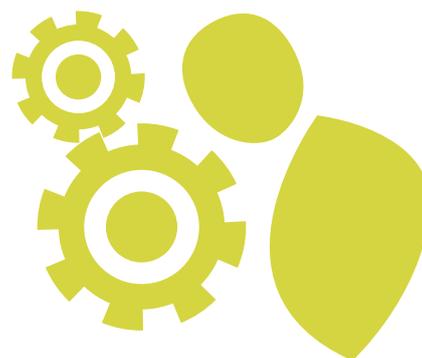
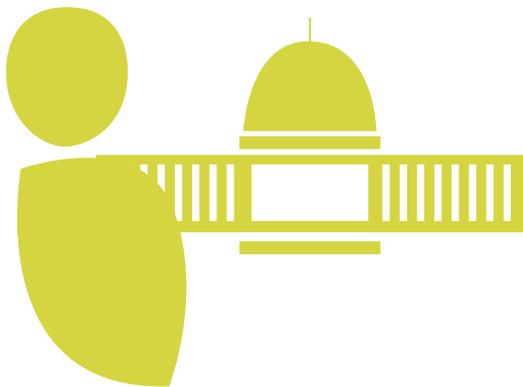
The Government of India has articulated its commitment to children through various provisions in the Indian Constitution. The Constitution of India is the basic law of the country that includes the fundamental rights and directive principles for every citizen.

The fundamental rights in the Constitution of India impose on the State a primary responsibility of ensuring that all the needs of children are met and that their basic human rights are fully protected. Fundamental Rights if violated can be brought before the Courts.

The Directive Principles lay down the guidelines the Governments have to follow. If they are violated they cannot be taken before the Courts but because of judicial interpretation, many of the directive principles have now become enforceable through legal actions brought before Courts.

The fundamental rights in the Constitution that directly relate to children are:

- Article 15(3) requires the State to make special provisions for children
- Article 21A provides for free and compulsory education to all children of the age 6-14 years in such manner as the State may by law determine. This Article 21A of the Constitution of India envisages that children of age group 6 to 14 have a fundamental right to education.
- Article 23 prohibits trafficking of human beings including children
- Article 24 mandates that no child below 14 can work in any hazardous occupation or industry



The Directive Principles directly relating to children are:

- Article 39(e)&(f) direct that the state policies are directed towards securing the tender age of children.
- Article 45 states that the state shall endeavor to provide early childhood care and education for all children until they complete the age of six years
- Article 51A mentions that it shall be the fundamental duty of the parent and guardian to provide opportunities for education to his child or as the case may be, ward between the age of six and fourteen.
- 86th Constitutional Amendment-Right to Education, is a fundamental right. It was after long struggle that the 86th constitutional amendment to make the right to education as a fundamental right in 2001 was made. The State laws have not yet been drafted. The Government of India has prepared a draft Bill on the Right to Education. The right to Education Bill, 2005, seeks to give effect to the 86th Constitutional Amendment. The preamble of the draft Bill states that it is to put into effect the Right to Free and Compulsory Education to all children in the age group of 6-14 years.

Did you know?

- That the Government of India adopted a National Policy for Children in 1974? This was a follow-up of this commitment and being a party to the UN declaration on the Rights of the Child 1959. The policy reaffirmed the constitutional provisions and stated that the State would provide adequate services to children, both before and after birth and through the period of growth to ensure their full physical, mental and social development.
- That the Government of India framed a National Charter for Children on 9th February 2004? This was to reiterate its commitment to the realization of children rights in India. It further stipulates the duties the State and community towards children and that of children and young people to society and the nation.
- That the Government of India introduced a National Plan of Action for Children in 2005? The National Plan of Action spells out challenges in realizing child rights for the children of India and outlines areas for specialized intervention. Its implementation will be through national measures and State Plans of Action for Children.
- That the Government of India has constituted the National Commission for Protection of Child Rights? The Commission is a statutory body notified under an Act of the Parliament on December 29, 2006. It has a chair person, and six members from the fields of child health, education, child care and development, juvenile justice, children with disabilities, elimination of child labour, child psychology or sociology and laws relating to children. The Commission has the power to inquire into complaints and take suo motu notice of matters relating to deprivation of child's rights and non-implementation of laws providing for protection and development of children, among other things.



2 Understanding CHILD PROTECTION



Understanding Child Protection

Introduction

This chapter aims to present a basic understanding of child protection to the user. It brings the user face to face with child protection violations we come across in our everyday lives, in our homes, communities and workspaces. It introduces the concept of a protective environment for children and discusses the elements that constitute it. This section then invites participants to analyze child protection in their organizations.

Many children and young people living in our communities live in circumstances that are “difficult”. Many children live without proper housing, without clean drinking water or adequate sanitation; numerous children suffer from chronic illnesses; many do not attend school and a sizable proportion work at an early age. There is also a significant minority that unfortunately experiences circumstances that are more extreme or difficult. These children and young persons suffer from inadequate care ranging from gross neglect to violent forms of mental, physical or sexual abuse; are commercially exploited by being trafficked or sold for labour; are taken in as child soldiers in armed conflicts ; are orphaned or displaced as refugees.

Stories of abuse and exploitation of children are all around us. We read about them in the papers, watch them on the news, see hundreds of children being exploited as we go about our every day lives. However, it is about time that we realize that the safety, care and protection of children is the responsibility of us all. Each one of us has a part to play. As an organization, as an individual, as an adult, as a community and as a State, it is our responsibility to provide adequate care and protection to our children and young people.

Objective

- To share an understanding of child protection
- To establish that child protection is a cross cutting issue
- For professionals/users of the handbook to examine child protection in their own organizations
- To initiate discussion on factors and stakeholders responsible for child protection violations

Child Protection

Every child has a right to protection. This not only includes children who are in difficult circumstances and those who have suffered violence, abuse and exploitation, but also those who are not in any of these adverse situations and yet need to be protected in order to ensure that they remain within the social security and protective net.

Child Protection refers to protection from violence, exploitation, abuse and neglect. Violations of the child’s right to protection, in addition to being human rights violations, are massively, under-recognized and under-reported and are barriers to child survival and development. Children subjected to violence, exploitation, abuse and neglect are at risk of: shortened lives, poor physical and mental health, educational problems (including dropping out of school), poor parenting skills later in life, homelessness, vagrancy and displacement.

Conversely, successful protection increases a child’s chances to grow up physically and mentally healthy, confident and self-respecting, and less likely to abuse or exploit others, including his or her own children.

Child protection is about protecting children from or against any perceived or real danger/risk to their life, their personhood and childhood. It is about reducing their vulnerability to any kind of harm and in harmful situations. It is also about protecting children against social, psychological and emotional insecurity and

distress. It must ensure that no child falls out of the social security and safety net and those who do, receive necessary care and protection to be brought back into the safety net.

Child protection is integrally linked to every other right of the child. The failure to ensure children's

right to protection adversely affects all other rights of the child and the development of the full potential of the child. Child protection is about protecting every right of every child. It must also relate to children's capacity for self-reliance, self-defence, and to the roles and responsibilities of family, community, society and State.

World Health Organization Definitions of Child Abuse

Child Maltreatment:

Maltreatment sometimes referred to as child abuse and neglect, includes all forms of physical and emotional ill-treatment, sexual abuse, neglect, and exploitation that results in actual or potential harm to the child's health, development or dignity. Within this broad definition, five subtypes can be distinguished – physical abuse; sexual abuse; neglect and negligent treatment; emotional abuse; and exploitation.

Physical Abuse:

Physical abuse is the inflicting of physical injury upon a child. This may include burning, hitting, punching, shaking, kicking, beating or otherwise harming a child. The parent or caretaker may not have intended to hurt the child. It may, however, be the result of over-discipline or physical punishment that is inappropriate to the child's age.

Sexual Abuse:

Sexual abuse is inappropriate sexual behaviour with a child. It includes fondling a child's genitals, making the child fondle the adult's genitals, intercourse, incest, rape, sodomy, exhibitionism and sexual exploitation. To be considered 'child abuse', these acts have to be committed by a person responsible for the care of a child (for example a baby-sitter, a parent, or a daycare provider), or related to the child. If a stranger commits these acts, it would be considered sexual assault and handled solely by the police and criminal courts.

Emotional Abuse:

Emotional abuse is also known as verbal abuse, mental abuse, and psychological maltreatment. It includes acts or the failures to act by parents or caretakers that have caused or could cause, serious behavioral, cognitive, emotional, or mental trauma. This can include parents/caretakers using extreme and/or bizarre forms of punishment, such as confinement in a closet or dark room or being tied to a chair for long periods of time or threatening or terrorizing a child. Less severe acts, but no less damaging, are belittling or rejecting treatment, using derogatory terms to describe the child, habitual tendency to blame the child or make him/her a scapegoat.

Neglect:

It is the failure to provide for the child's basic needs. Neglect can be physical, educational, or emotional. Physical neglect can include not providing adequate food or clothing, appropriate medical care, supervision, or proper weather protection (heat or cold). It may include abandonment. Educational neglect includes failure to provide appropriate schooling or special educational needs, allowing excessive trancies. Psychological neglect includes the lack of any emotional support and love, never attending to the child, substance abuse including allowing the child to participate in drug and alcohol use.

Who are Children Who Need Protection

The need to protect some children is certainly greater than others due to their specific socio-economic and political circumstances and geographical location. These are the children who are more vulnerable in terms of the harm/danger/risk to their right to survival/development/participation.

They are children in difficult circumstances and include:

- Homeless children (pavement dwellers, displaced/evicted, etc.)
- Refugee and migrant children
- Orphaned or abandoned and destitute children
- Children whose parents cannot, or are not able to take care of them
- Street and working children
- Child beggars
- Victims of child marriage
- Trafficked children
- Child prostitutes
- Children of prostitutes
- Children of prisoners
- Children affected by conflict /civil strife
- Children affected by disasters both natural and manmade
- Children affected by substance abuse, HIV/AIDS and other terminal diseases
- Disabled children
- Children belonging to ethnic, religious minorities and other socially marginalized groups
- The girl child
- The unborn child
- Children in conflict with law (those who commit crimes)
- Children who are victims of crime

Protective Environment

A protective environment is one in which a child is assured of living in safety and dignity. It is one that helps ensure that children are in school, laws are in place to punish those who exploit children, governments are truly committed to protection, communities are aware of the risks which children face, civil society addresses certain “taboo” issues and monitoring is in place to identify children who are at risk of exploitation. Children will never be free from exploitation until all levels of society—from the family to the international community work together. When any of the layers of the protective environment is stripped away, a child becomes more vulnerable to exploitation, abuse and violence. Let us discuss and unpack the elements of a protective environment.

The element of a protective environment have been developed by UNICEF.



Unpacking Elements of a Protective Environment

Attitudes, traditions, customs, behaviour and practices:

The environment will not be protective for children in societies where attitudes or traditions facilitate abuse. Some such examples that we come across in our day to day interactions are child marriage, dedication (for religious purposes), female genital mutilation, children co-opted into traditional family trade like circuses, dance troops, migrant agriculture labourers, and carpet weavers. Myths such as sexual intercourse with minors cures sexually transmitted diseases; beating children is the best way to discipline them; sending a child to work to earn for its family is better than having them all starve are some of the many belief that violate child rights.

Points to ponder:

A society that turns a blind eye or is passive about any form of violation of child rights only facilitates abuse. A child is more likely to be protected in a society where all forms of abuse and violence against children are taboo and where the rights of children are broadly respected by customs and traditions.

Governmental commitment to fulfilling protection rights:

The Government's commitment and priority to child protection is critical to the creation of a protective environment for its children. The Government needs to demonstrate this commitment through the acceptance and recognition of problems, formulation of appropriate policy, strong legal frameworks and programming, and allocation of adequate resources to programs. It needs to ensure that mechanisms for child protection are child friendly, functional and in a position to reach children in need of protection.

Some such initiatives taken by the Indian Government towards creating a protective environment for children are the Juvenile Justice (Care and Protection) Act, 2000, the CHILDLINE 1098 service in partnership with CHILDLINE India Foundation, the Integrated Program for Street Children, Signing and ratification of the United Nations Convention on the Rights of the Child (UNCRC), and ratification of the Optional Protocols, the National Plan of Action 2005, the National Policy for Children, 1974, Study on Child Abuse 2007.

Points to Ponder:

We need to ask ourselves: Is the Government doing enough? Are adequate resources being allocated to child protection? Are policy and legislation really facilitating a protective environment? Are services reaching children? Is the legal framework for protecting children strong enough? As members of civil society is it just enough for us to ask these questions? As members of civil society, it is not enough for us to just raise questions it is important to find constructive ways to strengthen government intervention while at the same time holding the government accountable.

Open discussion and engagement with child protection issues:

To begin with children need an environment which is conducive for them to speak up about child rights violations and abuse concerning them or other children. Civil society engagement with child protection issues strengthen a protective environment.

Discussion on children's rights and child protection need to be prioritized by civil society. The silence around the issue of abuse and violence against children needs to be broken.

It is interesting to note that in CHILDLINE, less than 6% of calls received are related to sexual abuse. We need to ask-Is there no abuse or is the environment not conducive enough for children to report abuse?

In a case of pedophilia in Mumbai, a British National sexually abused street boys in a shelter home he initiated and managed. It took CHILDLINE 1098 five years to get a conviction. In this case the sustained engagement with the media in highlighting the issue played a key role in influencing public opinion, resulting in the conviction.

Points to Ponder:

Why the silence? Why do we as society and individuals avoid talking about child protection issues? Do we see a link between child protection/child rights violations and patriarchal systems on which most of our family structures are based? As individuals, as civil society do we need to take a more proactive role?

Protective Legislation And Enforcement

An adequate legislative framework designed to protect children from abuse, its implementation and enforcement are essential elements of a protective environment.

All child protection issues in India are addressed under the Juvenile Justice (care and protection) Act, 2000.

This Act however, remains to be implemented in the fullest sense in many parts of the nation. There is no comprehensive legislation that addresses child abuse in India. The Indian Government conducted a large nation wide study on the child abuse in India. The findings of the study are indicative of the need for stronger and comprehensive legislation to address child abuse. In a recent rescue of children employed as bonded labourers in a large circus in Maharashtra, the CHILDLINE team is in a struggle with the state governments concerned in obtaining the compensation that the children are entitled to under the Bonded Labour Act. This is due to the fact that the procedure for implementation of the Act is unclear in state governments.

Points to ponder:

How many of us are aware of legislation pertinent to child protection? Do we know what to do when we see a child in distress?

The capacity to protect among those around children

Health workers, teachers, police, social workers and many others who interact with children need to be equipped with the motivation, skills, and authority to identify and respond to child protection issues. The capacity of families and communities to protect their children is essential in a protective environment.

At CHILDLINE in our feedback sessions with CHILDLINE the most common complaint received from the children is the shoddy treatment received by them from the Allied Systems (doctors, nurses, police, shelter staff, parents, relatives). We realize that often this insensitivity on the part of the care givers is due to the fact that they do not know any better. They have never been oriented to understand child rights and child protection issues. In places where CHILDLINE implements its National Initiative for Child Protection (NICP), a national orientation and sensitization initiative of members of the Allied Systems, a noticeable difference in attitudes of members of allied systems is reported by children who are users of the CHILDLINE service.

Children's life skills, knowledge and participation

Children are less vulnerable to abuse when they are aware of their right not to be exploited, or of services available to protect them. With the right information, children can draw upon their knowledge, skills and resilience to reduce their risk of exploitation.

Monitoring and reporting

An effective monitoring system records the incidence and nature of child protection abuses and allows for informed and strategic responses. Such systems are more effective where they are participatory and locally-based.

Services for recovery and reintegration

Child victims of any form of neglect, exploitation or abuse are entitled to care and non-discriminatory access to basic social services. These services must be provided in an environment that fosters the health, self-respect and dignity of the child.

Exercise (1 hour):

These case-situations can be discussed in groups. Keeping in mind the basic principles of child rights, each group should be encouraged to come up with realistic solutions. Refer to Tips for facilitator in the section on identifying abuse on page 33 if this exercise is being conducted in a group.

Reflection is invited on:

- The stakeholders in each of the situations below
- Gaps in the system
- Mechanisms required to come into play
- Preventive action needs to be taken

Case Studies for analysis:

CASE 1: You are sitting in a staff meeting. Your team leader orders “Chai” from the nearest tapri/ chai wallah stall. A small boy, named Deepu, who looks 10-12 years old, comes to deliver chai. You are disturbed. Deepu is a small child. He should not be working. He might also be denied opportunities to go to school. Your organization has been ordering tea every day from this stall. If you take action against the tea shop, would the child be forced to go somewhere else and work?

CASE 2: Everyday you hear screams from your neighbour’s house. They have a 15-year-old working as a domestic maid. At times, you see her outside with bruises on her body. She looks depressed and scared. As a neighbour you share good relations with this household. But the thought that they are abusive employers disturbs you. What next?

CASE 3: You are a shelter-in-charge. You notice that some older boys bully younger children in the shelter home. Over some days you have started to note that Sahil looks more and more withdrawn. He has stopped playing with other boys and doesn’t feel like talking to anyone. You suspect abuse of some form. What action should be taken?

CASE 4: You are a child protection officer in your organization. The morning newspaper reports that a hearing impaired child was often being beaten in his classroom. The child belongs to a community in close proximity to one you work in. The parents had reported this incident to the school but the school defends its teachers and has demoted the child to a lower grade. Do you have a role to play?

CASE 5: You stop your car at the traffic signal. A woman with a malnourished looking infant in her arms comes around begging, asking for food for the child. You give her money, hoping that this would help her buy food for herself and the child. You see them again next week at the same traffic signal in the same plight. Where do the answers lie?

CASE 6: You have just joined your organization as an intern. You hear that the organization has recently been successful in rehabilitating a runaway child. The media is interested and you are assigned the task of giving out information to the reporters. What would you keep in mind?

CASE 7: 12 year old Raju has just landed at Mumbai Railway Station. He had a fight with his family and fled. He does not wish to return. What next?

Note to the facilitator:

Before commencing the exercise below, it may be worthwhile to refer to Urie Bronfenbrenner’s Ecological Systems Theory discussed in detail on page 31, and introduce to participants to the systems and stakeholders that affect the child.

As professionals working in development it may be helpful to answer the following questions to determine a position on child protection.

What is the vision of your organization towards working with children?

(Please attempt to answer this questions even if your programs do not bring you in direct contact with children)

.....

What are the various circumstances in which you work with children/engage with children/encounter children

.....

How would you define child protection

.....

What support does the Indian Law give towards the different measures of child protection?

.....

What principles of the CRC should be kept in mind while dealing with children who need care and protection?

.....



Did you Know ?

- That an exercise on budgeting conducted by the Ministry of Women and Child Development, Government of India revealed that the share of the Union budget for children in 2006-07 was 4.91%, of this the share of child protection was 0.034%?
- That CHILDLINE 1098 since its inception in 1996, has received 67,000 calls for assistance in locating missing children?
- That in the recent serial murders uncovered in NOIDA's Nithari village, at least 20 of the 38 persons sexually assaulted, cannibalized and murdered were children?
- That India has the world's largest number of sexually abused children, with a child below 16 years raped every 155th minute, a child below 10 every 13th hour, and one in every 10 children sexually abused at any point of time?
- That estimates indicate that between 40 and 50 percent of marriages in India involve a girl under 18 or a boy under 21, which are the legal ages for marriage?
- That most subtle forms of violence against children such as child marriage, economic exploitation, practices like the 'Devadasi' tradition of dedicating young girls to gods and goddesses, genital mutilation in parts of the country etc., are justified on grounds of culture, tradition and religion?
- That the decade, 1991 to 2001 has seen a sharp decline in the child sex ratio from 945 to 927 females, per 1000 males?
- That interpolation of census figures by the National Labour Institute indicates that out of 203 million children between the ages of 5 and 14, 116 million are in school, 12.6 million are in full-time employment, and the status of 74 million is unknown? And that most, if not all, of the 87 million children, not in school, do housework, work on family farms, work alongside their parents as paid agricultural labourers, work as domestic servants, or are otherwise employed.
- India and Pakistan are the main destinations for children under 16 who are trafficked in South Asia? Some more shocking statistics: 25 per cent of approximately 2.3 million sex workers in India are minors.

Major findings of a national study on child abuse conducted by the Ministry of Women and Child Development covering 13 states and over 12000 children

- Two out of every three children were physically abused.
- Out of those children physically abused in family situations, 88.6% were physically abused by parents.
- 65% of school going children reported facing corporal punishment i.e. two out of three children were victims of corporal punishment.
- 53.22% children reported having faced one or more forms of sexual abuse.
- 21.90% child respondents reported facing severe forms of sexual abuse and 50.76% other forms of sexual abuse.
- Children on street, children at work and children in institutional care reported the highest incidence of sexual assault.
- 50% abuses are persons known to the child or in a position of trust and responsibility.
- Most children did not report the abuse to anyone.
- Every second child reported facing emotional abuse.
- Equal percentage of both girls and boys reported facing emotional abuse.
- In 83% of the cases of emotional abuse parents were the abusers.
- 48.4% of girls wished they were boys.





Identification of
3 CHILD PROTECTION
VIOLATIONS



Identification of Child Protection Violations

Introduction

This chapter aims to provide the professional with a framework and tools to generate consciousness and awareness about child protection. In this chapter we introduce Urie Bronfenbrenner's Ecological systems theory that places the child at the centre of complex systems and relationships that affect him/her. It encourages professional to identify and locate child protection violations within a system that affect a child and to think of systemic change as the answer to ensuring a protective environment for children. A detailed in-depth case study with questions for discussion has been presented for analysis to enable the professional to identify and locate child protection violations. Guidelines and training tips for a facilitator have also been provided. The suggested methodology of this chapter is a workshop setting preferably in a group. This would facilitate experiential learning and sharing of experiences.

Objective

- To locate the child and child protection violations within systems that affect him or her
- To understand the need for systemic change in creating a protective environment for children
- To create an awareness in the professional that child protection violations are rampant
- For the professional to be alert to and to be capacitated to identify child protection violations

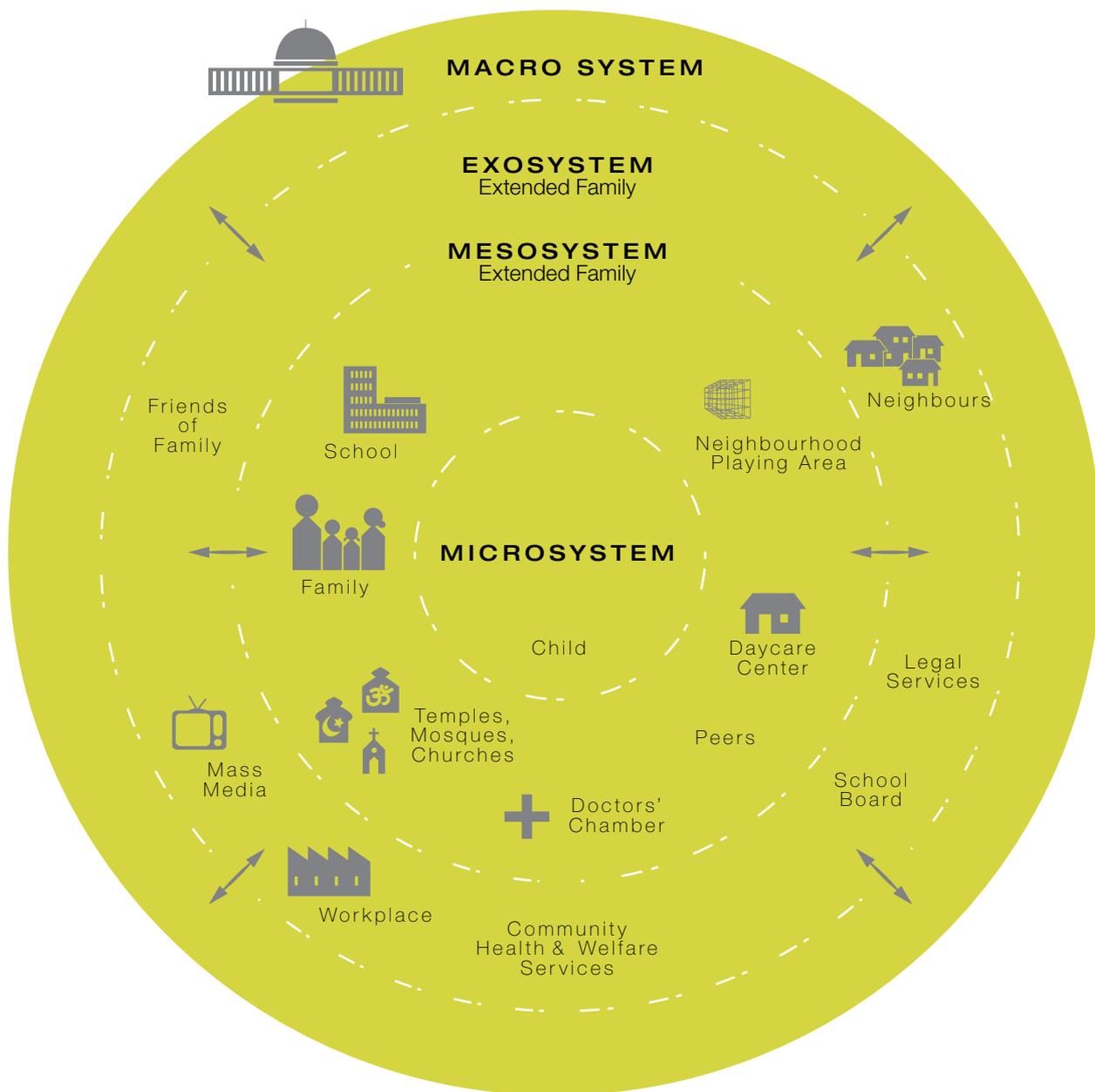
Urie Bronfenbrenner's Ecological Systems Theory:

The ecological systems theory explains how everything in a child and the child's environment affects how a child grows and develops. According to the ecological systems theory different levels of the environment influence a children's development. These are labeled as the microsystem, the mesosystem, the exosystem, and the macrosystem.

The microsystem is the small, immediate environment the child lives in. Children's microsystems will include any immediate relationships or organizations they interacts with, such as their immediate family or caregivers and their school or daycare. How these groups or organizations interact with the child will have an effect on how the child grows; the more encouraging and nurturing these relationships and places are, the better the child will be able to grow. Furthermore, how a child acts or reacts to these people in the microsystem will affect how they treat her in return.

Bronfenbrenner's next level, the mesosystem, describes how the different parts of a child's microsystem work together for the sake of the child. For example, if a child's caregivers take an active role in regularly visiting the school, or taking the child routinely for immunization, this will help ensure the child's overall growth. In contrast, if a parent cannot pay attention to the child's education because she has to work 15 hours a day, or a parent does not understand the need for a child to be immunized because she or he is not aware, this will hinder the child's growth and development.

The exosystem level includes the other people and places that the child herself may not interact with often herself but that still have a large affect on her, such as parents' workplaces, extended family members, the neighborhood, etc. For example, if a child's parent loses her/his job, it may have negative affects on the child if her parents are unable to pay bills or buy food; however, if her parent receives a promotion and a raise at work, this may have a positive affect on the child because her parents will be better



able to give her her physical needs. Bronfenbrenner's final level is the macrosystem, which is the largest and most remote set of people and things to a child but which still has a great influence over the child. The macrosystem includes things such as the relative freedoms permitted by the national government, cultural values, the economy, wars, etc. These things can also affect a child either positively or negatively.

Understand that when systems fail children are the most vulnerable and are the most adversely affected.

Exercise 1 (30 min)

Engage in a discussion in a group on how systemic failure create child protection risk which result in violations.

Exercise 2: Case Study-Mohits Dilemma

Objective of the group work exercise:

It is hoped that at the end of the case analysis session participants would be able to:

- Explain and analyze risks for children from a systems perspective
- Get motivated to take a proactive stand on child protection violations
- Describe the methods or 'how to' of locating abuse
- Clarify ways in which they can take action to protect vulnerable children

Time required: 2 - 3 hours (approximately)

The content of this session will depend on the training schedule but may include the following:

Welcoming address (5 minutes).

Opening speech (15 minutes).

Introduction of trainers and participants (30 minutes).

Expression by participants of what they expect from the workshop (20 minutes).

Explanation of workshop objectives and harmonization with the expectations (15 minutes).

Materials:

Mohit's dilemma case study (one copy for each participant); Flip chart and markers, copies of the Locating Abuse framework for all participants



Tips for a facilitator in a workshop setting:

Beginning the workshop- Introductions

This would be an exercise which helps participants get to know each others and the facilitator. Depending on the existing level of familiarity the facilitator may use the following pointers:
Names.

About themselves/interests

Experience in working on child rights/protection issues.

The facilitator may include other points deemed necessary in each context. Depending on availability of time and number of participants, the facilitator may use self introductions or have an interactive game to break the ice among participants.

Expectations:

The exercise here is to hear and understand what the participants expect from the workshop and to use the information to modify the objectives, content and structure to accommodate the expectations.

Objectives:

This would also be the time to share the workshop/training objectives with the group and clarify what is within the scope of the workshop and what may not be possible to accomplish in terms of expectations of the participants.

Exercise:

It is suggested that the facilitator start with an ice breaking exercise to build rapport with and amongst the participants.

The chief content block for this workshop is a case study called 'Mohit's dilemma' which would function as a starting point for generating a discussion on issues of child protection.

The case study should be shared with the participants and they could be asked to work individually or in small groups of 2-3 people depending on the size of the group.

Once the group had carefully read the case study, the facilitator should put the questions (given below) up on the white board or flip chart where everyone can see them and ask the group to discuss amongst themselves the answers to each of the questions and capture the key points from all the members in the smaller groups. The group would require between 30-45 minutes to have a discussion on each of the questions asked.

The different groups should then be asked to share their responses one by one and the facilitator should capture the responses on the flip chart for each question. This would then be followed by a discussion led by the facilitator on each of the questions. This would be the time when the facilitator should clarify and share information on issues of child protection building on the information/ideas presented by the participants. (refer to Tips for the Trainer)

Mohit's Dilemma- A case study

A day in the life of Mohit Anand, Senior Programme Manager- Service International

Mohit has been working with Service-International for two years now and lives in a rented flat with a colleague in Delhi. Every morning, at 6 a.m., he goes for a jog in the neighborhood park before dropping in at the Mother Dairy near-by for milk. One of the common sights every day as he goes about his morning routine is a group of children carrying large plastic sacks, digging into garbage bins, looking for scraps that they can sell. It is a disturbing sight and Mohit believes that these children should have been somewhere else. But then he is not really sure what the solution could be.

Today, as he readies himself for work at home, he notices the domestic chores are being done by a twelve-year-old girl who is substituting for her mother. Sonia, who is unwell has sent her daughter instead. This makes Mohit uncomfortable. He tries to send the girl home but his flat mate, Arun, says the house needs cleaning. Sonia has been absent for almost 4 days. Instead of the family losing out on 4 days worth of salary, it is better to let the girl fill in for her mother so that they get the money they need.

As Mohit is leaving for work, he reminds himself that today is his four-year-old nephew's birthday and he needs to buy him a present before he goes out with the family in the evening. He walks in to the office still thinking about what gift he could get for his nephew, he notices the admin-in-charge, Shikha, having an argument with one of the support staff people.

When Mohit tries to find out if it is anything serious, Shikha, tells him that the person was requesting a small loan to marry his 15 year old daughter off because the family had discovered that she had a boy-friend and that she might be pregnant. Shikha was in a bind-she knew that it is against the law to marry a minor but the family was also very disturbed and worried about the community's response to the episode and its consequences for the future of the girl. They know that all the arrangements have already been made for the girl to be married.



On the street



At home



Shall I help Shikha or buy the B'day present for my nephew?

In the office



Questions for the audience

Tips for the facilitator

1. Could you think of other situations where you see children in difficult circumstances on a day to day basis?

e.g. children begging; street children; children working as vendors/labourers

Document the participants responses on the board. Encourage the group to think of specific, everyday situations like “ my neighbor employing a child”; “ I see a child begging outside my office complex everyday”

2. What do you think are the potential child protection risks that children involved in rag-picking would have to deal with?

e.g. health hazards; trafficking; getting mugged

Build on these responses and share some more possible risks that have been missed out by the group. Take an example each of a vulnerable child in an urban and rural setting and identify potential risks within those situations.

Resources : Model “Locating Risk’, from ‘Childline at my fingertips, pg 31

Urie Bronfenbrenner’s ecological systems theory that looks at the development of children within the system of relationships that for their environment.

3.What is your opinion on Sonia’s daughter substituting for her mother as a domestic help?

e.g Its okay because Sonia’s daughter does not have a choice; Ideally she should be going to school but then how would the family sustain themselves if she does not help out?

Document the different opinions on the board. Encourage the group to think about and articulate different opinions. Its important to recognize how some of us rationalize such violations of rights, some of us take a stand and are for or against it while some are still unsure. The facilitator must capture these diverse opinions.

4. What would any other privileged child who is Sonia’s age be doing at this stage in their life?

e.g. Going to school, having enough time for play and recreation and so on and so forth

What would participants want from their own children. List these out. Ask why it is so easy to rationalize for another child. Does it reflect our own prejudice and the fact that we do not believe in every right for every child.

5. What kind of disparities and inequalities do you see in this story?

e.g. One child being asked to stay at home and share responsibility while another one goes to school and enjoys freedom; Sonia cannot afford to send her daughter to school while Mohit is thinking of an exciting gift for his nephew.

Encourage a discussion on disparities that we see in our everyday, real lives, how this disparity establishes different rights for different people. The CRC explains how all children have equal rights regardless of circumstances, so how is it that these disparities are acceptable and are so rampant?

Questions for the audience

Tips for the facilitator

6. In your opinion, how should Shikha's problem be dealt with?
e.g. The wedding should be stopped; Register a complaint with the police; Termination of pregnancy

This particular situation allows people to think from a wide range of perspectives and it's important to facilitate the group towards articulating these different perspectives non-threateningly, without bringing in our own judgment as a facilitator. Make sure you highlight the moral, religious, social and legal dilemmas that we see in this particular situation. Lead the group into a discussion and reflection of what action they, as individuals would have taken in a similar situation.

A note of caution:

The facilitator should be very careful when facilitating this discussion. He/she should feel confident of their own abilities to lead the group to a closure without feeling threatened or judged and equipped with adequate knowledge/information. It is advisable to have ready references or resources that the group can be directed to if they need more information or clarity on probable outcomes from the standpoint of child protection.

7. What do you think is responsible for the different violations that you have read about in the case study?
e.g. unemployment; poverty

You could refer to the following list to ensure that all factors are articulated- displacement, migration, development, illiteracy, over-population, disasters – natural and man-made, conflict and war.

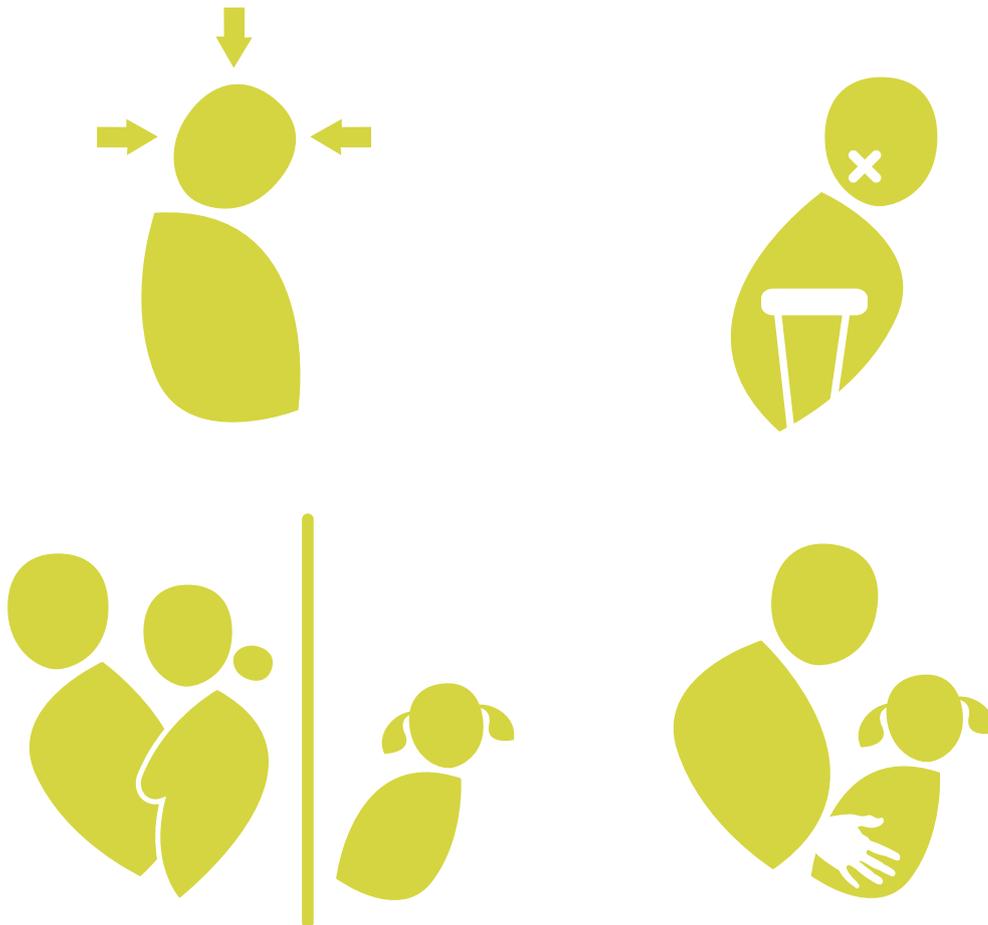
For both Q.7 # Q.8.

Once all the responses for questions 7 and 8 have been recorded, it's important to establish the linkages for the group between both the 'what' and the 'who'. Highlight how the child (in this case the rag picking child) is victim of the 'who' and the 'what' not working together to ensure the protection of the child.

8. Who would you identify as the stakeholders when we talk about issues of child protection?
e.g. Government, civil society/community, NGOs, police and law-making bodies

For those working with children or for any one who has contact with children here are some helpful pointers in identification of abuse

INDICATORS OF PHYSICAL, EMOTIONAL, SEXUAL ABUSE AND NEGLECT



Physical Indicators:

- Unusual marks, bruises, lacerations or burns
- High incidence of accidents or frequent injuries, swellings to face and extremities
- Consistent hunger
- Failure to thrive or malnutrition
- Poor hygiene resulting in health problems
- Inappropriate clothing
- Consistent lack of supervision especially in dangerous activities or for long periods
- Unattended physical problems or medical needs
- Abandonment
- Health or dietary practices which endanger the child's health or development

Behavioral Indicators:

- Parent/caregiver gives inappropriate explanation of child's injury
- Gives inconsistent versions about occurrence of injuries, burns, etc.
- Inappropriate clothing e.g. long sleeved coverage on hot days
- Apprehension when other children cry or shout
- Behavioural extremes e.g aggressiveness or withdrawal
- Fear of parents/carers
- Afraid to go home
- Compliant, passive, withdrawn, tearful and/or apathetic behaviour
- Extreme wariness especially in case of adult contacts
- Attaches too readily to strangers
- Discloses sexual abuse
- Sophisticated or unusual sexual behaviour or knowledge
- Constant complaints of headache and or abdominal pains
- Difficulties at school or change in level of performance at school
- Persistent habit disorders eg. Sucking, biting, rocking
- Sleep disorders
- Serious difficulties relating to peers and/or adults
- Self-destructive behaviour
- Very low self esteem
- Child states they have no carer
- Isolation from peer group
- Child has a history of running away from home

Parental/familial Indicators in abusive families:

- Many personal and marital problems
- Economic stress
- Parent(s) were abused as children themselves, were raised in homes where excessive punishment was the norm, and use harsh discipline on own children
- Highly moralistic
- History of alcohol or drug abuse
- Are easily upset, have a low tolerance for frustration
- Are antagonistic, suspicious and fearful of other people
- Social isolation, no supporting network of relatives or friends see child as bad or evil.
- Little or no interest in child's wellbeing;
- Do not respond appropriately to child's pain
- Explanation of injuries to child are evasive and inconsistent
- Blame child for injuries ; constantly criticize and have inappropriate expectations of child
- Take child to different physicians or hospital for each injury



4 Acting on CHILD PROTECTION VIOLATIONS

Acting on Child Protection Violations

Introduction:

This chapter aims to share ways in which stakeholders across all levels can address violations of child protection at the preventive and treatment stages. At the preventive level it introduces an understanding of child protection risk and provides professionals a systematic framework for understanding risk areas and taking measures to de-risk spaces. It presents general guidelines and options from which users can develop specific action plans to be implemented at the individual, organizational and community level. Through case studies it further encourages discussion on intervention steps that could be taken to manage a situation where a child's right to protection has been violated.

Framework for acting on Child Protection violations

Proactive/Preventive Guidelines	Controlling/Managing/Actions/Treatment
Commitment and buy-in from individuals, organizations and community to identify and act against any child protection violation	A commitment and alertness from organizations to identify and immediately act in situations of child protection violations
Commitment from the organization to identify child protection risk areas and take measures to minimize risk for children in the work space and community	Immediately reach the child and remove her/him from the situation
Minimizing and managing child protection risk through identification of risk areas and proactive measures to reduce risk	Initiate access to health care/ counseling and protection services based on what seems to be a priority need for the child
Empowerment through awareness and understanding amongst all stakeholders of laws, policies, systems of redressal and what is meant by child protection and what constitutes violation of the same	Initiate legal action simultaneously and ensure that the process is followed through to a closure and justice for the victim
Strong, effective systems of redressal in place- Child Protection Officers in all organizations; Monitoring committees in institutions;	Establish linkages in the community or in institutions for long term rehabilitation of the child
Knowledge of and access to the law, legal systems to address and prevent abuse	Listen to the child and ensure s/he has a role to play in all decisions. Keep the child informed all the time of what the next step is going to be.
Knowledge of and access to services like CHILDLINE and other service providers like residential care institutions, counseling centres, health care facilities	Take the issue forward in the organization and community.
Organizations and institutions to commitment to ensuring legal action against perpetrators of abuse	Through education and awareness identify other potential risk areas and take proactive measure to prevent child protection violations.
Organizations commitment to training all professionals like teachers, doctors, police who come in contact with children during the course of their work, to identify and act on violations of child protection	Address loop holes and gaps in the service delivery mechanism.
Organizations institute and adopt a child protection policy, internalize child protection such that it reflects in all departments in their functioning and programs, and in the community.	Set in place community owned reporting and monitoring mechanism.
	Systematically follow the preventive guideline to ensure that Child Protection risk is minimised.
	Institute knowledge management and transfer of learning through documentation and developmet of management information/tracking system.
	Advocate for appropriate changes in law and programs that would prevent such violations in the future.

Exercise 1(1 hr)

Ask the group to reflect on the proactive guidelines presented above. Then ask them to spend a few minutes (approximately 15 minutes) individually, thinking about what systems and processes they as individuals would have to initiate towards realizing these steps- a 'how to get there' plan. The action plan that they outline must be connected to their lives in terms of the various roles they hold in both their personal, social and professional life, including the organizations/institutions they represent. Once everybody has written out their action plan, request some of the participants (It would be nice if there is enough time for everybody) to present their plan to the larger group and get more ideas from other group members. Close with some affirmation of what the individuals have resolved to undertake and ask how you could support them with information or resources or direct them to places and people where they could find the same.



Managing Child Protection Risk

Risk is the potential for something to go wrong. As development professional risk management is critical in ensuring that our communities are safe for children. Risk management in child protection is the identification of the potential for an accident or incident (in which a child right's to protection is violated) to occur and taking steps to reduce the possibility of its occurrence. An analysis of this risk to children is critical in determining the need for child protection procedures and policies in organizations and communities.

Outlined below is suggested methodology developed by Child Hope, UK, that could be used for identification of child protection risk.

Step 1: Identifying risks to children within the organization/community.

Involve all stakeholders in this process especially children. This is because different people have different perceptions of risk and it is important to have knowledge of these perceptions. For instance a social worker might think that not having a first aid kit is the most important risk in the project, the project manager however, may be more concerned about the lack of recommendation letters while recruiting volunteers, while a child on the other hand may be much more concerned about having to cross a busy street in order to get to the project site.

Step 2: Location child protection risks to children in the organization /community:

Risks to children that have been identified in the previous step needed to be located according to where they might occur in the organisation. The following are only suggested areas of risk. Users of the handbook/professionals are encouraged to brainstorm and find more.

- Staff and volunteers (e.g. lack of proper screening in recruitment and supervision, management training on how to handle children)
- Place / physical environment (e.g. fire exits, recreational areas, cooking facilities, sleeping arrangements)
- Activities and programmes (e.g. education, health, community outreach, vocational training, outings, exchange visits)
- Information (e.g. storage of children's personal information, recording of allegations of abuse, information on where to get help)
- Organisational culture (e.g. consultation, communication systems, hierarchy, attitudes to organisational learning).

Step 3: Ranking the level of the risk

In order for the organization to prioritize, it is recommended that risk is ranked in terms of low, medium or high risk using the following questions as a guide:

What / how bad would the consequences be? (this is the most important question in determining the level of risk and would take precedence over the question that follows)

What is the likelihood of these consequences occurring?

<i>Area Of Risk</i>	<i>Low Risk</i>	<i>Medium Risk</i>	<i>High Risk</i>
<i>Place / physical environment</i>			
<i>Activities and programmes</i>			
<i>Activities and programmes</i>			
<i>Information</i>			
<i>Organisational culture</i>			

Step 4: Proactive planning to de-risk the organization/community

Depending on the level of risk the following actions would be undertaken:

- Do nothing (no action needed - low risk & benefits outweigh risks)
- Monitor more closely for a set period in order to make a more informed decision (low risk)
- Change activities / policies / plans / procedures to reduce risk (medium to high risk)
- Stop doing the activity or procedure (this may include transferring an activity to another organisation that is better equipped to undertake it, or stopping altogether) (medium to high risk).

<i>Risk No.</i>	<i>i) Do nothing (low risk)</i>	<i>ii) Monitor closely and review again: specify time period & who is responsible for monitoring and review (low risk)</i>	<i>iii) Change activities / policies/plans/ procedures to reduce risk: specify action to be taken, time period & who is responsible (medium to high risk)</i>	<i>iv) Stop the activity /hand it over to another organisation: specify action to be taken, time period & who is responsible</i>

Tips on methods

A workshop setting is recommended to make this session more meaningful for the professional using this handbook. Case studies may be used. If this is being done internally by representatives of a single organization, it may be of use to analyse the organization and communities it contacts for its activities. If this exercise is being undertaken by individuals they could analyse their own communities and spaces. Refer to workshop guidelines on page 33 to structure this session.

Responding to child protection violations

Exercise 2 (2 hrs)

Note to the facilitator

Present each of the cases given below to the group and ask the group to put themselves in each of those situations and talk about how they would have responded to the situations, applying their learnings from the discussion that the group has had recently on 'Controlling/ managing violations of Child Protection'. As you facilitate this step, continue to support the discussion with information and examples on effective redressal and immediate action, from your own experience and real life situations that you may be aware of. Also refer to CHILDLINE at my finger tips: a resource book for CHILDLINE intervention for model case intervention.

Case Studies for analysis:

CASE 1: One of your largest individual donors was sent to the community to visit a family he was sponsoring. You have recently found out that he has been visiting them and spending time with their children unescorted. You are the fund raising manager of the organization.

CASE 2: The program manager of your organization has decided to employ a 15-year-old boy from his village. He defends his decision to do this saying that he will send him to night school. You are the Head of Administration in the organization.

CASE 3: You've been noticing that in the last couple of years, your 13-year-old niece has become very withdrawn which coincides with the time that her grandfather moved in with her family. It is a known fact that the grandfather was abusive towards his wife. She is very close to you.

CASE 4: You notice that you 'presswalla' in the corner of your street brings his son and daughter and makes them work with him. You have tried talking to him but he insists that it makes more sense for them to learn and inherit the trade from him rather than to go to school. He feels that good jobs are not so easy to come by and that if they are educated they would refuse to continue his business. It is also unsafe to leave them at home. You are the Secretary of the Residents' Welfare Association.

CASE 5: Your daughter suddenly does not want to go to school. She missed three days last week complaining of a stomach ache. You think her stomach is fine and that there is another reason for it. As a parent what do you do?

CASE 6: You are rushing to catch your train to work in the morning. A young girl whom you have seen before is being dragged by an older boy. She seems to be cursing him and does not want to go along.

CASE 7: You teach in the community school in Govindpuri basti. On your way to work you notice lots of children defecating in the lanes because the queues for the toilet are too long. Some time ago you recall over- hearing some older children discussing how they are embarrassed to defecate in the open.

CASE 8: You are the CEO of Sunshine Trust. A tidal wave has just swept away thousands of homes in Manor, a town about 50Km from where you work. Everyone seems to be rushing with clothes and food. As an organization that works actively for the rights of children, what strategy would you adopt?





5 Child protection AND THE LAW



Child protection and the law

Introduction:

Being empowered with knowledge of the law that relates to child protection is critical to acting on child protection violations. While it is strongly recommended that users of this handbook read law relating to children in depth, the section below presents an over view of the most critical legal provisions for children. It presents the key components of the of the Juvenile Justice (care and protection) Act, 2000, the key legislation for juvenile justice in the nation. It also mentions very briefly other laws and sections of the Indian Penal Code (IPC) relevant to child protection.

The Juvenile Justice (care and protection) Act, 2000

Did you know?

That the Juvenile Justice (Care And Protection Of Children) Act, 2000 (JJA) and amended in 2006 deals with the two categories of children - juveniles in conflict with law and children in need of care and protection, by providing for proper care, protection and treatment by catering to their development needs, and by adopting a child-friendly approach in the matters and in the best interest of children and for their ultimate rehabilitation?

That in the JJA 'juvenile' or 'child' means a person who has not completed the eighteenth year of age? This is the only Act that defines the age of the child at 18 years and overrides all other definitions of child in the Indian law.

That a 'Juvenile in conflict' with law is an individual under 18 years of age who is alleged to have committed an offence? Under the JJA, a Juvenile in conflict with the law is produced before the Juvenile Justice Board (JJB) which can pass any order. A juvenile in conflict with law cannot ever be placed in lock up or in jail, cannot be served with a sentence of life imprisonment, or death penalty, or even sent to prison if they cannot pay a fine or security.

That a JJB must consist of a Metropolitan Magistrate or a Judicial Magistrate of the first class, and two social workers. One of the social workers must be a woman. The Magistrate is designated as the Principal Magistrate of the JJB.

That under the Juvenile Justice (care and protection) Act, 2000, children in need of care and protection or the vulnerable group of deprived children can be categorized as: orphans, abandoned and destitute, working and street children, victims of natural calamities, emergencies or man-made disasters, children with disability, aids affected children, children engaged in substance abuse, children of sex workers, children of families 'at risk' like refugees, migrant and construction workers, chronically and terminally ill, prisoners or lifers, single parents and the girl child.

That a child in need of care and protection is produced before the Child Welfare Committee (CWC)? Under the Act each district in the country needs to have a CWC. The Committee comprises a Chairperson and four other members. Among the members, one of them has to be a woman, and one an expert on matters concerning children. The Committee will have the powers of a Metropolitan Magistrate or a Judicial Magistrate of First Class.

That a child in need of care and protection can be produced before the CWC by any police officer or a designated police officer or special juvenile police unit, by any public servant, by CHILDLINE or any State Government recognized voluntary organization, or by the child himself or herself.

That under the JJA, Special Homes and Observation Homes are set up for Juveniles in conflict with law, while Shelter Homes and Children's Homes are set up for children in need of care and protection? These homes are run by State Governments or voluntary organizations authorized by them.

That under the JJA, in each state a Special Juvenile Police Unit (SJPU) designated for dealing with juveniles in conflict with law or children in need of care and protection are to be formed.

Some highlights of the JJA are outlined as under:

Key provisions for Children in need of care and protection under the JJA

- Any person who has the charge or control of a child who assaults, abandons, neglects or exposes the child to physical and mental suffering or employs or uses them for begging or provides intoxicating liquor or narcotic drugs or psychotropic substance, or uses the child in hazardous employment will be punished. All these acts have been made cognizable and a complaint can be filed against the offenders.
- It has been provided that no report in any newspaper, magazines, news-sheet or visual media of any inquiry regarding a juvenile in conflict with law or a child in need of care and protection under this act shall disclose the name, address of the school or any other particulars calculated to lead to the identification of the juvenile or child nor shall any picture of any such juvenile or child be published: The authority holding the inquiry may permit such disclosure, if in its opinion such disclosure is in the interest of the juvenile or the child
- Juvenile Justice Act, 2000, provides for the rehabilitation and social reintegration of the child in the children's home or special home. The Act provides for non-institutional services like Adoption, Foster care, Sponsorship and sending the child to an after-care organization.
- Foster Care can be used for temporary placement of infants to improve their quality of life, who are later to be placed in adoption. Under the sponsorship program, supplementary support is provided to families, to children's homes, to special homes to meet medical, nutritional, educational and other needs of children
- Under the Act, after-care organizations are to be established by the State Government for taking care of juvenile or the children after they leave special homes, children's homes

Orders that can be passed by the JJB in relations to Juveniles in conflict with law

- Allow the juvenile to go home after advice and admonition and counseling
- Direct the juvenile to participate in group counseling and similar activities or
- Order the juvenile to perform community service
- Order the parent of the juvenile or the juvenile himself to pay a fine, if he is over fourteen years of age and earns money
- Direct the juvenile to be released on probation of good conduct and placed under the care of any parent, guardian or other fit person. Such parent or guardian or fit person must execute a bond for the good behaviour and well being of the juvenile for a maximum period of three years
- Direct the juvenile to be released on probation of good conduct under the care of any fit institution for a period not exceeding three years
- Make an order directing the juvenile to be sent to a special home for a period of 3 years.
- The JJB has powers to reduce this period taking into consideration the nature of offence and the circumstances of the case. In case the juvenile is over seventeen years but less than eighteen years for a period that is below two years. In any other case till he attains the age of eighteen years.
- Any juvenile above sixteen years who has committed a serious offence that he cannot be kept in a special home, the Board can send him to a place of safety after reporting it to the State Government

Key provisions for Children in need of care and protection under the JJA

- Under the Act, after-care organizations are to be established by the State Government for taking care of juvenile or the children after they leave special homes, children's homes once they turn 18 years of age. Child Protection Units have to be constituted by the State Government for every district to take up matters relating to children in need of care and protection and juveniles in conflict with law to ensure the implementation of this Act and to establish and maintain homes , notification of authorities for the rehabilitation of children and coordination of various agencies under the Act
- Adoption has been defined as process through which the adopted child is permanently separated from his biological parents and become the legitimate child of his adoptive parents with all rights, privileges and responsibilities that are attached to the relationship. Under the Act, adoption will beresorted through notified adoption agencies, for the rehabilitation of children who are orphan, abandoned or surrendered who have been declared legally free for adoption by two members of the CWC. The various guidelines of the State Governments or the Central Adoption Resource agency have to be followed for giving a child in adoption through a court. A child can be given in adoption to a person irrespective of marital status, or to parents to adopt a child of same sex irrespective of the number of biological sons or daughters or to childless couples.

Orders that can be passed by the JJB in relations to Juveniles in conflict with law

- Any juvenile above sixteen years who has committed a serious offence that he cannot be kept in a special home, the Board can send him to a place of safety after reporting it to the State Government

Other important law for protecting children's rights

- Section 323-326 of the Indian Penal Code (IPC) deal with Physical Abuse The Protection of Women from Domestic Violence Act, 2005 covers all children below the age of eighteen years and includes any adopted step or foster child even adopted and foster child. Sections of the IPC relevant to child sexual abuse include Section 354- Outraging the modesty, Section 366 - Kidnapping, abducting or inducing women to compel her marriage etc. Section 366 A- Procuration of minor girls, Section 375- Rape, Section 376 - Punishment for Rape, Section 377 - Unnatural offenses deals with unnatural sexual offences.
- Under the IPC sections relevant for dealing with children who are trafficked are Section 340 – Wrongful Confinement, Section 342 – Punishment for wrongful confinement, Section 343 – Wrongful confinement for three or more days, Section 344 – Wrongful confinement for ten or more days, Section 346 – Wrongful confinement in secret, Section 347 – Wrongful confinement to extort property, or constrain to illegal act, Section 365 – Kidnapping or abducting with intent to secretly and wrongfully confine person, Section 366 – Kidnapping, abducting or inducing woman to compel her marriage, etc, Section 366A – Procuration of a minor girl. Section 366B – Importation of girl from foreign country, Section 367 – Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc, Section 372 – Selling minor for purposes of prostitution, etc. Section 373 – Buying minor for purposes of prostitution, etc.
- The Immoral Traffic (Prevention) Act, 1986 (ITPA) was enacted for the prevention of immoral traffic. All persons whether male or female who are exploited sexually for commercial purposes fall under the purview ITPA. ITPA provides more severe penalties for trafficking of women and child prostitution.
- The Child Marriage Restraint Act: Under this act promotion, permitting and participation in a child marriage are punishable offences.
- The Child Labour (prohibition and regulation) Act: This act distinguishes between hazardous and non hazardous forms of labour and protects all children under 14 years of age from being employed in hazardous conditions.
- The Information Technology Act: Child Pornography can be dealt under this Act as publishing of information which is obscene in electronic form is punishable.
- The Goa Children's Act: This Act though only applicable in Goa, protects children from sexual abuse and sex tourism.

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CHILDLINE at my finger tips: a resource
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CHILDLINE - Child Protection Handbook

The information and tools presented in this handbook would help the user address problems through information sharing and training aimed at strengthening child protection policies and programs at various levels, depending on the scope and nature of their work. It would also be a useful resource for gaining a better understanding on the subject of child protection including ways of identifying violations of childrens' rights and addressing them in our day to day personal, social and professional lives. Tips on methods of presenting the content are given to the facilitator but these are not meant to limit creative presentation. The facilitator needs to plan the training based on the audiences' level of knowledge and experience.

This mainly aims at strengthening child rights in the society by creating awareness, understanding and commitment among decision makers, opinion formers and everyone who has day to day contact with children.

This handbook will help in responding to the need felt by organizations and individuals working with children in the civil society space. Although there are existing policies for child protection in a lot of organizations, there is a need for a 'how to', a basic resource on Child Protection which would guide and support their work.



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