

Prevalence of Child Sexual Abuse in India: Importance of POCSO Act

M.Tamilmani, M.L.

Assistant Professor, Government Law College, Madurai- 625 739, Tamil Nadu, India

T.Ramya

Assistant Professor, Government Law College, Madurai- 625 739, Tamil Nadu, India

Abstract

Children are one of the vulnerable and endangered to various forms of abuse, exploitation, and lack of access to essential services. Prevalence of child Sexual abuse and exploitation is an increasing trend in developing countries including India. Therefore these groups of vulnerable children necessitate to direct attention by the parents/ guardian, teachers, and concerned stakeholders to work together guided by a comprehensive framework of planning. The constitution and all other International instruments shows its guarantee to the care, protection, safety, security, and well-being of its all the people, including children from all types of abuses including sexual abuse. In this juncture, this present paper emphasis an attempt to strengthen and executed the existing legal provisions which exclusively the POCSO Act how to protect the children from sexual abuses. Moreover, this paper also attempt to suggest and recommend that parents, schools, Medias, NGO's and all other concern stakeholders play the customary exercises to prevent the sexual abuses against children.

Keywords: Child Abuse, POCSO Act, Sexual Abuse, Victimization.

Introduction

Children are one of the vulnerable and endangered to various forms of abuse, exploitation, and lack of access to essential services. Prevalence of child abuse and exploitation is an increasing trend in developing countries including India. Child sexual abuse is very common practices perpetrating by the relatives, neighbours, school teachers and also the strangers. Child Sexual Abuse is a global problem and also threatening our future generation; The incidence of Child Sexual Abuse was found to be high in India as well as throughout the world. Child Sexual Abuse is a prevalent the problem and even the lowest occurrence includes an enormous number of victims. Future generations are going to be everlastingly contaminated physical and sexual abuse in the name of discipline is common in India.

Definition of Child Abuse

The World Health Organization Report on the argument on child abuse and Prevention (1999) suggested an altered definition for Child Abuse or maltreatment establish all forms of physical and or emotional abuse, sexual abuse, abandonment or negligent treatment or commercial or other exploitation, resulting in actual or possible harm to the child's health, survival, development or dignity in the situation of an insinuation of responsibility, the trust of power" (Murugesan, D & Ramakrishnan, D, 2019, p.354). 'Child Neglect' is indicated to ensue when there is the failure to provide for the development of the child by their parents/guardian and caretakers. Neglect ensues in one or more area such as: neglect by their health, education, emotional development, nutrition and shelter (NarendraSaini, 2013, pp. 302-303)

Definition of Child Sexual Abuse

The World Health Organization states Child Sexual Abuse as "the involvement of a child in sexual activity that he or she does not fully understand and is unable to give informed assent to, or for which the child is not developmentally prepared, or else that violate the laws or social taboos of society." The term Child Sexual Abuse includes a kind of activities like "interaction, attempted intercourse, oral-genital contact, fondling of genitals directly or through clothing,

Exhibitionism or exposing children to adult sexual activity or pornography, and the use of children for prostitution or pornography." (MannatMohanjeet Singh, 2014).

Child Sexual Abuse in recent scenario: Issues and Challenges

It is a fact that millions of girls and boys universal are being sexually abused within homes and the whole society. They are abused by families and unknown persons. The offender can be anyone who abuses the child's vulnerability to gain sexual pleasure. It also involves physical, mental and emotional abuse of a child through explicit and secret sexual acts, nods and disposition- when informed consent or resistance by the child victim to such action is not possible. It can include actions which do not involve direct touching.

The sexual abuse of children not only has a harmful and longstanding impact on the victim. But also affect the families, communities, and the whole society. Like any crime that continues to go unchecked. The sexual abuse of children- both within our homes and outside is an issue of serious concern and directly suggests the health of a society as a whole. (AshaBajpai, 2018)

Statistics on Child Sexual Abuse in India

The numbers of occurrences were registered for child abuse increased from 8,904 in the year 2014 to 14,913 in the year 2015, under the POSCO Act. Sexual offenses and kidnapping amount of 81 % of minors. The State-wise cases registered under POCSO Act: Uttar Pradesh led the highest number of cases of child abuse total number of cases (3,078) followed by Madhya Pradesh (1,687 cases), Tamilnadu (1,544 cases), Karnataka (1,480 cases) and Gujarat (1,416 case). Along with workplace cases, here are other findings of rapists being known to children: 94.8% of rape cases saw children being raped by someone they knew, not unknown persons. These connections include neighbors (3,149 cases) who were the biggest abusers (35,8%). 10 percent of cases were children being raped by their own direct family members and relatives.

In 2016, NCRB statistics reveals that the child is sexually abused every 15 minutes. And also India recorded a statistics that 106 rapes a day and four out of every ten victims were minors. While, another shocking fact that the 94.6 percent cases, the perpetrators were none other than the victim's relatives including brothers, fathers, grandfathers, sons or associates. The report showed that in the year, 2016, a total of 38,947 cases of rape were registered in the country under POSCO Act as well as section 376 and other related section of the Indian Penal Code.

The following IPC Sections illustrate the punishment to the perpetrators those who were committed the sexual offences against children/-

Under the Indian Penal Code, the following sections are enumerated to control the children from the sexual offense: 1) Obtaining of minor girls by inducement or by force to seduce or have illicit intercourse (Section 366-A). 2) Selling of girls for prostitution (Section 372). 3) Buying girls for prostitution (Section 373). 4) Rape (Section 376). 5) Unnatural Sex (Section 377) (Rufus et al, 2007). But there is no piece of special legislation except Immoral Traffic of Prevention Act, 1956 and Criminal Law Amendment Ordinance, 2018 (POCSO, Act 2012), Act strengthening the aim of exclusive prevention of child sexual abuse. (Rufus, D et al, 2007).

Constitutional provision for Child Protection in India

The initial stage to achieve the rights of children can be found in the Constitution of India. There is various number of articles that address several needs of children as described below. The articles are classified into two categories: Fundamental Rights and Directive Principles of State Policy (Childline Online,n.d.). The right to equality, safeguard of life and personal liberty and the rights against exploitation are enshrined in articles 14, 15, 15(3), 19(1) (a), 21, 21 (a), 23, 24, 39 (e), 39 (f) and reiterate India's commitment to the protection, safety, security, and well-being of all its people including a juvenile (Rufus et al, 2006, p.11)

The government also enacted several legal provisions at national level. These comprised the Juvenile Justice (Care and Protection) Act 2000 (amended in 2006 and recent amendment in 2015), Prohibition of Child Marriage Act (2006), the establishment of the National Commission for Protection of Child Rights (NCPCR) (2005), a National Plan of Action for children (2005), the Child Labour (Prohibition & Regulation) Act, 1986 (two announcements in 2006 & 2008), prolonged the list of excluded and dangerous progressions and employment), Combined Child Protection Scheme (2009) and progressing numerous statutes such as Right to Education Bill (2009) interest to protect, promote and defend child rights in the country. Besides, a large number of NGOs are working in the field of child welfare and child protection. However, because of the enormous numbers of children necessitating protection, their struggles can make only a bordering impact. Even though, they should organize their child welfare accomplishments and need to work together. (Rajeev Seth, 2013, pp.294 – 296).

Some research findings on Child Sexual Abuse have been summarized below/-

Shubhankar Banerje (2004) studied on horrifying rise in worldwide sexual exploitation of children notes that the children had no idea of the extent of sexual exploitation that essentially takes place and the wages in women and children get rape din human tracking worldwide. yet young boys are not protected from such deprecations. The circumstances are more susceptible especially for the children living in the slum areas along with their families living on the rods. It may be concluded that rising graph of sexual abuse of children and sexual crimes against children cannot be cheeked till the neighbourhood at large stand to play more optimistic role along with preventative contributions in the enlightened society.

Anupriyo Mallick (2004) worked on Child Abuse found the information and facets on bringing out the thought – in each society a false notion of disgrace, lack of information, lack of statement and reticence on sex education are the culprits in perpetuating sexual violence against children. Child sexual abuse in the physical or mental violence of a child coupled with sexual intent. It is usually a silent, hidden invisible crime that both boys and girls for at home or outside, often at the hands of trusted adults. Children who have been sexually abused or exploited frequently suffer severe trauma; physical, mental, emotional and behavioural which manifests to have normal sexual relations, it leads sexually transmitted disease, HIV pregnancy at an early age, and it will develop a deep sense of worthlessness isolation, and self destructiveness are some of the short and long term impact o child sexual abuse. To prevent sexual abuse, sex education and through guidance can equip a child in self -defence.

Vandita Dubkey, Seema Prakash and Anju Gupta (2002) revealed their study to gather data on childhood sexual abuse and it impact on a woman’s adult life. The study was carried out among English speaking middle and upper classes women currently living in the major cities. The study also consisting sexual abuse that took place below the age of 18 years. The respondents were mostly students and the and vast majority were from nuclear family. The study revealed that the most repeated abuser was ‘known person’

which included from the family also. Respondents has marked the disclosing a they want to forget it. The respondents as adult women faced difficulties in the area of self – esteem, expression of feelings, development of intimacy, building of positive body image and expression of sexuality. Non contact form of abuse and milder form of sexual behaviour were the most common among strangers molestations. There was only about 5% mentioned there was no need of counselling.

Trupti Panchal and Nakida Shakh (2002) revealed their study by document the police case of sexually abused girls in Mumbai city between 1994-95. They consider the demographic, socio, economic and age summary of victims and offenders and charted out the kind of legal intervention carried out by the police. The study covered 57 reported cases in Mumbai abused girls below the age of 10 years. A large participation occurred between 2pm. Majority of the cases were registered with police within 24 hours of its incidence. There were a number of physical signs of sexual abuse found during the study. Hospitalise of the abused ranged from day to 60 days, depending upon the intensity of the physical ailments suffered by the victims. The study showed that the crime was motivated by urge gratify sexual disease. A significant number of offenders were employed(85.2%) in various occupation like business, service, daily wage earns, constructions, worker children were subjected to almost every form of sexual activity like oral, anal, vaginal, finger penetrations etc.,

Importance of Criminal Law Amendment Ordinance, 2018 in POCSO Act, 2012

Under the Protection of Children from Sexual Offences (POCSO) Act, 2012, any sexual activity with a child below 18 years, whether boy or girl is a crime. As defined by the Act, sexual offenses include penetrative sexual assault (Section 3), sexual assault (i.e., non-penetrative) (Section 7), sexual harassment (Section 11), and use of a child for pornography (Section 13). A sexual offense under the Act classified the several types of undesirable and unwanted contact and non-contact behaviors.

The Law ministry of state has cleared a suggestion to amend the Protection of Children from Sexual Offences (POCSO) Act, 2012, for enhancing punishment in cases of sexual assault against young girls and boys. The amendment is essential because of the passage of the Criminal Law (Amendment) Ordinance, 2018, on April 22 which provides for the death penalty only for those convicted of raping a girl below 12 years of age.

Conclusion

This research paper would be summarized that what there is a need to effective precautionary action to protection of children from sexual offences. Appropriate Child protection mechanisms should be implemented through proper awareness creation among the children, parents, teachers at school and all the responsible citizens in the entire society. Moreover, the parents must monitor every activity of their children and taught to them about identify the good touch and bad touch by the neighbors, teachers and strangers. The

role of media is very essential to create the awareness programmes among the parents about legal provision in the POCSO Act and preventive mechanisms to child protection practices in houses, school and also the public places. Besides, schools should be taught about 'self-protection mechanism' among the children how to protect from the sexual abuse. Apart from that, awareness should be create among the children already being victimized by sexual abuse and their parents about legal and judicial remedies and other appropriate treatment to the victims as well as support to provide compensation and other appropriate assistance which according to the POCSO Act.

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