

CHILD SEX ABUSE: THE SUFFERING UNTOLD

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ABSTRACT

Despite its high prevalence, violence against children is often hidden, unseen or under-reported. It is not widely acknowledged or understood. Child Sexual Abuse occupies a unique space where there are selective denial and acceptance. It is both recognized (happens with 'others') and denied (does not happen with my child by my family members) simultaneously. There is silence around the issue of Child Sexual Abuse that stems from the fear of shame, denial and social stigma and the foundational belief in the family being sacred and family honour being supreme. Along with this, the belief that children are the property of their parents and power differentials based on socio-economic condition, caste, class, religion, sexual preferences make children vulnerable to sexual abuse. Several studies across the globe have made a strong connection between Child Sexual Abuse (CSA) and the associated health burden. While the impact of the abuse can vary based on a variety of parameters, CSA has consistently been found to impact the life of the child at the physiological, psychological and social levels and impact sexual behavioural patterns in adulthood. In India, such topics are rarely discussed openly and are frequently seen as a societal taboo. Most families seek to keep such situations hidden, maybe to protect the child's interests. To prevent the trials, all elements of society must be made aware of the situation, and the court system must be overhauled.

Keywords: *Child abuse; psychological; sexual; crime; juvenile; victims*

INTRODUCTION

"Safety and security don't just happen, they are the result of collective consensus and public investment. We owe our children, the most vulnerable citizens in our society, a life free of violence and fear." - Nelson Mandela

"Child sexual abuse" is a legal term that covers both criminal and civil offences in which an adult has a sexual relationship with a child or uses a child for sexual pleasure. "Children cannot consent to sexual activity with adults," says the American Psychiatric Association. "An adult who engages in sexual activity with a child is committing a crime and an immoral act that can never be seen as normal or socially acceptable behaviour."

For now, it's important to know how big of a problem child sexual abuse (CSA) is in India and how the state and civil society protect children from it. There is a lot of sexual abuse of children. The data on how often sexual abuse of children happens are very different. Some studies that look into the real sexual abuse of young children show that about 1% of children are abused by their fathers and about 1% are abused by their stepfathers. Still, some people are abused by other family members or people who are not connected to them. Other, more general polls look at things like a boy trying to kiss a 17-year-old girl on a date, even though she didn't want to.

This is an example of child sexual abuse. The second set of polls shows that about 25% of women who are attacked are by women.

Ritual abuse of young children is a more severe form of abuse because it happens over and over again and because the physical, sexual, spiritual, and emotional traumas are so bad that there is no good information about how often it happens. Some scientists have said that they don't think it exists. But hundreds or even thousands of children have stated in court that they were ritually abused and that they are sure of it. Some supporters fight hard for the children's memories. Others think that the "memories" were made up during the talks and have nothing to do with what really happened.

Abuse of children by adults, often known as child sexual abuse (CSA), is a common social problem that has been present in every historical age and society.¹ Abuse can have a wide range of immediate and long-term repercussions on its victims. Victims may exhibit a variety of these effects. Child sexual abuse is a bleak reality that routinely inflicts our daily lives; however, in the majority of cases, it goes unnoticed and unreported due to the fact that the victim is innocent, there is a stigma attached to the act, and the investigating and law enforcement agencies are callous and insensitive. It is estimated that more than 3 million children are abused each year in the United States.

" Child abuse or maltreatment refers to any form of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment, or commercial or other exploitation of a child that results in actual or potential harm to the child's health, survival, development, or dignity in the context of a relationship of responsibility, trust, or power. Abuse or maltreatment of children can take many forms, including neglect or negligent treatment, sexual abuse, commercial or other exploitation, and more." – WHO

It is a condition in which an individual under the age of eighteen is subjected to emotional, physical, economic, and sexual abuse, and it is a phenomenon that occurs everywhere in the world. In India, on the other hand, there is a lack of comprehension regarding the gravity of the issue. Children in India are increasingly susceptible to a variety of forms of sexual abuse due, in large part, to the rising complexity of daily life as well as the profound social and economic shifts that have taken place in the country in recent decades. Yet, the sexual abuse of minors will be the primary focus of this research. The World Health Organization (WHO) describes sexual abuse of children as including the following:

"Involvement of a child in sexual behavior that the kid does not completely appreciate, for which the child is unable to give informed consent, or which violates the laws or social taboos of the society in which the child resides is considered to be child sexual abuse."

India made a commitment to safeguard its children from all forms of sexual exploitation and sexual abuse when it ratified the United Nations Convention on the Rights of the Child. Article 34 requires the machinery of the state to prevent any form of coercion or incitement of a minor to participate in any form of sexual conduct that is illegal.

The fact that a shocking majority of these situations go unrecognized is perhaps the most heart breaking aspect of the fact that a child is abused in this way by a person who is in his or her personal circle. In addition, factors such as shame, sheer wickedness, and the need to protect the dignity of the family all contribute to the shunning and covering up of cases of child abuse. Abuse of a child in a sexual manner can have a wide range of immediate and long-term impacts on the child, ranging from psychological and behavioural issues to deviant sexual behaviour and psychiatric diseases. A causal link between child sexual abuse (CSA) and some subtypes of adult psychopathology, including suicidal behaviour, antisocial conduct, post-traumatic stress disorder (PTSD), anxiety, and alcoholism, has been proven through research. The crime of child sexual abuse (CSA) is still shrouded in secrecy, despite the fact that it is a real problem in India. The lack of adequate regulation and the silence that surrounds the offense contribute to the deterioration of the situation. The overwhelming majority of people have the opinion that this is mostly a western problem and that it does not occur in India. The meaning of the term "child sexual abuse" varies greatly from nation to nation. Nearly every developed nation has some form of legislation in place to criminalize acts of violence or abuse committed against children. When it comes to the CSA, there are two institutions that play a very crucial part in the life of a child: the protection institution and the prosecution institution. The role of the parent is to provide protection. The state is responsible for prosecuting criminals.

WHAT IS SEX ABUSE OF A CHILD?

Abuse of a child can be emotional, mental, physical, or sexual, and it can happen in a wide range of ways. Sexual abuse of a child is any action, word, picture, or motion that is sexual and hurts the child's sexuality or sexual organs. 53% of children have been sexually abused in some way. 6% of children say they have been sexually abused. Cases where the person who hurt the child was someone the child trusted 50%. Renuka Chowdhury, Minister of Women and Child Development in India, said when the report on child abuse in India was released, "Child abuse is hidden, and there is a conspiracy of silence around the whole subject." This is just one of the many problems that people who work in social development, law, and justice, both in government and non-government organisations have to deal with. In the above-mentioned report, for example, it says, "One of the major problems in understanding the scope of the subject of 'child abuse' is that it is very hard to get responses from children on such a sensitive subject because they can't fully understand the different aspects of child abuse and talk about their experiences. So, it's hard to get information about children who have been abused. Child rights activists say that the problem may not be that the child can't talk about sensitive topics, but that the people asking the questions don't have the skills to create the environment and trust that will allow the child to talk.

CHILDREN ARE SEXUALLY ABUSED (WITH EMPHASIS OF CHILDREN IN INDIA)

Child abuse is a broad term for four different kinds of mistreatment of children. It includes mental, physical, financial, and sexual mistreatment of people under the age of 18. Child abuse is a worldwide problem. But in India, as in many other countries, no one knows how big the

problem is or how it is getting worse. India's social and economic changes have made life more complicated and have led to a lot of big changes that have made it easier for children to be abused in different ways. Abuse of a child has serious physical and psychological effects that hurt the kid's health and well-being as a whole. At the moment, the India has enacted and is enforcing a number of Acts and Statutes which criminalises and penalises various sorts of malfeasance against children that are related to sexual abuse. For example, the Immoral Traffic (Prevention) Act says that children under 16 can't be used for commercial sex. Under Section 26 of the Juvenile Justice Act (Exploitation of Juvenile or Child Employee), a person can be punished if they hire a child or a teen for dangerous work. The Prohibition of Child Marriage Act also makes it illegal for girls under 18 and boys under 21 to get married. The Vedic mantras, such as the Rigveda also mentioned that a girl could be married only when she was fully developed both physically and mentally and that she was to be fully developed physically before leaving her father's home.²

KINDS OF ABUSE

Kid abuse is the intentional, unintentional, or perceived mistreatment of a kid, whether or not it is done on a regular basis. It can include any of the following.

(1) CHILDREN GETTING HURT AT WORK

Under the Child Labour (Prohibition and Regulation) Act of 1986, it is against the law for children younger than 14 to work in dangerous jobs. People disagree about whether or not children under 18 should work at all, and a lot of them think that children who don't go to school and work in some way are in possibly dangerous situations. Even in jobs where it is legal for children to work, the conditions in which they work and the tasks they have to do are often cruel and inhuman. By way of a notice, the Indian Ministry of Labour and Employment has said that employment in homes, restaurants, tea stalls, and dhabas are dangerous. So, 56.38 percent of children worked in illegal or dangerous jobs like manual labour, working in roadside restaurants and dhabas, construction, making bidis, locks, needlework, zari, etc.

(2) SEXUAL ABUSE

Sexual abuse is when someone does something sexually wrong with a child. It includes touching the genitalia of a child or making the child touch the genitalia of an adult, having sexual relations with a child, incest, rape, sodomy, exhibitionism, and sexual abuse. For these things to be called "child abuse," they must be done by someone who is in charge of a child (like a babysitter, parent, or creche provider) or is related to the child. If a stranger did these things, it would be called sexual assault, and the police and criminal courts would handle it.

(3) ABUSE OF THE MIND

Emotional abuse is also called mental abuse, psychological mistreatment, and verbal abuse. It includes things parents or caretakers did or didn't do that caused or could have caused major behavioural, cognitive, emotional, or mental trauma. This can include parents or carers who punish a child in extreme or strange ways, like locking them in a closet or dark room or tying

them to a chair for long period of time, or who threaten or scare the child. Less serious, but still harmful, actions include putting down or refusing treatment, using derogatory words to describe the child, and always blaming or using the child as a scapegoat.

(4) NEGLECT

It means not taking care of the child's basic needs. Physical, educational, or social neglect are all types of neglect. Physical neglect can happen when a child doesn't get enough food or clothes, the right medical care, guidance, or protection from the heat or cold. It could include being left behind. Educational neglect is when a child doesn't get the right learning or help for special needs, or when they miss too much school. Psychological neglect is when a child doesn't get any mental support or love, the parent never pays attention to the child, or the parent uses drugs or alcohol and lets the child do the same.

If a child isn't given his or her basic needs, like food and housing, or is hurt and doesn't get medical care right away, it could hurt the child's growth and development or cause him or her to be permanently disabled or die. When a child is hurt physically, this is called physical abuse. This could mean hitting, shaking, kicking, beating, or hurting a child in some other way.

UNICEF says that child trafficking is when a person under the age of 18 is "recruited, transported, transferred, housed, or received for the purposes of exploitation, either inside or outside of a country." According to the National Crime Records Bureau, a child goes missing overnight as often as once every eight minutes. Children are taken from their homes and sold and bought in the market. In India, there are a lot of children who are sold into slavery for things like manual labour, begging, and sexual abuse. Because of how this crime works, it is hard to keep track of, so it is impossible to have exact numbers about it. India is a popular place for child trafficking to happen because many of the children who are kidnapped are from India, pass through India, or are going there. Even though most of the trafficking happens inside the country, there are also a lot of children from Nepal and Bangladesh who are kidnapped.

CONSTITUTION PROVISION RELATING TO CHILDREN

There are protections in the law that only apply to children. The law says that children should have a happy, healthy childhood free from abuse and exploitation. Article 15(3) of the Constitution says that the government can help women and children in special ways. Article 21-A of India's Constitution says that every child up to the age of 14 must go to school for free. Article 21 of the Constitution says that "right to education" is part of "right to life." This is a basic right.

Article 23 of the Constitution bans trafficking in people, begging, and other kinds of forced labour and exploitation that are similar to these. Even though this article doesn't mention children by name, it still applies to them. Article 24 makes it clear that no child younger than 14 years old can be hired to work in a factory or mine or do any other dangerous job.

Article 45 says that the government should try to give all children up to age 14 care and schooling.

WHAT THE LAW SAYS NOW ABOUT ABUSE OF CHILDREN (INCLUDING SEXUAL ABUSE AND PORNOGRAPHY OF CHILDREN)

The Juvenile Justice Act of 2000 was made to help, care for, protect, treat, develop, and rehabilitate neglected or delinquent children and to decide what to do with neglected or delinquent children. This is made sure of by setting up homes for observing delinquent or neglected youth and special homes for child in conflict with law or neglected youth.

The Immoral Traffic (Prevention) Act of 1956 says that if a person is found with a child in a brothel or if a child or minor found in a brothel is found to have been sexually abused after being examined by a doctor, it is assumed that the person has committed the crime of keeping a person in a place where prostitution takes place. He will get a 7-year jail sentence, a life sentence, a 10-year prison sentence, or a fine. The Indian Penal Code of 1860 lists crimes like kidnapping from a legal parent (S.361), procurement of a minor girl (S.366A), bringing a girl from another country into India (S.366B), and selling a minor for prostitution (S.373), rape (S.375) and acts against nature (S.377)

Information Technology Act: Publishing obscene information in electronic form (S.67): First conviction shall be punished on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may extend to five lakh rupees and in the event of second or subsequent conviction with imprisonment of either description for a term which may extend to five years and also with fine which may extend to ten lakh rupees. Network service companies will not be responsible in certain situations (S.79), which gives them a way out.

Protection of Children from Sexual Offences Act (POCSO): was enacted by the Parliament in 2012 to prevent children aged less than 18 from offences like sexual harassment, sexual assault, and child pornography. There was a lack of laws that especially catered to the best interest of the children, as this approach had its fair share of drawbacks. It had several loopholes that prevented the proper and effective care to protect the child, like; IPC 375 does not protect male victims from sexual offenses involving penetration. The word 'modesty' is vaguely ambiguous in terms of definition in the constitution. Hence, its violation carries little weight regarding a penalty as it does not qualify as a compoundable offense. It also doesn't cover the modesty of a male child. IPC 377, which was annulled in the landmark judgement in 2018, did not define 'unnatural offenses'. It did not necessarily criminalize the act on children but was rather limited to the sexual act of the attacker.

These discrepancies and insufficient measures were the reason enough for wanting a reform that was driven by its objective to protect children against such crimes. Therefore, the POCSO Act was implemented. There were 12 main principles defined under the Protection of Children from Sexual Offences Act of 2012. These were to be followed by everyone involved; the state governments, child welfare committees, the Special Courts, and the Police alike. These 12 principles have been listed down below; best Interest of the child; Right to Life and survival; Right to be protected from discrimination; Right to be treated with dignity and compassion; Right to be informed; Right to special preventive measures; Right to effective assistance; Right

to be heard and to express views and concerns; Right to be protected from hardship during the justice process; Right to Privacy; Right to compensation; Right to safety.

Some salient sections which deal with child sexual predators are S.4 - Sexual assault that is penetrative in nature on a child below 16 years of age and the punishment awarded is minimum of 20 years of imprisonment that may be extended up to imprisonment for the remainder of natural life in addition to fine; S.6 - Penetrative sexual assault that is aggravated in nature and the punishment awarded is minimum of 20 years of rigorous imprisonment that may be extended to a life sentence in addition to fine. S. 14(1) - Use of a child for pornography for which the punishment upon the first conviction, 5 years of imprisonment will be given. However, upon further convictions, the jail time can go up to 7 years in addition fine.

The court system has done a lot to make sure that children who have been sexually abused get justice. To speed up the trial process, the Supreme Court of India told all states and union territories in 2021 to set up special courts to hear cases under the POCSO Act. During court cases, the law has also helped make sure that the rights of child victims are protected. In a recent ruling, the Madras High Court told the state government that a 13-year-old girl who had been sexually abused should get therapy and help to get back on her feet.

Keeping children safe from sexual crimes is a very important problem that needs society's immediate attention and action. By making sure the laws are followed and that justice is done, the judicial system is very important in keeping children safe from sexual crimes. As a society, we need to work together to make sure our kids have a safe place to live and that people who do bad things are held responsible. By doing this, we can protect our children's rights and help their physical and mental health.

CONCLUSION

Child sexual abuse is a terrible crime and is also a societal problem. Children who are innocent and should be enjoying their childhood are used as toys by people who don't care about them. This leaves them in a state of stress and with a life that is nothing but a corpse. In today's world, there is a lot of inappropriate material that everyone can see which has bad results. Children are still at risk from shady abusers because they don't have enough information and sometimes the wrong kind of information.

In conclusion, keeping children from being sexually abused is a very important issue that needs the attention and participation of everyone in society. The numbers show that the number of sexual assaults on children in India is going up, which is scary and means that something needs to be done right away. The Protection of Children from Sexual Crimes (POCSO) Act, which was passed in 2012, and the Juvenile Justice (Care and Protection of Children) Act, which was passed in 2015, are the laws that protect children from sexual crimes. It is very important that these laws are carefully put into effect so that children can get the justice they deserve. By setting up special courts, speeding up the trial process, and making sure that the rights of child victims are protected during court procedures, the legal system has done a lot to protect children from being sexually abused. But there is still a lot of work to be done to make sure that the

court system will continue to work hard to deal with the problem of sexual abuse of children and give the victims justice. Because sexual abuse of children can have bad effects on their mental health and last for a long time, it is very important to stop it from happening in the first place. It is very important to get the word out about the problem, spread sex education, and create safe places where children can go to report these kinds of crimes. Also, parents and other people in charge of taking care of children need to stay alert and take preventive steps to keep their kids safe. The cost of sexual abuse of children is very high, and the government needs to put in enough money to stop these crimes and help the victims. It is also very important to make sure that sufferers can get medical, legal, and psychological help.

REFERENCES

¹ Conte 1994; Fergusson and Mullen 1999; Wekerle and Wolfe 1996; Wolfe 1999

² K.P. Yadav, *Child Marriage in India*, ADHYAYAN PUBLISHERS AND DISTRIBUTERS NEW DELHI(2006), P:15