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Increasing the reporting of suspected sexual abuse of children

Report[1]
Committee on Social Affairs, Health and Sustainable Development
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Summary

Reporting of suspected abuse of children can be either on a voluntary basis or mandatory by law. In terms of protecting children against abuse, neither of these systems has proved to be more efficient than the other. However, under-reporting represents a common challenge for both, as many cases of child abuse, in particular sexual abuse, remain hidden, either because they are undetected or because they are detected but not reported.

With a view to increasing the reporting of suspected sexual abuse of children, it is crucial to raise the general public's awareness of the issue via information campaigns. Professionals working with children should be enabled to properly identify and assist child victims of sexual abuse, throughout their training and professional life, and be encouraged to set up reporting rules to follow when suspecting child sexual abuse. Moreover, the reasons underlying decisions not to report should be tackled by building trust in the child protection system, through quick, effective and child-sensitive investigations. Finally, legal protection should be provided for those who report suspicions of child sexual abuse in good faith, including by limiting the duty of confidentiality of professionals.

1. Reference to committee: Doc.13006, Reference 3895 of 1 October 2012.

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A. Draft resolution[2]

1. Sexual abuse is the most hidden and under-reported form of violence against children. Most children who suffer sexual abuse do so at the hands of their parents, extended family members, neighbours or family friends. Only very few of those children report the offences themselves, often due to fear of the consequences. Similarly, for obvious reasons, very few perpetrators come forward and seek assistance.

2. Consequently, third parties and in particular professionals working with children play a key role in breaking the cycle of violence that most children endure in silence, by detecting signs of sexual abuse and reporting it to the competent authorities.

3. The Parliamentary Assembly recalls that the best interest of the child should be given the primary consideration in all measures concerning the safety and well-being of children. Having examined the different arguments for and against both voluntary and mandatory reporting laws, the Assembly is not convinced that one has proved to be more effective than the other in terms of protecting children against abuse.

4. The Assembly notes that, irrespective of the system in place for reporting – mandatory or voluntary –, many cases of child abuse, including sexual abuse, remain hidden, either because they are undetected or because they are detected but not reported. Under-reporting therefore represents one of the main challenges of child protection systems.

5. While the lack of public and professional awareness is the main reason why many abuse cases remain totally undetected, the conscious decision not to report suspected abuse has several explanations, depending on whether it concerns professionals working with children or the general public. The most common reasons given by professionals for not reporting include fear of misdiagnosis, fear of retaliation by members of the child's family or by the alleged perpetrator, the concern to safeguard links between the child and the family, lack of confidence in the child protection system and fear of the consequences of violating confidentiality rules.

6. The general public may also be reluctant to report suspected abuse because they don't want to interfere in someone else's family, they fear that their identity will be discovered by the suspected abuser or simply because they think reporting will make no difference or lead to the re-victimisation of the child.

7. The Assembly notes that reporting of child sexual abuse involves additional complications due to the difficulty in detecting it, as unlike physical abuse it doesn't always involve body contact and physical harm. It also notes that it is rare for children to make false allegations of sexual abuse. Therefore, for professionals working with children, it is crucial to learn how to recognise behavioural and psychological changes that may be resulting from sexual abuse, to identify possible allegations of sexual abuse by children themselves and to properly react to such allegations.

8. In view of the above, and irrespective of the reporting system in place at national level, the Assembly calls on the Council of Europe member States to create a framework which encourages all professionals working with children and all citizens to report suspected sexual abuse. To that end, member States should:

8.1. organise information campaigns aimed at raising public awareness of the nature and extent of child sexual abuse, its consequences for the victims and for society as a whole; these campaigns should also give guidance on what to do when suspecting such abuse;

8.2. enable professionals to properly identify and assist child victims of sexual abuse and motivate them in their role of intervening in situations of abuse by:

8.2.1. including the subject of child sexual abuse in their curricula, in particular for health and education professionals as well as sports coaches;

8.2.2. developing specific training and continuous education programmes on the subject of child sexual abuse, including the relevant legal framework;

8.2.3. encouraging professionals themselves to set up reporting rules to follow when suspecting child sexual abuse;

8.3. build trust in the child protection system by ensuring that:

8.3.1. reports of suspected sexual abuse are investigated and pursued quickly, fairly and effectively;

2. Draft resolution adopted unanimously by the committee on 30 January 2014.

8.3.2. the investigation and the judicial process that may follow reporting are conducted in a child-sensitive manner and do not subject the child victim to further harm;

8.3.3. the removal of children from their families as a result of reporting is an exceptional measure;

8.3.4. feedback is provided to reporters as far as possible;

8.4. provide legal protection for those who report suspicions of child sexual abuse in good faith, by:

8.4.1. limiting the duty of confidentiality of professionals in such cases;

8.4.2. adopting rules to protect the identity of the reporters.

B. Explanatory memorandum by Mr Ghiletchi, rapporteur

1. Introduction

"No violence against children is justifiable; all violence against children is preventable." (Report of the independent expert for the United Nations study on violence against children, August 2006)

1. Violence against children is a global phenomenon affecting the lives of millions of children worldwide with profound long-term physical and mental health consequences. It takes different forms, including physical, psychological and sexual violence, and occurs in a variety of settings such as home and family, schools, care institutions and within the justice system.

2. Sexual abuse is the most hidden and under-reported form of violence against children. Most children who suffer sexual abuse do so at the hands of their parents, extended family members, neighbours or family friends. Only very few of those children report the offences themselves, often due to fear of the consequences, because they have no one to confide in or because, as a result of their young age, they are unable to express what has happened to them. Similarly, for obvious reasons, very few perpetrators report themselves and seek assistance.

3. Consequently, third parties and in particular professionals working with children such as childcare providers, teachers and other school staff, doctors, nurses and other health-care workers, play a key role in breaking the cycle of violence which most children endure in silence, by detecting signs of sexual abuse and reporting it to the competent authorities.

4. In this context, the question of whether reporting suspected abuse of children should be on a voluntary basis or made mandatory by law is a complex one and is subject to much controversy. As rapporteur, I don't advocate one or the other system, because I am not convinced that one has proved to be more efficient than the other in terms of child protection. Both voluntary and mandatory reporting systems have their imperfections among which under-reporting, a phenomenon common to both systems, is certainly one of the most problematic as it contributes to perpetuating the violence.

5. In view of the considerations above, this report aims to explore different approaches to the reporting of suspected child abuse in general without necessarily taking a stand on the type of reporting law to be adopted. It aims to understand the under-reporting phenomena, which is one of the main reasons why abuse, including sexual abuse, often remains hidden, as well as the additional complications involved with child sexual abuse in this context, with a view to making tangible recommendations to member States for increasing the reporting of suspected sexual abuse of children. While the recommendations made in this report relate to the reporting of "sexual abuse" as a specific type of violence against children, I believe they are generally applicable to other types of violence, including neglect and physical abuse.

6. In the present report, reporting of suspected sexual abuse in institutional settings has been omitted deliberately, as handling of instances of abuse committed in such settings requires action other than reporting, involving the organisation's management and official inspectors. In this regard, I refer to Parliamentary Assembly Recommendation 1934 (2010) "Child abuse in institutions: ensuring full protection of the victims". Moreover, this report strictly limits itself to reporting of suspected "present" abuse. Therefore, reporting of historic abuse – which refers to cases revealed many years after the events, mainly by victims who have been sexually abused as a child – has been excluded from its scope, knowing also that reporting of such abuse has complex legal implications, for example with regard to the statute of limitations.

2. Different approaches to the reporting of suspected abuse of children

7. While everyone agrees that detecting and reporting abuse as early as possible play a vital role in stopping and prosecuting it, opinions differ widely when it comes to determining which reporting system best serves this purpose. There are two approaches to the reporting of suspected abuse of children: voluntary reporting and mandatory reporting.

8. The concept of mandatory reporting originated in the United States and refers to legislation that specifies who is required by law to report suspected cases of child abuse. Internationally, few countries appear to have mandatory reporting laws covering child abuse. The United States, Australia and Canada are the main countries that pursue this approach, although a range of other countries, including several Council of Europe member States, have adopted mandatory reporting legislation (see point 2.3 below). Nonetheless, voluntary reporting systems are much more common.

9. As a general rule, in countries where mandatory reporting exists, the legislation defines *inter alia* who must report and to whom, and what knowledge a reporter must have before the reporting duty is activated. This usually requires a "reasonable" suspicion or belief of abuse. In some jurisdictions, the reporting obligation is binding on all persons regardless of their profession and in others, on specific professionals working with children. In the latter case, those most often covered are social workers, teachers, childcare providers, medical doctors and other health-care workers, and law-enforcement officers. The legislation also defines the legal consequences of failing to report. These generally include criminal sanctions for professionals, but may be less stringent for the general public.[3]

2.1. Pros and cons of voluntary and mandatory reporting systems[4]

10. Many of the arguments "for" and "against" the two reporting systems are polemic in nature. The major argument put forward by those who are in favour of a mandatory reporting system is that, without it, a society will be far less able to protect children and assist parents and families, because many and perhaps most cases of abuse will not come to the attention of authorities, thus remaining hidden. The reasoning behind this argument is simple: mandatory reporting produces more referrals, and leads eventually to more cases of abuse being identified. It thus allows more children to be safe from harm at an earlier stage in their life, with all the positive health outcomes as well as the societal and economic consequences linked to it.

11. Critics counter that mandatory reporting does not guarantee such an increase in the detection of child abuse. Instead, they propose to enhance voluntary "help-seeking", to facilitate voluntary assistance to children and families and to create or sustain the norms of caring that prevent harm to children. They argue that this would strengthen the links between the child protection system and the community, and as a result, mandatory reporting will be needed less because the child welfare personnel will become aware of most cases of violence. More importantly, they claim that mandatory reporting systems are prone to producing an important amount of unsubstantiated reports, increasing the workload of child protection services, wasting resources and reducing the quality of service given to the children and families who need it. They also argue that mandatory reporting feeds paranoia by creating a system where everyone can report on other people.

12. Moreover, mandatory laws in which the reporting obligation is binding only on certain categories of professionals could weaken the sense of individual responsibility of other professionals and other sections of the population who are not covered by this obligation. Mandatory reporting has also been criticised for its potential to be influenced by social, cultural and racial biases, contributing thereby to the stigmatisation of certain social groups. Indeed, in a study conducted in the United States, the investigators discovered that African American children were more likely to be reported to child protection services for suspicion of abuse.[5]

13. Advocates of mandatory reporting, while acknowledging these possible drawbacks, reply that these are arguments against insufficient resourcing of child protection services and, perhaps, lack of or ineffective training of professionals who are required to report, as well as vague reporting laws, rather than the mandatory reporting system itself. They argue that the fear of a large number of unsubstantiated reports should not have the negative side effect of protecting abusers. Thus, they propose that more resources are made available to screen, assess and investigate reports and higher evidentiary standards are put in place, with a view to clearing those reports which are unsubstantiated as quickly as possible and focusing on known cases. They also argue that a mandatory reporting system is not incompatible with efforts to enhance voluntary help-seeking.

14. It should be noted that much of the "evidence" used to justify the above-mentioned arguments for or against is inferential and presumptive. There is little empirical evidence to support or disprove the hypothesis that the mandatory reporting system better protects children and it is extremely difficult to isolate the direct impact of mandatory reporting on improvements in the protection of children.[6] What we know, however, is that, irrespective of the system in place for reporting – mandatory or voluntary –, many cases of suspected

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3. For example, in Sweden, where there is an obligation to report for both the general public and specific professions, failure to report for the general public is not criminally sanctioned.

4. Information provided in this section is based mainly on the following article: Mathews B. and Bross D., "Mandated reporting is still a policy with reason: Empirical evidence and philosophical grounds", *Child Abuse & Neglect 2008*, Volume 32, pp. 511-516.

5. Sege R., "Forty years later – Inconsistencies in reporting of child abuse", *Archives of Disease in Childhood*, published online, 6 June 2008.

6. Wallace I. and Bunting I., An examination of local, national and international arrangements for the mandatory reporting of child abuse: the implications for Northern Ireland, National Society for the Prevention of Cruelty to Children (NSPCC), August 2007.

child abuse, including sexual abuse, remain unreported. It is in my opinion crucial to tackle the reasons behind this under-reporting phenomenon if we would like to increase the protection of children against sexual abuse (see point 3 below).

2.2. Relevant international and European standards

15. Article 19 of the United Nations Convention on the Rights of the Child, while requiring that Parties take all appropriate measures to protect children from all forms of violence, including sexual abuse, stipulates that these protective measures should comprise, "as appropriate", reporting of instances of child maltreatment. When interpreting Article 19 of the Convention on the Rights of the Child, the Committee on the Rights of the Child stressed that, in every country, the reporting of instances, suspicion or risk of violence should, at a minimum, be required of professionals working directly with children. The Committee added that when reports were made in good faith, processes must be in place to ensure the protection of the professional making the report.[7]

16. Article 12 of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, "Lanzarote Convention") lays down that each Party shall take the necessary legislative or other measures to ensure the "possibility" for professionals who are called upon to work with children to report, when they have reasonable grounds to believe that a child has been the victim of sexual exploitation or sexual abuse. The same article requires that measures be taken to "encourage" any person acting in good faith to report known or suspected sexual exploitation or sexual abuse of children.

17. The explanatory report of the Lanzarote Convention points out that professionals normally bound by rules of professional secrecy (such as doctors and psychiatrists) should not risk the legal consequences linked with the breach of confidence as a result of their reporting. It also points out that the requirement of suspicion "in good faith" is aimed at preventing the provision being invoked to authorise the denunciation of purely imaginary or untruthful facts carried out with malicious intent.

18. Finally, in its Article 16, Directive 2011/92/EU of the European Parliament and Council on combating the abuse and exploitation of children and child pornography provides for a quasi-identical provision to Article 12 of the Lanzarote Convention.

2.3. Overview of the legal framework in the Council of Europe member States

19. In January 2012, the Assembly launched a survey through the European Centre for Parliamentary Research and Documentation (ECPRD) to national parliaments on the obligation to report suspicion of sexual exploitation or sexual abuse against children. Thirty-five parliaments replied to that survey, aimed at having a concise and up-to-date overview of different national legislation on the issue.[8]

20. The replies showed that only 12 countries had introduced an obligation to report suspicion of child sexual exploitation and sexual abuse. In some countries, this obligation applied to everyone (for example in Estonia and Sweden) and in others, to certain professionals such as health-care providers (for example in Finland). Some countries (for example Ireland) did not yet have any provision on the obligation to report such suspicion, but were planning to amend their legislation to include the duty to report this kind of suspicion for all and/or for certain groups of people. Conversely, other countries such as Germany and the United Kingdom had examined the question of introducing the obligation to report and had decided against it. The replies also showed that in most countries reporting is made to either child protection services or the law-enforcement bodies such as the police, who then investigate the accusations and, where appropriate, make a decision to seek prosecution.

21. Since the above-mentioned survey, the Netherlands has moved from a legislation where reporting of suspected child abuse was mandatory to what one may call a "hybrid system", where the obligation to report has been replaced by an obligation to make rules to report (*Meldcode*). According to the new law, organisations and independent professionals working with children, from all sectors, including health care, education, childcare, social care, youth and justice sectors, are required to set up and follow a "reporting code" when suspecting child abuse or domestic violence. The code should include the following five steps: identification of the signs, peer consultation and, if necessary, consultation with the Advice and Reporting

7. General comment No. 13 (2011) "The right of the child to freedom from all forms of violence".

8. Replies are available upon request to the Secretariat of the Committee on Social Affairs, Health and Sustainable Development. The results of the survey were presented at the 7th meeting of the PACE Network of contact Parliamentarians to stop sexual violence against children held in Strasbourg on 24 April 2012, on the subject of: "Obligation to report suspected sexual violence against children?".

Centre for Child Abuse and Neglect (or the Domestic Violence Advice and Support Centre) with a view to interpreting the signs of abuse, talking to the client (who can be the potential victim but also the witness or the offender), assessing the nature and severity of the identified child abuse, and deciding between organising assistance or filing a report. Thus, the *Meldcode* (or the reporting code) provides professionals with a road map for reporting cases of suspected abuse. It also fulfils a pedagogical mission by involving professionals in its elaboration, thereby developing their awareness of cases of child abuse and contributing eventually to the detection of such abuse.[9]

3. Beyond reporting laws: understanding why child abuse, including sexual abuse, often remains hidden

22. Recent high-profile cases highlighted in the media have shown once more that abuse of children can remain hidden for years, with the most tragic consequences for the victims. Indeed, until only very recently, no one knew that Régis de Camaret, a former tennis coach in France, had raped young students at his academy in the early 1980s,[10] nor did anyone suspect that the former BBC television presenter, the late Jimmy Savile, could have possibly sexually abused hundreds of victims ranging from prepubescent girls and boys to adults.[11] As for the late four-year-old Daniel Pelka, maybe he could have been saved if the professionals who were in contact with him on a daily basis had been more aware of and sensitive to the problem of child abuse.[12]

23. As a matter of fact, irrespective of the system in place for reporting – mandatory or voluntary –, many cases of child abuse, including sexual abuse, remain hidden, either because they are undetected or detected but not reported. Hence, under-reporting represents one of the main challenges of child protection systems.

24. The lack of public and professional awareness (and professional training necessary to such awareness) is the main explanation why many abuse cases go totally unnoticed. As for the conscious decision not to report despite noticing "something is seriously wrong", there are several reasons for it, depending on whether it concerns professionals working with children or the general public.[13] In this context, it should be noted that reporting child sexual abuse involves additional complications due to the fact that it is often very difficult to detect it.

3.1. Raising awareness of child abuse and training of professionals

25. Public awareness of child abuse is crucial for detecting such abuse. As far as sexual abuse is concerned, in many countries, the increasingly high public profile of the issue of sexual violence against children contributes to increases in the level of reporting and it can be reasonably anticipated that it will increase even further because of this awareness. However, efforts should continue to be deployed with a view to making the general public understand the nature and extent of such abuse, its consequences for children and for society as a whole.

26. Moreover, information campaigns targeted on action to be taken in the case of suspected child abuse could encourage the public to be more proactive in terms of reporting. A good example of this is the campaign launched in the Netherlands in 2009, called "What can I do?" *(Wat kan ik doen?),* which continued in 2010 and 2011. The main message of the campaign was: "Do you have a suspicion of child abuse or neglect? You can always do something!"

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9. Before the adoption of the new law, the reporting code was implemented on a pilot basis in the Municipality of Rotterdam. During the trial period, 85% of care, welfare and educational institutions in Rotterdam adopted the reporting code and the number of consultations referred to the Advice and Reporting Centre increased by about 200%, and the number of opinions the latter issued by about 40%.

10. Régis de Camaret was sentenced on appeal to ten years of imprisonment for rape and attempt to rape on minors.

11. www.independent.co.uk/news/uk/home-news/jimmy-savile-could-have-abused-up-to-1000-victims-while-at-the-bbc-9070421.html.

12. Daniel Pelka died of a head injury on 3 March 2012. His mother and her partner were found guilty of murder. A serious case review found Daniel Pelka, was "invisible" at times and "no professional tried sufficiently hard enough" to talk to him. www.bbc.co.uk/news/uk-england-coventry-warwickshire-24106823.

13. Possible interactions between the reporting system in place and the decision not to report will not be included in the analysis of the above-mentioned reasons, as they bring controversy but no added value to the discussion, in the absence of sufficient empirical evidence. That is, for example, whether or not voluntary reporting increases the levels of under-reporting, or whether or not mandatory reporting provides an important incentive for professional training. See footnote note 4 above.

27. Awareness of child abuse is all the more crucial when it comes to professionals who routinely interact with children, such as childcare givers, teachers and medical doctors. These professionals should be made more aware and motivated regarding their role in intervening in situations of abuse. However, professionals can play this important role only if they are trained to recognise known patterns and mechanisms associated with abuse. Unfortunately, many of them lack the tools to properly identify and assist child victims of abuse. Such tools need to be provided during their professional training as well as in the context of continuous vocational programmes.[14] Professionals should also be trained on the legal framework, namely whether there is a reporting requirement and, if so, under which conditions (the concept of "reasonable suspicion"), to which authority and by whom.

28. However, detecting sexual abuse is particularly complex because unlike physical abuse it doesn't always involve body contact and physical harm. Moreover, even when there are physical signs, most professionals working with children are not in a position to proceed to a physical examination which would enable them to detect these signs. Therefore, it is crucial for professionals to be aware of and recognise behavioural and psychological changes that may be the result of sexual abuse, which can easily be misidentified as moodiness or disobedience. Professionals should also be trained on how to communicate with children with a view to identifying possible allegations of sexual abuse by children themselves. In this context, it should be noted that false accusations of sexual abuse by children themselves are rare.[15] Therefore, for professional working with children, it is crucial to know how to properly react to such accusations.

29. It should also be noted that appropriate training is not only relevant for detecting abuse but also for responding appropriately to known cases of abuse. In the recent Rochdale child grooming case in the United Kingdom, it has been argued that basic system failings such as deployment of detectives without training in child sexual exploitation to interview potential victims have played a crucial role in the failure of the authorities to react appropriately.[16] Consequently, it is necessary to ensure that investigation of instances of violence is undertaken with a child rights-based approach, by qualified professionals who have received comprehensive training.[17]

30. These issues have already been underlined in Recommendation 1934 (2010) "Child abuse in institutions: ensuring full protection of the victims", in which the Assembly called for the development of specific training and continuous education programmes for all professionals and volunteers working with children and adolescents, to enable them both to identify potential abuse and to react to it in an appropriate manner. The Assembly also recommended that such training and education programmes be relevant for police, prosecutors and judges as well as child protection services, since they are the ones who receive the reports of suspected violence and investigate the allegations.

3.2. Factors influencing the reporting decision for professionals working with children

31. Studies show that many professionals who work with children decide not to report, even after identifying a particular case as suspicious, and even in cases when they are mandated to do so by law. In addition to their training, their personal experiences and beliefs about the system in place for child protection all enter into the calculus when deciding on whether or not to report.[18]

32. The most common reasons given by professionals for not reporting include the fear of misdiagnosis, the fear that in the event of reporting there would be recrimination by the child's family members or the alleged perpetrator and the concern to safeguard links between the child and the family. Indeed, one of the possible consequences of reporting is that the child will be removed from her or his family, and potentially disrupting in such a way the family life of a child is a serious concern for many professionals. The legal and practical situation in terms of the removal of children from their families in Council of Europe member States is currently being examined by my colleague Ms Olga Borzova (Russian Federation, EDG). However, I believe it can already be said that removal of children from their families should be an exceptional measure that is used only as a last resort, when there is no other way of ensuring the immediate as well as long-lasting safety and well-being of a child.

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14. Studies in various countries have highlighted the need for the continuing education of professionals on the detection and reporting of early signs and symptoms of child abuse. World Report on violence and health, World Health Organization, Geneva, 2002.
15. In difficult divorce cases the rate of false allegations of child sexual abuse may be slightly higher.
16. www.theguardian.com/commentisfree/2013/dec/20/rochdale-child-grooming-report-wake-up-police?INTCMP=ILCNETTXT3487.
17. See footnote 6 above.
18. See footnote 4 above.

33. Another major reason for under-reporting by professionals is their lack of confidence in the child protection system. This scepticism of professionals may be based either on their previous personal experience or that of other colleagues, or media reports suggesting that children who have been reported may continue to experience abuse. They may also fear that criminal or other procedures that may start as a result of reporting could lead to secondary victimisation of the child. Such scepticism can also be magnified when, as often occurs, professionals receive very little feedback from child protection agencies after making a report. For example, it is reported that in Sweden, the lack of feedback received from the social services may lead to hesitations about submitting a report.[19]

34. For professionals who are bound by confidentiality rules in the exercise of their duties, such rules may also constitute an obstacle to reporting, because their violation could lead to criminal or disciplinary proceedings against them. Studies show in fact that professionals are more inclined to report their suspicions if they have effective legal protection from criminal and disciplinary procedures. In principle, in countries where there is a mandatory reporting system, professionals are protected from such proceedings. However, it appears that despite laws protecting them, medical doctors have been sued for malpractice because they reported suspected maltreatment to child protection services.[20]

35. Legal protection for professionals is also relevant in countries where there are no mandatory reporting requirements. Indeed, in countries like the United Kingdom, it has been argued that disciplinary procedures brought against doctors for their testimony in, and/or reporting of cases of suspected child abuse, have caused damaging consequences for child protection. Indeed, because of these cases and a mounting number of complaints against them, paediatricians were less likely to report suspected child abuse, and were less willing to accept leading child protection roles.[21] Moreover, it should be noted that, in some countries, despite the absence of a reporting obligation as such, the failure to report suspected abuse may expose professionals to liability in negligence. Hence, professionals may find themselves in a situation where either they report but risk being prosecuted or receiving an administrative sanction for breaching confidentiality, or they don't report but then risk criminal procedures for failing in their obligation to protect. Such situations should also be avoided.

3.3. Factors influencing the reporting decision for the general public

36. The general public may also be reluctant to report suspected sexual abuse for reasons similar to that of professionals, that is because they don't want to interfere in someone else's family and possibly break up their home, they fear that their identity will be discovered by the suspected abuser (fear of retaliation, including through legal proceedings) or simply because they think reporting will make no difference or lead to the re-victimisation of the child. In relation to the fear of retaliation, it should be noted that in the United States, the identity of the reporter is specifically protected from disclosure to the alleged perpetrator in many States. Release of the reporter's identity is allowed in some jurisdictions under specific circumstances or to specific departments of officials. For example, disclosure of the reporter's identity can be ordered by the court upon finding that the reporter knowingly made a false report.

37. In the case of *Juppala v. Finland*,[22] the European Court of Human Rights acknowledged that allegations of sexual abuse of a child, even if subsequently disproved, could have serious consequences for a person's reputation and good name, and that therefore it was necessary to impose penalties against any person filing a report known to be false. However, according to the Court, those who report in good faith must be protected and defamation laws which have a chilling effect on the reporting of potential child abuse violate the freedom of expression. In this regard, the Court said that "the seriousness of child abuse as a social problem requires that persons who act in good faith, in what they believe are the best interests of the child, should not be influenced by fear of being prosecuted or sued when deciding whether and when their doubts should be communicated … There is a delicate and difficult line to tread between taking action too soon and not taking it soon enough. The duty to the child in making these decisions should not be clouded by a risk of exposure to claims by a distressed parent if the suspicion of abuse proves unfounded".

38. In view of the above, one legislative measure that may encourage reporting by the general public could be the recognition of the confidentiality of the identity of persons who report suspicions of violence. The latter should also have immunity from legal proceedings, provided they report in good faith.

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19. See footnote 12 above.
20. See footnote 4 above.
21. Mathews B et al., "A way to restore British Paediatricians' engagement with child protection", *Archives of Disease in Childhood*, published online, 3 February 2009; doi:10.1136/adc.2008.154997.
22. Application No. 18620/03, judgment of 2 December 2008.

4. Conclusion

39. Every time a child abuse scandal makes the headlines, voices are raised to ask “How was this possible?”. After the initial shock, a process begins whereby the flaws of the system in place are questioned with a view to understanding how things could go “so terribly wrong”. Sometimes, it is the very system itself that is being called into question. In the United Kingdom for example, in the light of recent child abuse scandals, calls have been made for mandatory child abuse reporting to be introduced. However, it would be naïve to think that mandatory reporting is a magical solution to the complex problem of child sexual abuse. Indeed, the system may fall short in protecting children from abuse for many reasons: because the diagnosis may be missed, suspicions of abuse are intentionally not reported, no intervention takes place, or the intervention is inappropriate or inadequate.

40. With a view to addressing these shortcomings, first and foremost, there is an urgent need to develop and implement training activities for professionals who routinely interact with children on how to identify and assist child victims of sexual abuse. Professionals should also have a clear and common understanding of possible reporting and referral pathways for an abused child. Moreover, public awareness campaigns need to be developed with a view to engaging the public to act on behalf of victims, without causing more harm.

41. Secondly, the reasons behind under-reporting need to be tackled, starting with building trust in the child protection system in place. The child protection services should not be seen by professionals and citizens alike as a process which does not guarantee sensitive assessment and efficient services. In this context, it should not be forgotten that whatever reporting system is chosen, its effectiveness will depend on the quality of services that are available if the report, on examination, is found to be grounded. Indeed, requiring suspected abuse to be reported serves little purpose if the child protection system is weak[23] and there are no sound policies providing for an appropriate response after both referral and substantiation. In this context, extreme care must be taken to avoid subjecting the child to further harm through the investigation and the judicial process. Child victims of violence should be treated in a child-friendly and sensitive manner. It should be remembered that inappropriate responses or failures to respond to reports of abuse not only provide a disincentive to both children and third parties to report incidences of abuse but also obstructs the recovery of children who have been abused.

42. Finally, it should be kept in mind that reporting is only one measure amongst many to effectively protect children against sexual abuse and that it must be supported by integrated services for children in the form of counselling and care as well as community initiatives aimed at changing social attitudes and norms in relation to child protection which can also contribute to reversing the culture of silence and under-reporting.

23. Safe and child-sensitive counselling, complaint and reporting mechanisms to address violence against children, Joint report of the Special Representative of the Secretary General on Violence against Children and the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, United Nations, New York, 2012.