

Child Sexual Abuse

A concised guide that discusses the legal provisions from the Protection of Children from Sexual Offences (POCSO) Act, 2012



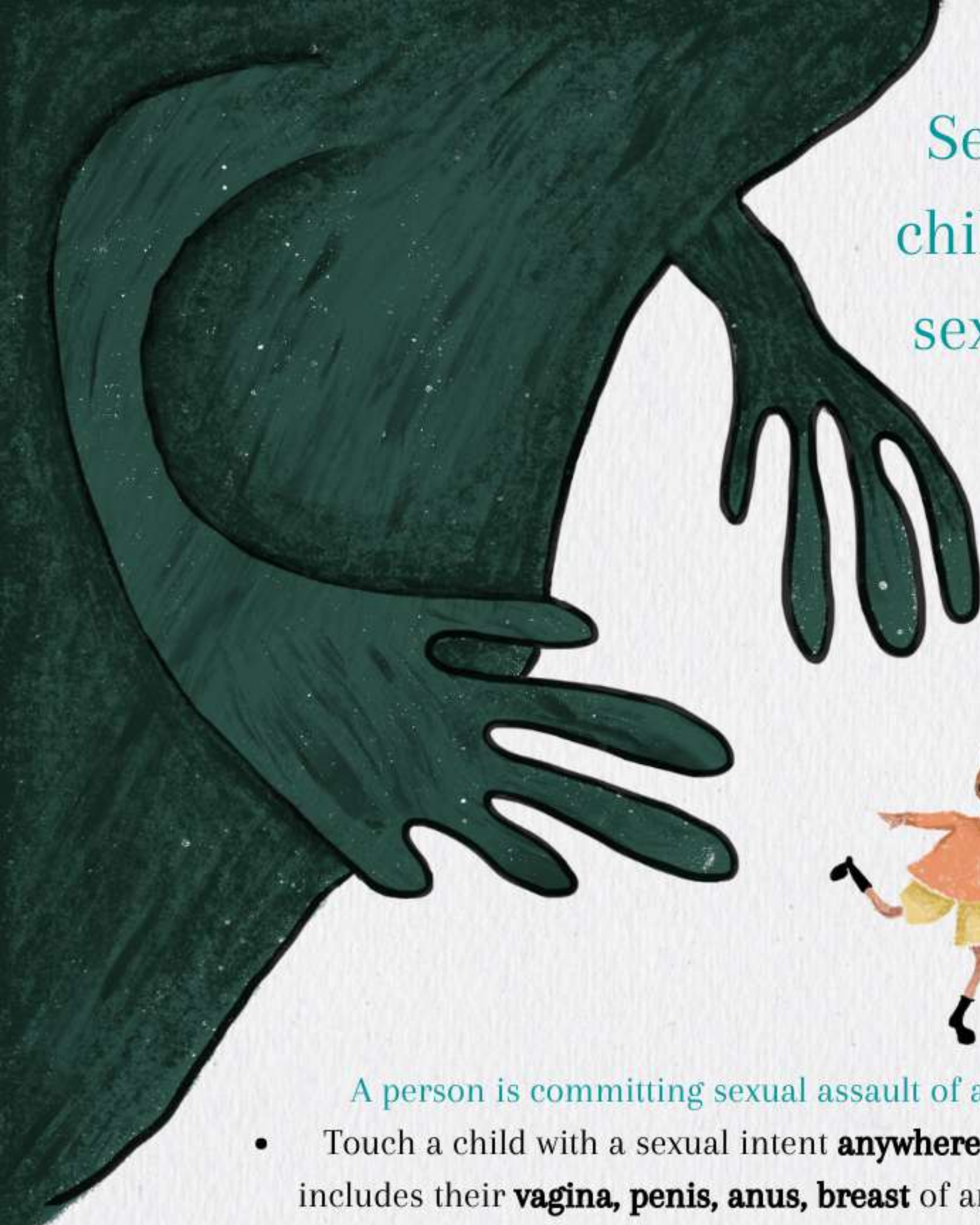
This guide discusses the legal provisions in the Protection of Children from Sexual Offences (POCSO) Act, 2012 which is a special law that addresses child sexual abuse.



Trigger Warning

The following content contains information on sexual and physical violence which some readers may find disturbing.





Sexually touching a
child is considered as
sexual assault by the
law.



A person is committing sexual assault of a child if they:

- Touch a child with a sexual intent **anywhere on their body**. This includes their **vagina, penis, anus, breast** of any child with a sexual intent.
- Force a child to **touch their own or anyone else's** vagina, penis, anus, breast.

The punishment for this can range from a jail time from three to five years to a life in prison along with a fine.

Types of child sexual abuse

Non-Physical:

- > Any non-physical sexual behaviour through **gestures, speech** and **visuals**.
- > Any action in relation to **creation, distribution, transmission, publication** or any other activity relating to **child pornography**.

Physical:

- > Any action to **touch** a child in an sexually inappropriate way.
- > Any action to **penetrate** a child either with a penis or any other object.





Consent to have sex

The law **does not** recognize a child's ability to give consent to have sex.

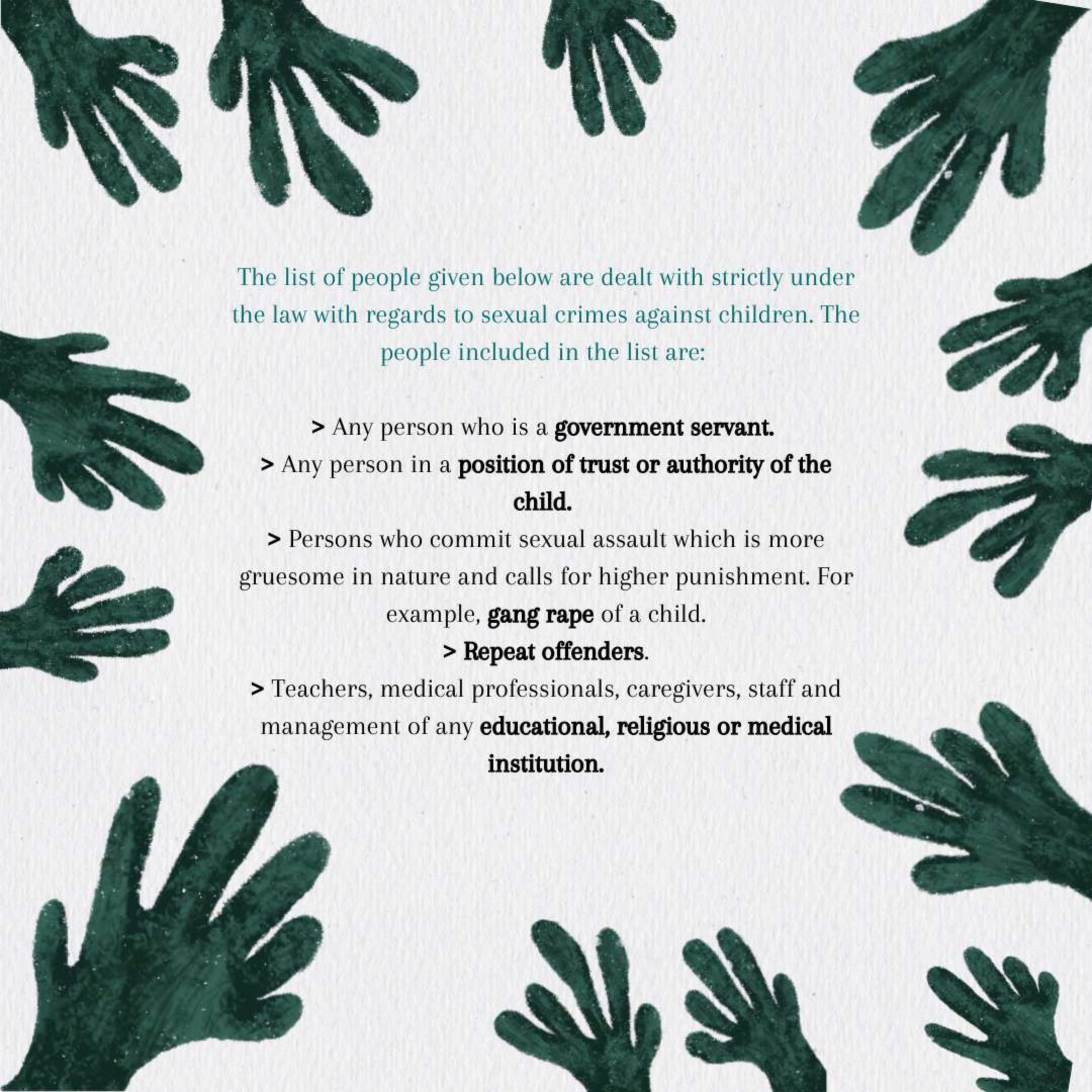
This means that if an adult asks a child to engage in any kind of sexual activity, and the child said yes explicitly or implies that they consent, **this activity will still be considered as child sexual abuse.**

The age of consent for girls and boys is 18 years.



A child **above the age of seven**, who sexually harass or sexually assault another child in any way, can be considered an abuser and be **punished under the Juvenile Justice (Care and Protection of Children) Act, 2015.**

When a child is sexually abused by such a **family member**, they face a **more severe punishment** than someone who is not a family member since they are in a position of authority and trust to the child. Depending on the type of crime committed, the punishment will vary for the family member.



The list of people given below are dealt with strictly under the law with regards to sexual crimes against children. The people included in the list are:

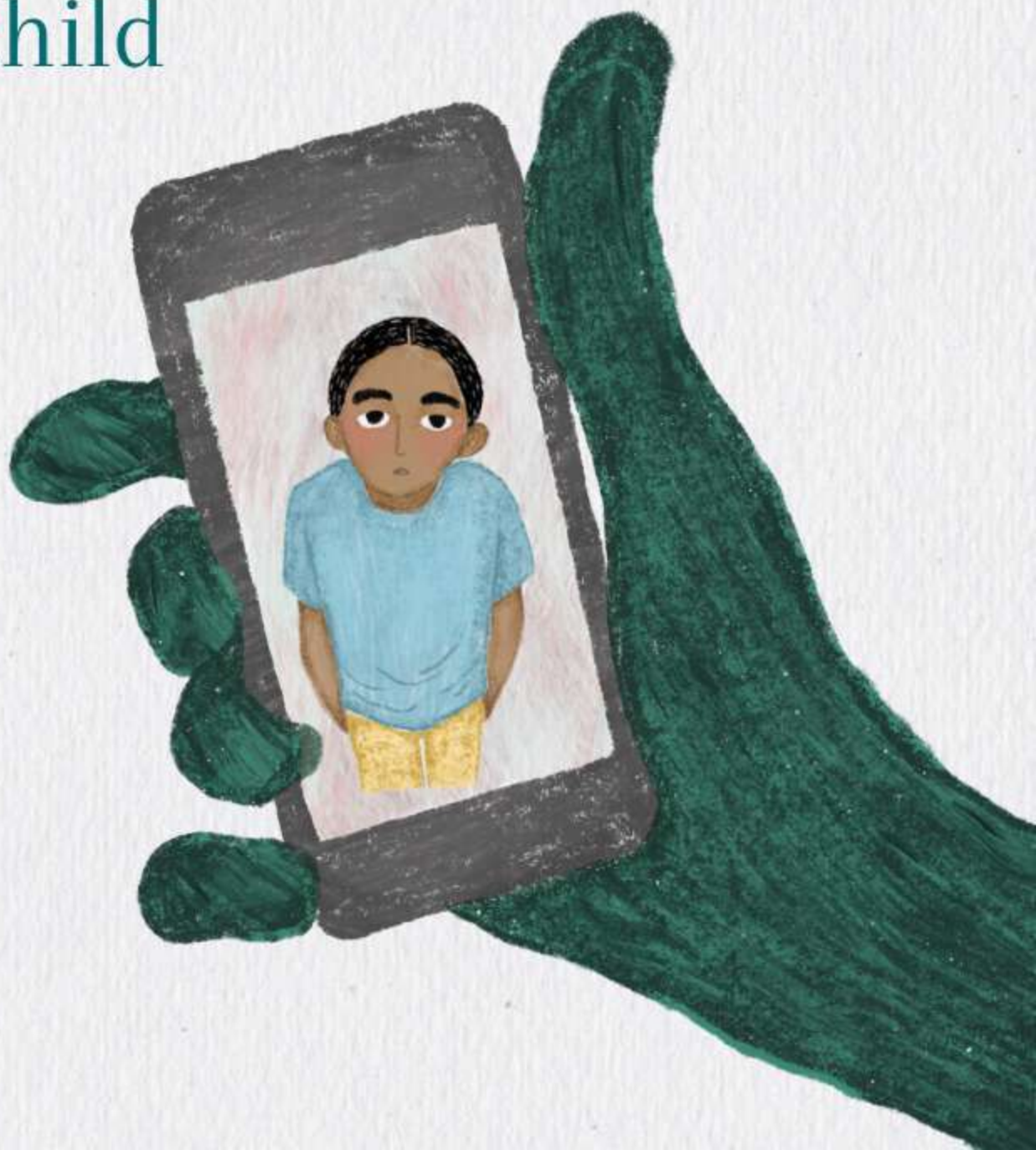
- > Any person who is a **government servant**.
- > Any person in a **position of trust or authority of the child**.
- > Persons who commit sexual assault which is more gruesome in nature and calls for higher punishment. For example, **gang rape** of a child.
- > **Repeat offenders**.
- > Teachers, medical professionals, caregivers, staff and management of any **educational, religious or medical institution**.

Please call the **police at 100** if you are being blackmailed as this **is** a form of sexual harassment under the law.

Blackmailing a child

If anyone has done any form of sexual abuse on your child, threatens your child or records any sexual act done to your child, then you should complain against this person.

The punishment would be **jail time** of **three years** and/or a fine.



Child pornography

Crime

- Using a child for pornographic purposes
- Storing or having child pornographic material for displaying or distributing it
- Storing or having child pornographic material for commercial purposes

Punishment

First offence – Jail time of at least **five years** and a fine
Subsequent offences – Jail time of at least **seven years** and a fine

Jail time of up to **three years** and/or a fine

First offence – Jail time of **three** to **five years** and/or a fine

Subsequent offences – Jail time of **five** to **seven** years and a fine



The law can punish any person who uses children in any form of media (advertisements, internet, printed form etc.) for sexual gratification. Sexual gratification includes:

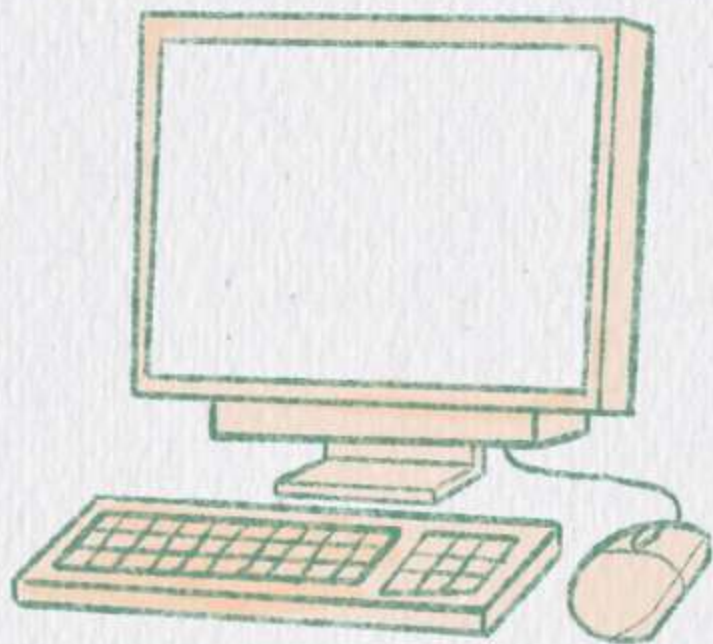
- Representing a child's sexual organs
- Using children engaged in real or simulated sexual acts
- Indecent or obscene representation of children.

What happens incase someone helps another sexually abuse a child

When you help, protect or intentionally encourage someone to sexually abuse a child, you become an **abettor of child sexual abuse**.

The punishment for helping someone sexually abuse a child will be the **same jail time and fine as the actual crime**.





National Commission for
Protection of Child Rights-

9868235077

Childline India - **1098**



Online: <https://ncpcr.gov.in/>

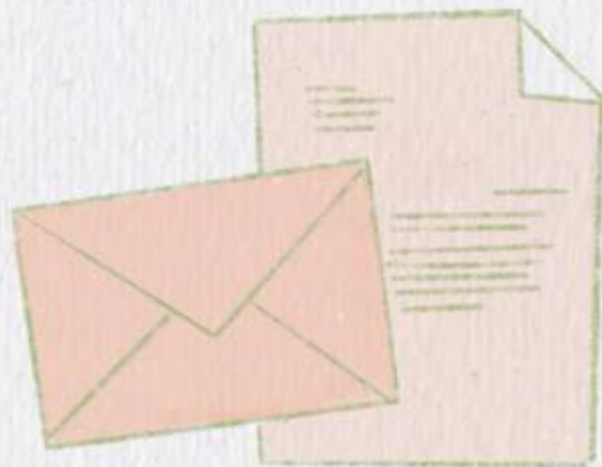
How can you report child sexual abuse



Mobile App: POCSO e-box
(Android users only) report the
abuse directly through it.



Email: pocsoebox-ncpcr@gov.in



Post/Letter:

NATIONAL COMMISSION FOR
PROTECTION OF CHILD RIGHTS
(NCPCR)

5th Floor, Chandralok Building 36,
Janpath, New Delhi-110001 India.

How to record a child's statement

- Statement should preferably be recorded by a woman police officer not in uniform.
- It should be recorded at the child's home or any place he/she feels comfortable.
- It should be recorded in the language of the child, as spoken by the child.
- It should be recorded in the presence of a trusted adult Audio or Video recording device should be used, if available.
- The Child/Parent should get a copy of the statement.



What happens when you file a police complaint against child sexual abuse

When you approach the police to make a complaint against child sexual abuse either by calling **100** or by going to the police station the following process will take place:

- They will make a **written record** of your complaint.
- If the police believes that the child needs immediate care and attention, they will shift the child to a hospital or a shelter home.





**Ensure presence of familiar people
through the legal process**



**Allow frequent breaks for the child
during the trial**



**Protect the child
from the accused
and the public**



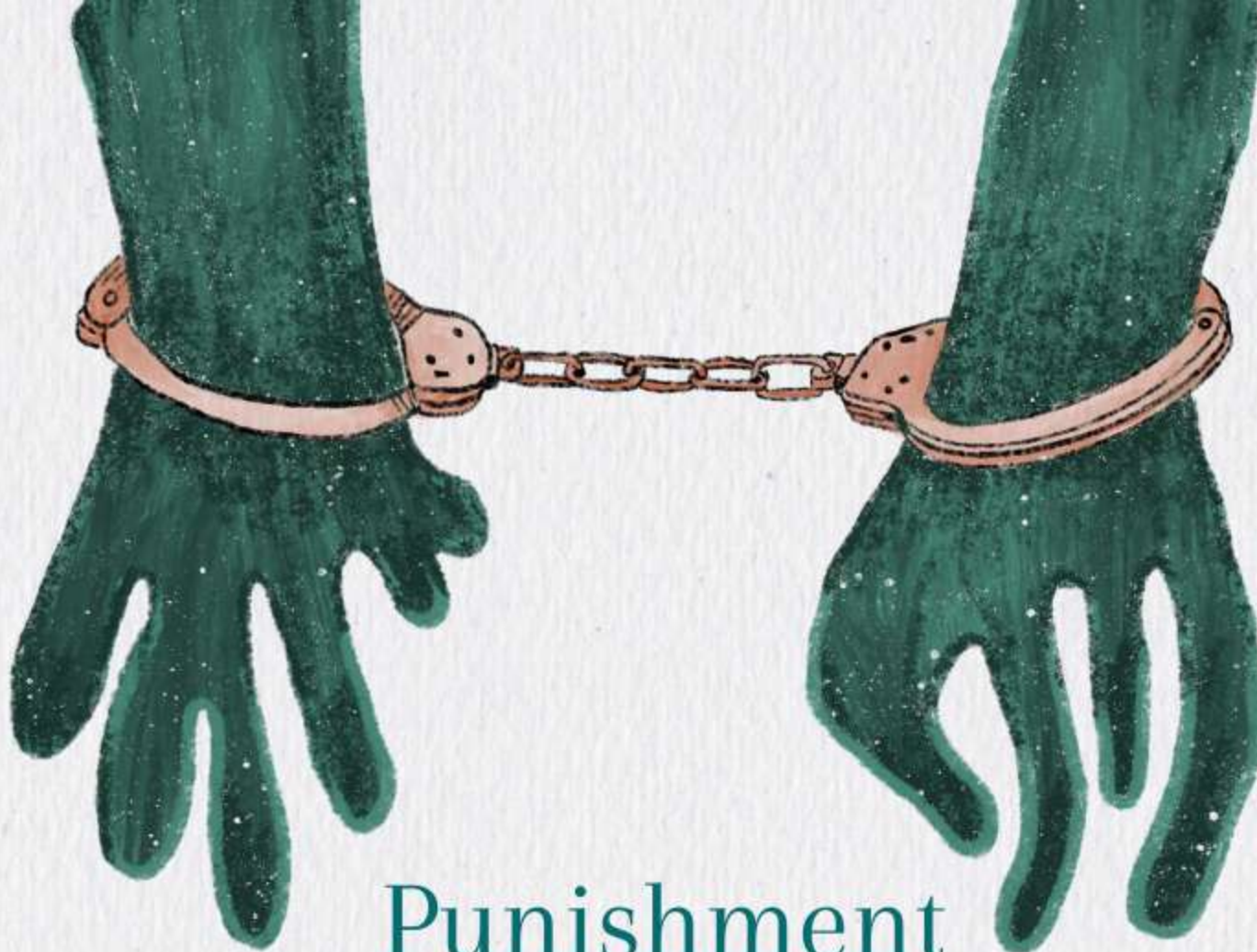
**The lawyer cannot question the child directly. The
lawyer will present the questions to be asked to the
child to the Special Court, which will then question
the child.**



Did you know about child-friendly court procedures?

There are Special Courts set up to deal with child sexual abuse because of the sensitivity of the issue. Unlike normal Courts, these Courts are supposed to follow a procedure that is designed to make sure that the child feels safe and comfortable.





Punishment

Crime

- Touch a child with a sexual intent anywhere on their body. This includes their vagina, penis, anus, breast of any child with a sexual intent.
- Force a child to touch their own or anyone else's vagina, penis, anus, breast.
- Penetrative Sexual Assault:
- Blackmailing a child
- False reports against another person
- False complaint or false information has been made with the intention to humiliate, extort, threaten, blackmail or defame someone

Punishment

The punishment for this can range from a jail time from three to five years to a life in prison along with a fine.

Jail time of ten years to life in prison along with a fine.

jail time of three years and/or a fine.

jail time of one year or fine or both.

jail time of 6 months or a fine or both.



What happens in case of false reports?

The punishment for providing false complaint or false information against another person is either a jail time of one year or fine or both.

If the false complaint or false information has been made with the intention to humiliate, extort, threaten, blackmail or defame someone, then they can be punished with either a jail time of 6 months or a fine or both.

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For more legal information and assistance, please visit
the nyaaya page at, [https://nyaaya.org/topic/sexual-
abuse-of-children/](https://nyaaya.org/topic/sexual-abuse-of-children/)

Its never too late to seek or help others seek the justice
they deserve!

