



Pocso Act: An Analysis Of Child Abuse Cases

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Abstract: The increasing number of child sexual assault cases in India raises serious apprehensions. Any sexual assault of a child upsets our country's honour and respect. The Indian law on child sexual abuse is not sited in a single legally binding document, but rather dispersed extensively in several legislations. Protection of Children from Sexual Offences Act, 2012 (POCSO Act) is the most predominant enactment addressing this issue. It is India's first all-encompassing law designed for protecting children from sexual assault, sexual harassment, and pornography. In Chandigarh too, there are problems like child abuse, sexual abuse of children and women. Consequently, in this city 1100 cases had been reported from 1 April, 2021 to 31 March, 2022 in which 24 cases were of sexual abuse. There are other cases like physical abuse, begging, child labour, drugs and drug addiction that had been reported in one year. A detailed analysis of areas and economic situation of families of the children was done who were reported in Chandigarh Childline 1098. It was found that child abuse has a deep relation with area, economic status and age group which is ramping up these types of crimes. Thus, this paper would be an eye opener and helpful to prevent child sexual abuse in the society.

Key Words: POCSO Act, Child Abuse, Sexual Abuse

Introduction

Women and children are the most vulnerable sections in the society but children are the easiest targets to abuse nowadays. Our society is plunging with various kinds of heinous crimes against children. Therefore, as part of India's child protection measures, laws against child sexual abuse have been passed. On May 22, 2012, the 'Protection of Children Against Sexual Offences Bill (POCSO), 2011' concerning child sexual abuse was approved by the Indian Parliament and became law. The Indian Ministry of Women and Child Development passed a guideline. The government's guidelines, which were developed in compliance with the law, were also announced in November 2012, marking the law's readiness for execution. Many people have called for stricter legislation. Since India is a signatory to the United Nations Convention on the Rights of the Child, the state is required to protect children, as provided to citizens of India by an expansive interpretation of Article 21 of the Indian Constitution.

Since many years, children have been experiencing abuse (physical and emotional), neglect and displacement. Objectively, this issue should be of uppermost importance on the global agenda, but in fact, it is hidden in profound silence and perpetuated by obliviousness. Child sexual abuse is a grim reality that torments our daily lives. Astonishingly, it still remains unknown and unreported in majority of cases due to the victim's innocence, the dishonour associated with the crime, the callousness of the law enforcement agencies, and so on. Sexually abused children are traumatized for life, but they seek assistance after long time, when the mental processes get worsened. It is imperative that the matter be approached as a broader social issue, with society having a duty to assist the victims in overcoming their trauma and leading a normal life as possible.

POCSO Act

"The Protection of Children from Sexual Offences (POCSO) Act, 2012" came into force on November 14, 2012, and enacted in consequence to India's endorsement of the UN Convention on the Rights of the Child (CRC) 1992. This special law addresses to offences of sexual exploitation and abuse of children which either were not described or inadequately punished. It defines a "Child" as anyone below the age of eighteen years. This Law applies to anyone who is below eighteen years old, irrespective of their gender, and it protects

them from all sexual offences. For the first time, the act defined offences under the act followed by its disastrous consequences. The offences included sexual assault, aggravated sexual assault, child pornography, sexual harassment, abetment of an offence, penetrative sexual assault, and aggravated penetrative sexual assault.

Chandigarh Child Helpline 1098

Chandigarh Child Helpline 1098 is a 24X7 National Helpline for Children which is a project under Integrated Child Protection Scheme, Ministry of Women and Child Development, Government of India, working on problems related to children who need care and protection. The Childline had started operation in 1996-97 and now it has spread its root to nearly every District, railway station and some of the bus stands. Chandigarh Childline conducts awareness programs and outreach in the most undeveloped areas of Chandigarh so that more enlightened people and children come up with their complaints and exercise their rights. The Childline is being controlled by the Child India Foundation which was working under the ICPS scheme earlier and now it has become mission VATSALYA. Childline 1098 helped millions of children throughout the country. The Chandigarh Commission for Protection of Child Rights (CCPCR) is mandated to monitor the implementation of POCSO Act, 2012.

Literature Review

The World Health Organization estimates that 73 million boys and 150 million girls under the age of 18 have suffered forced sexual contact or other forms of sexual violence. According to the Ministry of Women and Child Development's Child Abuse: India (2007) research, 53.2 percent of children had suffered one or more forms of sexual abuse, with 52.9 percent being boys and 47.1 percent being girls. Furthermore, children from five to twelve are particularly vulnerable to exploitation and abuse. The states with the greatest rates of sexual abuse were Assam (57.3 percent), Delhi (41 percent), Andhra Pradesh (33.9 percent) and Bihar (33.3 percent).

As reported in 'An Easy Guide to POCSO Act (2012)' one in six boys and one in four girls experience some kind of sexual abuse before they turn 18 years of age.

According to a study by Krishnakumar et al. (2014) on the prevalence of sexual abuse among teenagers in Kerala, 36 percent of boys and 35 percent of girls had been sexually abused at some point of time.

Karthiga et al. (2014) pointed out that children who have faced sexual abuse often have been found to be associated with the abuser. The risk of being raped or attacked by a stranger rises dramatically with age.

Singh and Johnson's (2022) exploratory study on child sexual abuse and exploitation, found that participants lost interest in playing, grew withdrawn or lonely and showed a drop in their academic performance. They also experienced disturbances in their eating and sleeping habits, as well as emotional trauma of some kind.

There has been evidence of a rise in the occurrence of sexually transmitted diseases in children over the past 20 years.

Child Sexual Abuse (CSA) Position in India

In India POCSO Act 2012 regards any sexual activity with a child below eighteen years as a crime. More than 19 percent of the world's children live in India, accounting for 42 percent (more than one-third) of the country's population. Approximately fifty percent of these children require protection and care. According to the latest 2011 census, India's total child population is 4441.5 lakhs. According to NCRB data, only 65.6 percent of all crimes are recorded, despite the fact that 28.9 percent of all minors will engage in some type of criminal activity in 2020. After India signed the United Nations Convention on the Rights of the Child in 1992, it pledged to protect its children from all forms of sexual abuse.

The following are some symptoms of sexual abuse:

- Child has frequent unexplained injuries especially in private body parts
- The child walks and sits with difficulty
- Fatigue and sleeping difficulties
- Poor attendance of child in school
- Unexpected behavioural changes in a child such as social withdrawal or unjustified/inappropriate aggression
- Regressive behavior such as bed wetting and thumb sucking
- Sudden dislike/withdrawal from certain specific people or places he/she was comfortable with earlier
- Sudden accumulation of money or gifts
- The child starts paying too much or too little attention to his/her appearance

Causes of Child Sexual Abuse

Violence against children is a complex issue with root causes at the individual, close relationship, community and society levels. On an individual level, personal traits such as age, education, income, and health intricately weave a tapestry of risk, influencing behaviors and choices. In intimate relationships, the thorny undercurrents of family dysfunction and the corrosive sway of negative peer influences can escalate tensions, driving individuals toward violent expressions. At the community level, the dark shadows of poverty and overcrowding loom large, often intertwining with the alarming availability of weapons, creating a volatile mix that can ignite violence. On a broader societal scale, deep-seated cultural norms, biased policies, and ineffective governance can lay the groundwork for a landscape fraught with violence, fostering an environment where aggression can easily flourish. Together, these interconnected levels form a complex web through which the threat of violence pervades, challenging the very fabric of our communities.

Under-reporting of child abuse cases in India

In India, a mere three percent of offenses related to Child Sexual Abuse are reported to the law enforcement agencies. This phenomenon can be attributed to the pervasive social stigma that surrounds such forms of abuse, compounded by the inadequacies of the criminal justice system in effectively addressing the specific requirements of sexually abused children. Considering the profound sense of shame and the accompanying socio-cultural stigma, especially when the abuse transpires within familial settings, it is unsurprising that incidences of Child Sexual Abuse remain underreported. This challenge is not unique to India; rather, it is prevalent across collectivist cultures throughout Asia, where the individual's experience is frequently overlooked in the interest of safeguarding the family from the dishonor associated with sexual assault.

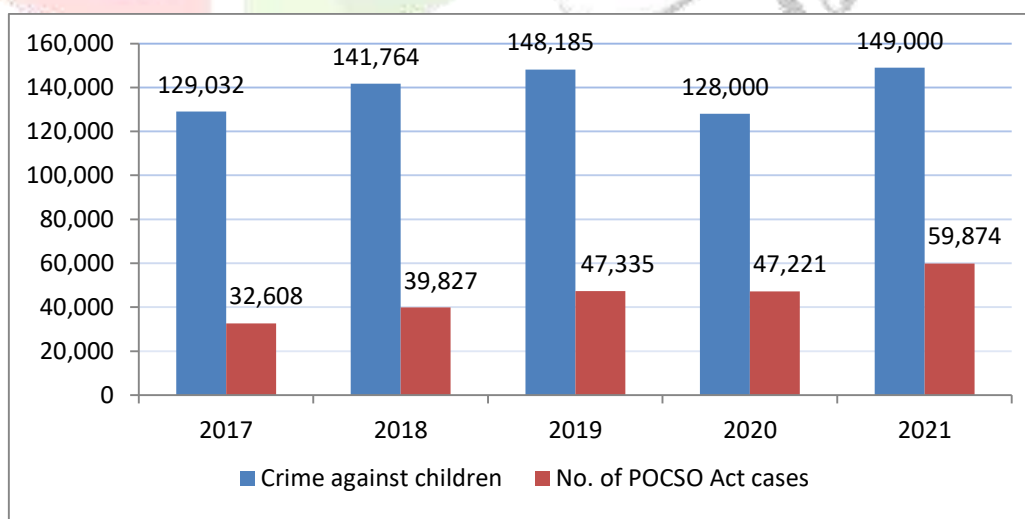
Rising cases of Child Sexual Abuse in India

According to the statistics published by the National Crime Records Bureau (NCRB), Ministry of Home affairs, Government of India, the crime against children is rising year by year.

Table 1: Child sexual abuse cases reported in India from 2017 to 2021

Year	Crime against children	No. of POCSO Act cases
2017	1,29,032	32,608
2018	1,41,764	39,827
2019	1,48,185	47,335
2020	1,28,000	47,221
2021	1,49,000	59,874

Figure 1: Child sexual abuse cases reported in India from 2017 to 2021



From 2017, violations under Sections 17 to 22 of the POCSO Act, as well as the POCSO Act can be read together with Section 377 IPC, have been included in the NCRB report under different headings. Previously, unnatural offences against children were reported separately as IPC crimes and were excluded in the POCSO Act. The report also presented information about the number of cases registered and charge sheeted under POCSO Act in 2017.

In 2019 and 2020, an average of 129 cases per day were reported under POCSO Act.

Only in 2014 did NCRB begin to register cases under the POCSO Act of 2012. The NCRB data shows that between 2016 and 2020, there was a more than 30% increase in POCSO cases. Under this act, almost 47,000 cases were registered in 2019 and 2020. This corresponds to 129 cases recorded under POCSO on average every day. According to data available for the years 2017 through 2020, girls made up 97.1 to 97.6 percent of the victims annually, while boys made up the remaining 2.3 to 2.8 percent.

As with other crimes, the official data only reflect a part of the actual numbers because the NCRB only registers cases for which FIRs have been filed.

Almost 90 percent of cases under POCSO Act are of ‘rape’ and ‘sexual assault’

Between 2016 and 2019, crimes reported under Sections 4 and 6 (rape) accounted for approximately 54 percent of all offenses recorded under the POCSO Act. In 2020, the percentage of rape cases rose to 59.4 percent. In each of these years, girls made up 99 percent of the rape victims.

In 2020, the greatest number of cases recorded under POCSO to date—more than 28,000—were reported under Sections 4 and 6. Since 2017, the number has risen by about 60 percent. The number of cases filed under Sections 8 and 10 (sexual assault), section 12 (sexual harassment), and sections 14 and 15 (using a child for making pornographic content) climbed gradually until 2019 and then decreased in 2020, as compared to rape cases. About one-third of all cases under the POCSO Act were sexual assault cases and when combined with rape cases, they made up about 90% of all cases in each year. Over 2,592 cases were recorded under the POCSO Act to read with Section 377 IPC (unnatural offenses) between 2017 and 2020 for which data is available; of these, 90% of victims (2,341) were boys.

Pendency of Cases

More than 94 percent of the cases under POCSO are pending with the Courts

As final report, a chargesheet is compiled by the police that lists the accused individuals against whom charges may be brought. In other words, it serves as a gauge of how the police handle crimes. In 2016, police charge sheeted 94.2 percent of cases under POCSO; by 2020, that number had risen to 94.7 percent. Between 2016 and 2020, the percentage of POCSO cases that are still pending with the police dropped from 31.8 to 28.8 percent.

Conversely, the conviction rate serves as a metric for the resolving the cases by judicial bodies and is outlined as the proportion of successfully convicted cases relative to the total number of cases that have undergone complete trial proceedings. The conviction rate has exhibited a marked increase over time, escalating from 29.6 percent in the year 2016 to 39.6 percent in the year 2020. Nevertheless, the proportion of cases that remains unresolved within the judicial system rose from 88.8 percent at the conclusion of 2019 to 94.7 percent at the termination of 2020. In spite of the establishment of expedited courts specifically designated for POCSO cases, such a pronounced level of pendency continues to prevail. As of January 31, 2022, more than 226,000 cases filed under the POCSO Act were reported to be pending in POCSO Courts, as indicated by a response from the Lok Sabha in March 2022. In the same communication, the Ministry of Law and Justice, Government of India, articulated that to facilitate the swift processing and adjudication of cases pertaining to rape and those registered under the POCSO Act, the Government of India had initiated a system to create 1,023 Fast Track Special Courts, which includes 389 exclusive POCSO (ePOCSO) Courts across 31 States and Union Territories.

Clearance of cases of rape and assault under POCSO by the Police is faster than crimes against women under Indian Penal Code IPC

The 2020 NCRB report states that the charge sheeting rates under POCSO and in cases of rape against women were 96.3 percent and 82.2 percent, respectively. For rapes recorded under the POCSO Act, the pendency of such cases with the police was 27.6 percent, while for rapes against women, it was 33.2 percent. The charge sheeting rates for sexual assault cases under the IPC and POC were 85.5 percent and 93.1 percent, respectively, while the pendency rates for assault cases against women under the IPC and POCSO were 28.7 percent and 28.1 percent respectively. This suggests that police handle POCSO cases a little quicker than they handle crimes against women.

Conviction rates were recorded at 37.9 percent for cases adjudicated under the Protection of Children from Sexual Offences (POCSO) Act and 39.3 percent for offenses perpetrated against women, as per the judicial processes concerning rape cases concurrently. The pendency rates for rape cases under POCSO and the Indian Penal Code (IPC) pertaining to offenses against women were determined to be 94.4 percent and 94.2 percent respectively, indicating that there exists minimal variance in the case pendency. For minors who

have been subjected to sexual abuse, the provision of timely justice is imperative for facilitating their recovery from resultant trauma. In fact, the establishment of specialized courts is mandated by the provisions of the POCSO legislation. Despite the designation and statutory requirement for special courts, it is disturbing to see that the cases still waiting decisions in the courts have exceeded beyond a limit.

Mandatory Reporting

In accordance with the legislation, the occurrence of any act of child sexual abuse is mandated to be reported. Should an individual possessing knowledge of such abuse neglect to report, they may be subjected to incarceration for duration of up to six months, subjected to a monetary penalty, or both. Numerous organizations advocating for child rights and women's rights have expressed their disapproval of this stipulation. Experts contend that this provision undermines the autonomy and agency of choice afforded to children. Although a considerable number of survivors may opt to abstain from enduring the distress associated with the criminal justice system, this provision fails to acknowledge such preferences. The requirement for mandatory reporting may additionally impede access to essential psychosocial and medical support. Furthermore, it stands in contradiction to the principle of confidentiality when individuals seek medical and psychiatric care.

Case study of Chandigarh Child Abuse

In Chandigarh, 1100 cases had been reported from 1st April, 2021 to 31st March, 2022 out of which there were 24 cases of sexual abuse. There were other cases like physical abuse, begging, child labour, drugs and drug addict which were reported in one year. So it is analysis of areas and economic situation of families of the children who were reported in Chandigarh Childline 1098.

Table 2: Showing the data of child sexual abuse cases reported in Chandigarh from 1.04.2021 to 31.03.2022

Total cases reported	Sexual Abuse/POCSO cases	Age Group	Pendency of cases
1100	24	12-16	65%

(*This data is based on Childline Chandigarh 1098 information)

Observations

- After detailed study, it has been found that Chandigarh is surrounded by different colonies, where many BPL families, labour class people and poor people live. These areas are generally the outskirts areas including Dhanas, Dadu Majra, Palsora, Manimajra, Indira colony, Kachchi Basti, Colony no-4 etc. where majority of the unprivileged people live. Moreover, 90 % cases have been reported from these areas. So, basically undeveloped areas on the borders of Chandigarh are more vulnerable to children.
- As, all the cases have been analyzed, it gives a sharp direction that in 90% cases, the economic status of the people and the children or the family is lower than normal (annual income less than 1 lakh - 1.25 lakh). So, it is a clear indication that economic status of the people and family is also a decisive factor in child abuse cases. Most of the cases reported in Chandigarh belong to BPL families. In many cases, family used to refrain from filing a case because it may affect their financial conditions more because sometimes, father or brother who is the sole earning member of the family molest or abuse the child.
- The data given by the Childline Chandigarh, the most vibrant age of the children which came into notice through these cases is 12-16. Nearly 65-75 % cases are being reported in this particular age group. So, not only children but the adolescents are also very easy target of child abuse cases. Even, 50% cases reported are of adolescents.

Preventive Measures for Child Sexual Abuse

- Public health interventions are necessary to address CSA, which is a substantial public health issue.
- Preventive strategies should prioritize the population and address to common and significant factors affecting Child Sexual Abuse.
- Parents should provide a trustworthy environment and ask their children to report any questionable behavior by adults or older children to their parents.
- Parents should assure children not to feel guilty.
- Children aged 3 to 5 can learn about "good touch", "acceptable touch" and "poor touch."
- Trained teachers are required to teach teenagers thoroughly about physiology, any behaviour that induces sexual arousal and physical intimacy, pregnancy factors, healthy relationships and sexual abuse.

- Indian teachers employ innovative approaches to teach children about the different development stages in a Life Span, especially the time of life when a child experiences hormonal body changes that transforms him/her to teenage and later to adulthood, as part of the "Health and Wellness Curriculum."

Government initiatives undertaken

- **POCSO Act** - The Protection of Children from Sexual Offences (POCSO) Act, 2012 addresses child sexual abuse and exploitation with strict legal provisions.
- **POCSO e-Box** -The POCSO e-Box is an online complaint management system for reporting sexual offenses against children and taking action against offenders.
- **NCPCR** - The National Commission for Protection of Child Rights (NCPCR) ensures that laws, policies and programs align with the Child Rights perspective outlined in India's Constitution and the United Nations Convention on the Rights of the Child.
- **Integrated Child Protection Scheme (Now it become Mission Vatsalya)** - Aimed at building a protective environment for children in difficult circumstances through Government-Civil Society Partnership.
- **Operation Smile** - Operation Smile also called as Operation **MUSKAAN** is an initiative of the Ministry of Home Affairs (MHA) to rescue/rehabilitate missing children.
- **Others include** - Right to Education (RTE) Act and Beti Bachao, Beti Padhao' programme

These actions show that government is serious for the child safety issues and working hard to protect child from all abuses. But only political actions cannot handle the situation. It needs some social change actions to transform psychology and way of thinking of the society how to deal with these issues. Most confronting situation is report of the case first and then punishment. Hence, we need to take not only political actions but social and economic actions too.

Conclusion

The POCSO Act was introduced in the year 2012 to combat the heinous problem of child sexual abuse. Nevertheless, the successful and efficient enforcement of any legislative framework is contingent upon the collaborative efforts and unwavering commitment of the implementing agencies involved in the endeavor. In this regard, a comprehensive strategy is imperative and it is the responsibility of state administrations, law enforcement agencies, judicial systems and healthcare professionals to adhere to the law in its letter and spirit while addressing these critical conditions with immediacy, empathy, and compassion. The incidence of reported cases has risen in comparison to earlier years, attributed to the enhanced awareness fostered by various training and advocacy initiatives. Given this scenario, it is of paramount importance to expedite the investigatory process and judicial proceedings, thereby rendering the entire procedure more conducive to the needs of children. Finally, we must have positive outlook towards the people who show their courage and report the case against the culprit so that it cannot happen again with any other child. Until and unless, we would not support the vulnerable sections of the society, we are not going to have a society where there will be zero cases of crime against children.

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