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**Legislations to Combat Child Sexual Abuse in India**

**Shivam Mani Tripathi, B.A. LL. B**  
**Shaiwalini Singh, Assistant Professor**  
Amity Law School  
Uttar Pradesh Lucknow Campus  
Amity University

**Abstract**

*In India, there is a high prevalence of sexual violence against children. The great majority of child sexual exploitation cases go unreported. Sexual abuse against minors is still frowned upon and stigmatized in Indian society. But there are other elements that contribute to child sexual abuse. There are many different causes and sources of sexual abuse directed against minors. The primary factors contributing to child sexual abuse and violence are financial hardship, the age of the perpetrator, and the influence of social media. In order to protect children from sexual abuse and pornography, the Indian government created the Protection of Children from Sexual Offences (POCSO) Act, 2012. This law emphasized the function of medical officials, the creation of a special court, and the requirement that cases involving child sexual abuse be reported. All staff members are referred to as "children," and any minor who has engaged in sexual assault, harassment, or pornography is protected under this term. Child sexual exploitation is an international issue. The prevalence of sexual violence against children is estimated differently in each country.*

**Keywords:** *POCSO Act, child abuse, sexual assault, sexual harassment, and sexual violence*

## **Introduction**

Sexual abuse of children is not a recent problem. It has strong roots dating back to antiquity. There isn't any proof that child sexual abuse originated. Every civilization, developed or developing, is seeing a sharp rise in the prevalence of child sexual abuse. The children were employed as entertainment at the royal king's home in India during the Muslim era. Nobody dared to speak out against the society's abhorrent systems. Thus, the children's situation was not good. They suffered from various forms of abuse, including as physical, emotional, sexual, and neglect at the hands of people from various eras in India, either directly or indirectly. These days, child sexual abuse and sex trafficking are widespread nationwide issues that are growing quickly. Anybody can abuse a child sexually, regardless of their age, gender, race, level of education, or financial status. The victim of sexual abuse may also be a person of any gender or from any social class. The World Health Organization (WHO) defines sexual abuse as any sexual behaviour involving a child that the kid does not completely understand and is unable to provide informed consent for, is not developmentally ready, or that contravenes legal, social, or cultural taboos. "Any child below the age of consent may be deemed to have been sexually abused when a sexually mature person engages or permits the engagement of that child in any activity of a sexual nature, which is intended to lead to sexual gratification of the sexually mature person," states the Standing Committee on Sexually Abuse Children (SCOSAC), in its most comprehensive definition. Contrarily, child sexual abuse refers to any form of intentional physical or psychological harm done to a kid with the intention of sexual gain, usually by an adult who holds a position of trust or authority over the child. Other types of child sexual abuse include forcing a child to view pornography, exposing the sexual anatomy, showing them pornographic material, using them to produce pornography, and oral-genital, genital-genital, genital-rectal, hand-genital, hand-rectal, or barest contact in addition to physical penetration. When preadolescent children of the same or opposite sex engage in sexual behaviors without coercion and with a maximum age difference of four years, it's referred to as sexual play.

It is known that there was child pornography, prostitution, and sexual abuse throughout the Victorian era, but these facts were kept under wraps and by the middle of the 20th century, most of the world's nations had moved past these crimes. The Ministry of Women and Child Development led the initiative that resulted in the Protection of Children from Sexual Offences (POCSO) 2012 Act, which was just passed into law. This Paper focuses on three concerns that may have implications for the practical application of the legislation while also highlighting the unique characteristics of POCSO. We start off this reflective piece by going at the prevalence of CSA in India and the legal measures taken in reaction to it. To inform the study, we consulted a variety of sources, including published works, court records, media stories, police sources, and our own practical experience.

### **India's prevalence of child sexual abuse**

In underdeveloped nations, child sexual exploitation is a major issue. Twenty percent of women report having been sexually abused as early children. There are significant incidences of sexual assault in other countries of Asia as well. In India, there are relatively few reports of child sexual cases, even with disparate laws and policies. Of the present population of India, 44.4% is under the age of 18, half of

whom lack maturity, education, or health. All forms of child sexual abuse are incredibly common, according to a 2007 survey conducted by the Ministry of Women and Child Development in India. 42 percent of the 2211 cases overall—48 percent of males and 39 percent of girls—were victims of sexual abuse or other. In all countries, there is a high prevalence of sexual violence against children in the middle and upper strata. Children are frequently sexually exploited in both nuclear and mixed families. The victims know most of the abusers. Three major factors include poverty, illiteracy, and social media use in relation to child sexual abuse. Poverty is a major contributor to illiteracy in all societies and has a detrimental effect on students. Since the majority of child sexual abuse cases involve current perpetrators or family members of the victim, India has an extremely low reporting rate for child sexual abuse. Sexual assault happens in the community, at work, in schools, at day-care centres, and in homes.

### **Several forms of sexual abuse against children:**

Sexual abuse of children is a distinct kind. It impacts the victim's physical, mental, and emotional well-being. The four basic types of child sexual abuse include physical abuse, mental abuse, sexual abuse, and neglect.

#### **Physical Abuse: -**

A child who has been physically abused is one who has been punched, kicked, beaten, baited, burned, or subjected to other forms of physical damage. Out of all the forms of child maltreatment, physical abuse is the most evident. Physical harm to a kid that varies from minor scratches to severe fractures or even death from punching, choking, striking with a hand, strap, or other object, burning, or injuring the child in any other way is deemed abuse, regardless of whether the caregiver meant for the child to suffer harm. In actuality, physical abuse is more prevalent. Unlike sexual abuse, which is more common in girls, physical abuse is more common in boys.

#### **Emotional Abuse: -**

Verbal, mental, and psychological abuse are other names for emotional abuse. It encompasses parental or caregiver behaviours that have caused or may create significant behavioural trauma, whether it be cognitive, emotional, or mental, as well as their inaction. This can involve frightening a child or subjecting them to severe and/or unusual types of punishment, such as tying them to a chair for extended periods of time, putting them in a closet or dark room, or threading them. Acts that are less calm. Not less harmful, though, are behaviours such as rejecting or billeting a child and calling him or her a scapegoat or blaming them for their habitual behaviour.

#### **Sexual Abuse: -**

When a child engages in any sexual behaviour that they do not completely comprehend or approve of, it is considered sexual abuse. Inappropriate sexual activity with a child can also be considered sexual abuse.

There are two main categories of child sexual abuse:

Contact

Non-contact

Contact forms of child sexual abuse include kissing or holding in an abusive way, forcing someone to touch someone else's privates, vaginal or anal sex, sexual exploitation, incest, and rape. Online requests for virtual sex, being exposed to pornography, receiving sexually suggestive remarks, and voyeurism are all considered forms of non-physical child sexual abuse. Sexual abuse is defined as when parents, guardians, or strangers sexually assault and exploit children. A single assault on a juvenile can occur once or repeatedly over an extended period of time. It covers touching a child's private parts, having sex with them, rape, and sexual exploitation. When it comes to sexual abuse, it refers to immature and hasty behaviour that may involve incestuous relations, the mutilation of children's privates, or comparisons of children's and elderly people's privates.

**Neglect: -**

A form of abuse known as neglect occurs when a caregiver fails to provide necessary, age-appropriate care even when they are financially able to do so or do not have the resources to do so. Depriving a kid of proper nourishment, clothes, housing, supervision, medical attention, and education is considered neglect, which is a kind of sexual abuse. While it is less about doing nothing and being passive than other forms of child sexual abuse, it nonetheless hurts children. The main components of child neglect are failing to provide food, failing to keep an eye on the development of the child, failing to shield the child from damage, and failing to supervise child care.

**Magnitude of Child Sexual Abuse**

There are 440 million children living in India. However, it is a reality that over forty children are in danger. According to the researcher's extensive assessment of available literature on child sexual abuse, many infants are exposed to risky situations from birth, and many of them do not survive. Many kids have struggled since they were little to realize their full potential. Compared to data published in previous studies, the extent of male sexual abuse documented in this study was lower. Male students in Addis Ababa have a high rate of child sexual abuse. 4.3% of the individuals taken into consideration in Rahil's study were reportedly abused sexually. One of the primary causes of child sexual abuse is poverty. The children's parents are unable to feed them nutritious food. Because of this, the people desire to relocate in order to support themselves.

**Perspectives of Child Sexual Abuse**

Three sections comprise the opinions on child sexual abuse.

The potential legal implications of child sexual abuse.

The viewpoint of the judiciary on child sex abuse

The administrative potential for sexual abuse of minors.

### **Legislative prospective of child sexual abuse**

A piece of historical legislation known as the POCSO Act of 2012 classifies sexual offenses like assault, harassment, and pornography as safeguarding the welfare of children. A child-friendly procedure for the collection of evidence, the investigation and prosecution of offenses, the establishment of a special court, and the expeditious trial of cases is also established. Anyone can abuse a child sexually, regardless of their age, gender, or level of education or income. On the other hand, victims of sexual offenses might be of any gender and come from any social class. Nonetheless, the perpetrator exploits the child's susceptibility by using things like parents' immigrant statuses or anything else that benefits the victim's circumstances.

Furthermore, the Act is ambiguous about what occurs when two juveniles have intercourse of any type. Both of them are technically minors who are in trouble with the law (CCLs). In reality, female children are declared to be by the police. A special law known as the 2012 Protection of Children from Sexual Offenses (POCSO) Act outlaws' sexual assault, sexual harassment, and the use of pornography against minors younger than eighteen. It also requires the creation of special courts to speed the prosecution of these offenses.

### **Judicial perspective of child sexual abuse**

The recognition of the horrible crimes committed against children has been greatly aided by the judiciary. Numerous rules have been released by Indian judiciary to safeguard youngsters against sexual abuse, sexual harassment, and sexual exploration. The POCSO Act's primary goal is to give children who have been sexually assaulted prompt justice. Nonetheless, there are numerous significant institutional impediments that impact minors under the age of eighteen's legal protection. The POCSO Act's Section 35 establishes a timeframe for the recording of the child's testimony and resolves the case. The special court must record the evidence within thirty days of receiving notice of the offense, and any excuses for the delay must be noted. However, because Indian courts are overworked, these laws are more effective than followed. According to POCSO Act Section 32(2), the special public prosecutor must first transmit the questions to the special court before posing them to the child during the principal examination, cross-examination, or re-examination. In addition, the youngster needs to take regular rests in between questions. The function of a lawyer is equally crucial. The attorney's job is to support the prosecution. The public prosecutor and the child's attorney must properly coordinate for this to happen. Furthermore, although if the duties of the public prosecutor and defence attorney are clearly established in our adversarial justice system, it is necessary to investigate how the child victim's attorney fits within this framework.

### **Administrative prospective of child sexual abuse**

The filing of the First Information Report initiates the POCSO case. The police need to be informed that the filing of the FIR has not been delayed. However, despite their best efforts, the police encounter numerous difficulties when conducting a thorough investigation into the POCSO case and the medico-legal case. The medical-legal cases involving victims are frequently abandoned because the victim's

family is misinformed about the long-term harm the medical-legal cases may cause to the child's health. The hospital environment is frequently hostile to the child who has had an abortion or MLC. In order to stop more trauma, doctors must be trained in sensitive communication techniques for dealing with children. When police collected forensic samples, they frequently became contaminated or putrefied as a result of incorrect storage. Because of this, the police must be knowledgeable about the most effective ways to gather forensic evidence in order to ensure that the evidence is properly interpreted throughout the trial. The National Commission for the Protection of Children's Rights and the State Commissions for the Protection of Children's Rights are required to oversee and assess the Protection of Children from Sexual Offenses Act of 2012. The public has to be made aware of their legal rights, yet the way these departments operate and other monitoring and assessment processes have not been made available for public inspection. To this end, it is necessary to examine the protocols set forth by these organizations and assess how well they work to produce significant results. In 2020, there were 106958 recorded cases of crime against minors; in 2021, there were 129172 incidents; in 2022, there were 141764, in 2019; and in 2023, there were 128531 crimes. The study's findings indicate that there is a generalized increase in juvenile crime. The government has enacted legislation to safeguard and prevent child abuse. However, due to the same public or government machinery gaps, our nation's crime rate consistently targets young people.

## **Conclusion**

In India, the rate of child sexual exploitation is extremely high. There are conflicting findings in the Child Sexual Abuse Act progress report. Despite the radical nature of the legislation's mandate to safeguard minors from sexual abuse, there are a number of challenges with its execution. The majority of parents and children are unaware of the various facets of child sexual abuse. Parental education and child sexual abuse are related. Parents who meet the qualifications are well aware of child sexual abuse. Child sexual abuse has to end. It takes many different forms. Given this, the Protection of Children from Sexual Offenses Act was passed by the Indian government in 2012. Even while this law serves as a penalty for child sexual abusers, it makes no mention of trying to stop crime. The most common places for child sexual abuse to occur are homes, workplaces, schools, and streets. This Act promotes social progress and aids in children's peaceful coexistence and personal growth into responsible adults. It is our responsibility to stop child sexual abuse as soon as it occurs. Children are the future's leaders and a valuable resource for every country.

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