

## GOA CHILDRENS ACT 2003

### Did you know?

- ✓ Your State was the first state in the country that created a legal document to help protect you and make sure that your rights are respected?
- ✓ This legal document is titled as the Goa Children's Act enacted in the year 2003.
- ✓ Your State is the first state to have enacted a law to protect, promote and preserve the **best interest** of the children and to create a society that is child friendly.

**The Rule of Best Interest is a rule against which everything to do with respect to the child is measured.**

### Who is a child under the Act?

The Act states that a child is any person who has not completed the age of 18 years unless there is any other law which specifies age.

**Provided in so far as a victim in an offence of rape child shall mean any person who has not completed the age of sixteen.**

Under this Act for the purpose of child labour, 'child' would mean any person who has not completed fourteen years of age.

A 'child in need' under the Act means all children including those whose rights are violated or those who need special attention and protection. The Act classifies children in need in 15 categories.

Under this Act a child in difficult circumstances is also a child in need. The difficult circumstances which a child is exposed to or will be exposed to include the following:

child abuse

sexual offences

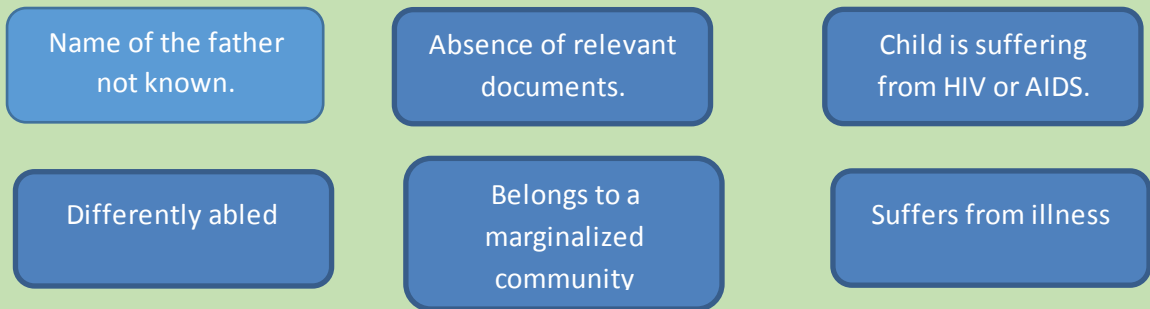
child trafficking

commercial sexual exploitation

violation of his or her rights

### What are the Rights which the Act guarantees to children?

- The Act states that the State Government should ensure that children are protected from child abuse, sexual offences, child trafficking, child prostitution and violation of their rights.
- It is the duty of the state to see that children are given an opportunity as well as facilities to develop in a healthy manner.
- The Act also provides for the right to health and nutrition
- State should endeavor to promote education and as a result no child should be denied admission on the following grounds :



When in school you should be provided with safe drinking water, toilet facilities and adequate physical infrastructure.

### What does the Act protect you from?

The Act protects you from abuse, child labour, child trafficking, commercial sexual exploitation and dedication and it puts a ban on corporal punishment.

### How does the Act define the above?

#### CHILD ABUSE

An act of abuse is said to have been done against you

- When you are maltreated whether habitually or not.
- When you are psychologically and physically abused
- When you are neglected
- When you are treated with cruelty,
- When you are sexually abused
- When you are emotionally maltreated
- When deeds or words which debase, degrade or demean your worth, dignity as a human being are said to you.
- When you are denied your basic rights of survival food and shelter and immediate medical treatment when you are injured.

**All children are entitled to a safe environment an environment in which he or she will not be abused in any way and his or her development will be nurtured.**  
**(of the Section 8 Goa Childrens Act)**



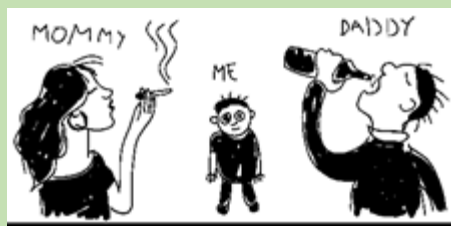
Physical abuse



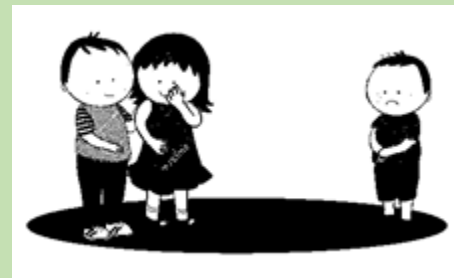
Verbal abuse



Cruelty



Neglect



Saying things which demean your human dignity

## SEXUAL OFFENCE

Sexual Offence includes all kinds of sexual abuse. Grave Sexual Assault, sexual Assault and Incest.

**Grave Sexual Assault** would include vaginal, oral, anal, using objects, or forcing minors to have sex with each other, deliberate cause of injury to the sexual organs of the child, asking the child to pose for phonographic photos or films and also includes rape.

**Sexual Assault** includes sexual touching with the use of any body part or object, voyeurism, exhibitionism, showing porn pictures or films to minors, making children watch others engaged in sexual activity, verbally abusing a minor using vulgar language and issuing threats to sexually abuse a minor.

**Incest:** when a sexual offence is committed by an adult on a child who is a relative or related by ties of adoption.

## COMMERCIAL SEXUAL EXPLOITATION

A child is said to be sexually exploited for commercial purpose when a child is depicted as engaged in sexual conduct, exhibiting sexual organs for the purpose of sexual gratification, allowing, using, forcing or inducing a child to engage in sexual

conduct and also includes the use of the child in assisting with other persons to engage in sex.

## CHILD TRAFFICKING

Means the procurement, recruitment, transportation, transfer, harbouring or [receipt of children] legally or illegally, within or across borders, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving payments or benefits to achieve the consent of a person having control over another person, for monetary gain or otherwise.

## CHILD LABOUR

Would include all forms of labour involving a child below the age of fourteen. It includes all kinds of hazardous work, all forms of unhazardous employment, all forms of domestic employment, all forms of self-employment such as rag picking, plastic bag selling, nut selling, running errands, carrying load of shoppers etc.



## DEDICATION

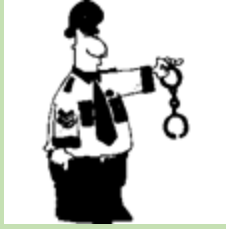
Is the performance of any act or ceremony by whatever name called, by which a girl child is dedicated to the service of any deity, idol, and object of worship, temple, other religious institutions or place of worship.

This act of dedication is punishable under the Act irrespective of any custom or law to the contrary whether the girl has consented to the dedication or not. The act is declared unlawful and void.

**The Act in a special way protects the Girl child wherein the State is obligated**

- **To implement policies, plan of action and programmes for the survival, protection, development and advancement of the girl child.**
- **Eliminate all forms of discrimination against the girl child.**

The Act also protects in a special way differently abled children wherein the State has to provide schemes to ensure that children with disabilities are safeguarded.



**The Act does not only identify types of abuse but also enlists punishments for the offenders:**

- ✓ **Child abuse or child sexual assault:** up to three years imprisonment + fine of Rupees one lakh.
- ✓ **Child trafficking:** up to seven years imprisonment+ fine of Rupees one lakh.
- ✓ **Child Labour:**
  - Hazardous employment fine of Rupees fifty thousand+ simple imprisonment for one year.
  - Non-hazardous employment fine of twenty five thousand + simple imprisonment for three months.
  - All forms of domestic Labour fine of Rupees fifty thousand for the person employing child.
- ✓ **Grave Sexual Assault:** Ten years to life imprisonment + fine of Rupees two lakhs.
- ✓ **Incest:** Ten years to life imprisonment + fine of Rupees two lakhs.
- ✓ **If any person keeps with him one or more children who are not related to him by blood:** up to three years imprisonment +fine of Rupees one lakh.
- ✓ **Onus on Establishments:**
  - Hotels which provide boarding or lodging or any similar facility should ensure that children are safe and not at a risk of being abused within their premises and this includes all adjoining beaches, parks, if they have access to the same.
  - No child can be permitted to enter any room unless the child is registered as staying in the room with the family, relatives or person related by blood. But this shall not apply to reasonable areas such as group of school children accompanied by their teacher(s) children who may be staying with their friends and their families.
  - They should also ensure that no child has access to any internet facilities which are not fitted with filters and any other material eg, films, or video, disc player's cable or any other medium provided by the establishment.

- If the above rules are not followed the hotel owner and the manager shall be held solely responsible for the same.

**Punishment:** Imprisonment up to three years and a fine which may extend to Rupees one lakh.

- ✓ Making children available to any adult or even soliciting or publicizing the same for purpose of commercial exploitation is prohibited.
- ✓ **Commercial Sexual Exploitation:** Penalty up to one lakh and imprisonment up to seven years. This punishment is in addition to any penalty or punishment that may be given under any other Act.
- ✓ **Dedication:** imprisonment up to three years and fine up to two thousand Rupees. If the dedication of minor girl is by her parent or guardian or relative punishment up to five years and fine up to two thousand Rupees.
- ✓ **Child allowed to enter cyber café without being accompanied or any other computer services to the general public at cost or if no child friendly safeguards installed :** imprisonment up to one month + fine up to three thousand Rupees.
- ✓ **Including a child in gambling or to assist in gambling:** up to three years imprisonment + fine up to fifty thousand.

## CHILDREN'S COURT

**The Functioning** of this Court is purely on the principle of best interest of the child and all procedures; the attire worn by the members of the legal profession and others is child friendly.

The Act states that **the procedure** to be followed by the said court should be child friendly and shall include the following:

- No harm to be caused to the sensitivity of the child
- Follow the principle best interest
- Words such as arrest, remand, accused, charge sheet, prosecution, trial, summons warrant, conviction, inmate delinquent, neglected, are prohibited from being used during the process.
- No child or anyone acting on behalf of the child can waive the rights of the child.

- No discrimination on the basis of sex caste, place of birth, race cultural practices, behavior of the child or his parents or guardians and political status of the child.
- The child's right to privacy as well as confidentiality to be protected at all stages of the proceedings
- Help the child to a fresh start by ensuring deletion of past records
- Institutionalisation should be the last resort and that too after conducting an inquiry and the same should be for a minimum period.
- If any offence is alleged to have been committed against the child when the child was in custody of the accused the burden of proving that the accused has not committed the same is on the accused.
- The accused cannot remain present when the child is giving his or her evidence.
- When the opponent lawyer is going to question the child in court great care should be taken about the age of the child, or in case of victim the psychological condition of the child has to be taken into account.



**Whether children come into contact with the law as victims, witnesses, offenders or complainants, it is equally important that they are met with a system that understands and respects both their rights and their unique vulnerability.**

## Guidelines to be followed by the Court when dealing with children whether they are victims or witnesses

- 1 • inform the child his or her role in the entire proceeding.
- 2 • Hear their views and respect them.
- 3 • Minimise inconvenience and respect their right to privacy.
- 4 • reduce delay with respect to their proceeding
- 5 • avoid aggressive questioning.
- 6 • incamera trial
- 7 • protect the identity of the child
- 8 • prepare the child for the proceeding
- 9 • avoid multiple medical examinations of the child.
- 10 • medical examination to be conducted in the presence of parent guardian or a social worker.
- 11 • record statment of the child in the presence of social worker/counsellor as early as possible
- 12 • translators/interpreters to be provided as and when required and as per the needs of the child.
- 13 • incase of mentally challenged child the competent service provider should depose on behalf of the child.



## The Goa Children's Act specifies special provisions for a victim or witness

The normal process followed in courts is that the trial of any case is held in open court where the public may be present at trial, hearings and similar routine matters. Trial in court is when both the parties in dispute come together to present information so that the court can adjudicate the matter. But with respect to matters in children court the public is excluded and only persons connected with the matter identified by the President (Judge) are permitted to remain present during the statement of the child. The perpetrator/offender is made to sit behind the screen/curtain which is present in the court.

Familiarize you with the court surroundings

Inform you about the role of key persons at court i.e. Judge, defense lawyer and the prosecutor

Inform the court about the special needs of the child as an individual as well as children in specific cases

Make you comfortable throughout the proceeding.

Questioning should be short and clear and should not be such as to confuse you,

Permit children below eight years of age to respond to leading questions facilitated by a social worker.

The Act provides for a State Children's Fund to be created, that there should be a State level Authority to promote and maintain the best interest of the child.

The Village Panchayat to constitute a Village Child Committee wherein one member must be a child above the age of 15 years and in Municipal Corporation areas four such committees in each area.

The State Authority is termed as State Commission for Children.

All establishments providing training to children through computers shall ensure that child friendly safeguards are installed.